SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90703; File No. 4–697]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Notice of Filing and Order Approving and Declaring Effective an Amended Plan for the Allocation of Regulatory Responsibilities Between the Financial Industry Regulatory Authority, Inc. and Nasdaq MRX, LLC

December 17, 2020.

Notice is hereby given that the Securities and Exchange Commission (''Commission'') has issued an Order, pursuant to Section 17(d) of the Securities Exchange Act of 1934 (''Act''),[1] approving and declaring effective an amendment to the plan for allocating regulatory responsibility (''Plan'') filed on November 19, 2020, pursuant to Rule 17d–2 of the Act,[2] by the Financial Industry Regulatory Authority, Inc. (''FINRA'') and Nasdaq MRX, LLC (''MRX'') (collectively, ''Participating Organizations'' or ''parties''). This agreement amends and restates the agreement entered into between FINRA and ISE Mercury, LLC (n/k/a MRX) on February 8, 2016, entitled ''Agreement Between Financial Industry Regulatory Authority, Inc. and ISE Mercury, LLC Pursuant to Rule 17d–2 under the Securities Exchange Act of 1934,'' and any subsequent amendments thereafter.

I. Introduction

Section 19(g)(1) of the Act,[3] among other things, requires every self-regulatory organization (''SRO'') registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d)[4] or Section 19(g)(2)[5] of the Act. Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''common members''). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

[1] 15 U.S.C. 78q(d).

[2] 17 CFR 240.17d–2.

[3] 15 U.S.C. 78s(g)(1).

[4] 15 U.S.C. 78q(d).

[5] 15 U.S.C. 78s(g)(2).

Section 17(d)(1) of the Act[6] was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[7] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[8] Rule 17d–1 authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.[9] When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d–1 deals only with an SRO's obligations to enforce member compliance with financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d–2 under the Act.[10] Rule 17d–2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for appropriate notice and opportunity for comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among the SROs, to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system, and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

[6] 15 U.S.C. 78q(d)(1).

[7] *See* Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session 32 (1975).

[8] 17 CFR 240.17d–1 and 17 CFR 240.17d–2, respectively.

[9] *See* Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

[10] *See* Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

II. The Plan

On March 8, 2016, the Commission declared effective the Plan entered into between FINRA and MRX for allocating regulatory responsibility pursuant to Rule 17d–2.[11] The Plan is intended to reduce regulatory duplication for firms that are common members of FINRA and MRX by allocating regulatory responsibility with respect to certain applicable laws, rules, and regulations that are common among them. Included in the Plan is an exhibit that lists every MRX rule for which FINRA bears responsibility under the Plan for overseeing and enforcing with respect to MRX members that are also members of FINRA and the associated persons therewith (''Certification'').

III. Proposed Amendment to the Plan

On November 19, 2020, the parties submitted a proposed amendment to the Plan (''Amended Plan''). The primary purpose of the Amended Plan is to allocate surveillance, investigation, and enforcement responsibilities for Rule 14e–4 under the Act and to reflect the name change of ISE Mercury, LLC to Nasdaq MRX, LLC. The text of the proposed Amended Plan is as follows (additions are italicized; deletions are [bracketed]):

* * * * *

AGREEMENT BETWEEN

FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC. AND [ISE MERCURY]*NASDAQ MRX,* LLC PURSUANT TO RULE 17d–2 UNDER THE SECURITIES EXCHANGE ACT OF 1934

This Agreement, by and between Financial Industry Regulatory Authority, Inc. (''FINRA'') and [ISE Mercury]*Nasdaq MRX,* LLC (''[ISE Mercury]*MRX*''), is made this [8th]*16th* day of [February]*November,* 20[16]*20* (the ''Agreement''), pursuant to Section 17(d) of the Securities Exchange Act of 1934 (the ''Exchange Act'') and Rule 17d–2 thereunder which permits agreements between self-regulatory organizations to allocate regulatory responsibility to eliminate regulatory duplication. FINRA and [ISE Mercury]*MRX* may be referred to

[11] *See* Securities Exchange Act Release No. 77321 (March 8, 2016), 81 FR 13434 (March 14, 2016).

individually as a ''party'' and together as the ''parties.''

This Agreement amends and restates this agreement entered into between FINRA and MRX on February 8, 2016, entitled ''Agreement between Financial Industry Regulatory Authority, Inc. and ISE Mercury, LLC Pursuant to Rule 17d–2 under the Securities Exchange Act of 1934,'' and any subsequent amendments thereafter.

Whereas, FINRA and [ISE Mercury]*MRX* desire to reduce duplication in the examination of their Dual Members (as defined herein) and in the filing and processing of certain registration and membership records; and

Whereas, FINRA and [ISE Mercury]*MRX* desire to execute an agreement covering such subjects pursuant to the provisions of Rule 17d–2 under the Exchange Act and to file such agreement with the Securities and Exchange Commission (the ''SEC'' or ''Commission'') for its approval.

Now, therefore, in consideration of the mutual covenants contained hereinafter, FINRA and [ISE Mercury]*MRX* hereby agree as follows:

1. Definitions. Unless otherwise defined in this Agreement or the context otherwise requires, the terms used in this Agreement shall have the same meaning as they have under the Exchange Act and the rules and regulations thereunder. As used in this Agreement, the following terms shall have the following meanings:

(a) ''*[ISE Mercury]MRX Rules*'' or ''*FINRA Rules*'' shall mean the rules of [ISE Mercury]*MRX* or FINRA, respectively, as the rules of an exchange or association are defined in Exchange Act Section 3(a)(27).

(b) ''*Common Rules*'' shall mean the [ISE Mercury]*MRX* Rules that are substantially similar to the applicable FINRA Rules set forth in *Exhibit 1* in that examination for compliance with such rules would not require FINRA to develop one or more new examination standards, modules, procedures, or criteria in order to analyze the application of the rule, or a Dual Member's activity, conduct, or output in relation to such rule. *Common Rules shall not include any provisions regarding (i) notice, reporting or any other filings made directly to or from MRX, (ii) incorporation by reference of MRX Rules that are not Common Rules, (iii) exercise of discretion in a manner that differs from FINRA's exercise of discretion including, but not limited to exercise of exemptive authority by MRX, (iv) prior written approval of MRX and (v) payment of fees or fines to MRX.*

(c) ''*Dual Members*'' shall mean those [ISE Mercury]*MRX* members that are also members of FINRA and the associated persons therewith.

(d) ''*Effective Date*'' shall have the meaning set forth in paragraph 13.

(e) ''*Enforcement Responsibilities*'' shall mean the conduct of appropriate proceedings, in accordance with the FINRA Code of Procedure (the Rule 9000 Series) and other applicable FINRA procedural rules, to determine whether violations of Common Rules have occurred, and if such violations are deemed to have occurred, the imposition of appropriate sanctions as specified under the FINRA's Code of Procedure and sanctions guidelines.

(f) ''*Regulatory Responsibilities*'' shall mean the examination responsibilities and Enforcement Responsibilities relating to compliance by the Dual Members with the Common Rules and the provisions of the Exchange Act and the rules and regulations thereunder, and other applicable laws, rules and regulations, each as set forth on *Exhibit 1* attached hereto. *The term ''Regulatory Responsibilities'' shall also include the surveillance, investigation and Enforcement Responsibilities relating to compliance by Common Members with Rule 14e–4 of the Securities Exchange Act (''Rule 14e–4''), with a focus on the standardized call option provision of Rule 14e–4(a)(1)(ii)(D).*

2. Regulatory and Enforcement Responsibilities. FINRA shall assume Regulatory Responsibilities and Enforcement Responsibilities for Dual Members. Attached as *Exhibit 1* to this Agreement and made part hereof, [ISE Mercury]*MRX* furnished FINRA with a current list of Common Rules and certified to FINRA that such rules are substantially similar to the corresponding FINRA Rule (the ''Certification''). FINRA hereby agrees that the rules listed in the Certification are Common Rules as defined in this Agreement. Each year following the Effective Date of this Agreement, or more frequently if required by changes in either the [ISE Mercury]*MRX* Rules or FINRA Rules, [ISE Mercury]*MRX* shall submit an updated list of Common Rules to FINRA for review which shall add [ISE Mercury]*MRX* Rules not included in the current list of Common Rules that qualify as Common Rules as defined in this Agreement; delete [ISE Mercury]*MRX* Rules included in the current list of Common Rules that no longer qualify as Common Rules as defined in this Agreement; and confirm that the remaining rules on the current list of Common Rules continue to be [ISE Mercury]*MRX* Rules that qualify as Common Rules as defined in this Agreement. Within 30 days of receipt of such updated list, FINRA shall confirm in writing whether the rules listed in any updated list are Common Rules as defined in this Agreement. Notwithstanding anything herein to the contrary, it is explicitly understood that the term ''Regulatory Responsibilities'' does not include, and [ISE Mercury]*MRX* shall retain full responsibility for (unless otherwise addressed by separate agreement or rule) the following (collectively, the ''Retained Responsibilities''):

(a) surveillance and enforcement with respect to trading activities or practices involving [ISE Mercury's]*MRX's* own marketplaces, including without limitation [ISE Mercury's]*MRX's* Rules relating to the rights and obligations of market makers;

(b) registration pursuant to its applicable rules of associated persons (*i.e.,* registration rules that are not Common Rules);

(c) discharge of its duties and obligations as a Designated Examining Authority pursuant to Rule 17d–1 under the Exchange Act; and

(d) any [ISE Mercury]*MRX* Rules that are not Common Rules.

3. Dual Members. Prior to the Effective Date, [ISE Mercury]*MRX* shall furnish FINRA with a current list of Dual Members, which shall be updated no less frequently than once each quarter.

4. No Charge. There shall be no charge to [ISE Mercury]*MRX* by FINRA for performing the Regulatory Responsibilities and Enforcement Responsibilities under this Agreement except as hereinafter provided. FINRA shall provide [ISE Mercury]*MRX* with ninety (90) days advance written notice in the event FINRA decides to impose any charges to [ISE Mercury]*MRX* for performing the Regulatory Responsibilities under this Agreement. If FINRA determines to impose a charge, [ISE Mercury]*MRX* shall have the right at the time of the imposition of such charge to terminate this Agreement; provided, however, that FINRA's Regulatory Responsibilities under this Agreement shall continue until the Commission approves the termination of this Agreement.

5. Reassignment of Regulatory Responsibilities. Notwithstanding any provision hereof, this Agreement shall be subject to any statute, or any rule or order of the Commission. To the extent such action is inconsistent with this Agreement, such action shall supersede the provisions hereof to the extent necessary for them to be properly effectuated and the provisions hereof in that respect shall be null and void.

6. Notification of Violations. In the event that FINRA becomes aware of apparent violations of any [ISE Mercury]*MRX* Rules, which are not listed as Common Rules, discovered pursuant to the performance of the Regulatory Responsibilities assumed hereunder, FINRA shall notify [ISE Mercury]*MRX* of those apparent violations for such response as [ISE Mercury]*MRX* deems appropriate. In the event [ISE Mercury]*MRX* becomes aware of apparent violations of the Common Rules, discovered pursuant to the performance of the Retained Responsibilities, [ISE Mercury]*MRX* shall notify FINRA of those apparent violations and such matters shall be handled by FINRA as provided in this Agreement. Apparent violations of all the Common Rules shall be processed by, and enforcement proceedings in respect thereto shall be conducted by FINRA as provided hereinbefore; provided, however, that in the event a Dual Member is the subject of an investigation relating to a transaction on [ISE Mercury]*MRX,* [ISE Mercury]*MRX* may in its discretion assume concurrent jurisdiction and responsibility. Each party agrees to make available promptly all files, records and witnesses necessary to assist the other in its investigation or proceedings.

7. Continued Assistance. FINRA shall make available to [ISE Mercury]*MRX* all information obtained by FINRA in the performance by it of the Regulatory Responsibilities hereunder in respect to the Dual Members subject to this Agreement. In particular, and not in limitation of the foregoing, FINRA shall furnish [ISE Mercury]*MRX* any information it obtains about Dual Members which reflects adversely on their financial condition. It is understood that such information is of an extremely sensitive nature and, accordingly, [ISE Mercury]*MRX* acknowledges and agrees to take all reasonable steps to maintain its confidentiality. [ISE Mercury]*MRX* shall make available to FINRA any information coming to its attention that reflects adversely on the financial condition of Dual Members or indicates possible violations of applicable laws, rules or regulations by such firms.

8. Dual Member Applications.

(a) Dual Members subject to this Agreement shall be required to submit, and FINRA shall be responsible for processing and acting upon all applications submitted on behalf of allied persons, partners, officers, registered personnel and any other person required to be approved by the [ISE Mercury]*MRX* Rules and FINRA Rules or associated with Dual Members thereof. Upon request, FINRA shall advise [ISE Mercury]*MRX* of any changes of allied members, partners, officers, registered personnel and other persons required to be approved by the [ISE Mercury]*MRX* Rules and FINRA Rules.

(b) Dual Members shall be required to send to FINRA all letters, termination notices or other material respecting the individuals listed in paragraph 8(a).

(c) When as a result of processing such submissions FINRA becomes aware of a statutory disqualification as defined in the Exchange Act with respect to a Dual Member, FINRA shall determine pursuant to Sections 15A(g) and/or Section 6(c) of the Exchange Act the acceptability or continued applicability of the person to whom such disqualification applies and keep [ISE Mercury]*MRX* advised of its actions in this regard for such subsequent proceedings as [ISE Mercury]*MRX* may initiate.

(d) Notwithstanding the foregoing, FINRA shall not review the membership application, reports, filings, fingerprint cards, notices, or other writings filed to determine if such documentation submitted by a broker or dealer, or a person associated therewith or other persons required to register or qualify by examination: (i) meets the [ISE Mercury]*MRX* requirements for general membership or for specified categories of membership or participation in [ISE Mercury]*MRX,* such as (A) Primary Market Maker Membership (''PMM''); (B) Competitive Market Maker Membership (''CMM''); (C) Electronic Access Membership (''EAM'') (or any similar type of [ISE Mercury]*MRX* membership or participation that is created after this Agreement is executed); or (ii) meets the [ISE Mercury]*MRX* requirements to be associated with, or employed by, a [ISE Mercury]*MRX* member or participant in any capacity, such a Designated Trading Representative (''DTR'') (or any similar type of participation, employment category or title, or associate-person category or class that is created after this Agreement is executed). FINRA shall not review applications or other documentation filed to request a change in the rights or status described in this paragraph 8(d), including termination or limitation on activities, of a member or a participant of [ISE Mercury]*MRX,* or a person associated with, or requesting association with, a member or participant of [ISE Mercury]*MRX.*

9. Branch Office Information. FINRA shall also be responsible for processing and, if required, acting upon all requests for the opening, address changes, and terminations of branch offices by Dual Members and any other applications required of Dual Members with respect to the Common Rules as they may be amended from time to time. Upon request, FINRA shall advise [ISE Mercury]*MRX* of the opening, address change and termination of branch and main offices of Dual Members and the names of such branch office managers.

10. Customer Complaints. [ISE Mercury]*MRX* shall forward to FINRA copies of all customer complaints involving Dual Members received by [ISE Mercury]*MRX* relating to FINRA's Regulatory Responsibilities under this Agreement. It shall be FINRA's responsibility to review and take appropriate action in respect to such complaints.

11. No Restrictions on Regulatory Action. Nothing contained in this Agreement shall restrict or in any way encumber the right of either party to conduct its own independent or concurrent investigation, examination or enforcement proceeding of or against Dual Members, as either party, in its sole discretion, shall deem appropriate or necessary.

12. Termination. This Agreement may be terminated by [ISE Mercury]*MRX* or FINRA at any time upon the approval of the Commission after one (1) year's written notice to the other party (or such shorter time as may be agreed by the parties), except as provided in paragraph 4.

13. Effective Date. This Agreement shall be effective upon approval of the Commission.

14. Arbitration. In the event of a dispute between the parties as to the operation of this Agreement, [ISE Mercury]*MRX* and FINRA hereby agree that any such dispute shall be settled by arbitration in Washington, DC in accordance with the rules of the American Arbitration Association then in effect, or such other procedures as the parties may mutually agree upon. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction.

15. Separate Agreement. This Agreement is wholly separate from (1) the multiparty Agreement made pursuant to Rule 17d–2 of the Exchange Act among [BATS Exchange, Inc., BOX Options Exchange, LLC, the Chicago Board Options Exchange, Incorporated, C2 Options Exchange, Incorporated, the International Securities Exchange, LLC, Financial Industry Regulatory Authority, Inc., Miami International Securities Exchange, LLC, the New York Stock Exchange, LLC, the NYSE MKT LLC, the NYSE Arca Inc., The NASDAQ Stock Market LLC, NASDAQ OMX BX, Inc., and the NASDAQ OMX PHLX,

LLC] *NYSE American LLC, Cboe BZX Exchange, Inc., the Cboe EDGX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe Exchange, Inc., Nasdaq ISE, LLC, Financial Industry Regulatory Authority, Inc., NYSE Arca, Inc., The NASDAQ Stock Market LLC, BOX Exchange LLC, NASDAQ BX, Inc., NASDAQ PHLX LLC, Miami International Securities Exchange, LLC, Nasdaq GEMX, LLC, Nasdaq MRX, LLC, MIAX PEARL, LLC, and MIAX Emerald, LLC* approved by the Commission on [December 5, 2012]*February 12, 2019* involving the allocation of regulatory responsibilities with respect to common members for compliance with common rules relating to the conduct by broker-dealers of accounts for listed options or index warrants or (2) the multiparty Agreement made pursuant to Rule 17d–2 of the Exchange Act among [NYSE MKT LLC, BATS Exchange, Inc., BOX Options Exchange, LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, International Securities Exchange LLC, Financial Industry Regulatory Authority, Inc., NYSE Arca, Inc., The NASDAQ Stock Market LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX, Inc. and Miami International Securities Exchange, LLC,] *NYSE American LLC, Cboe BZX Exchange, Inc., the Cboe EDGX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe Exchange, Inc., Nasdaq ISE, LLC, Financial Industry Regulatory Authority, Inc., NYSE Arca, Inc., The NASDAQ Stock Market LLC, BOX Exchange LLC, NASDAQ BX, Inc., NASDAQ PHLX LLC, Miami International Securities Exchange, LLC, Nasdaq GEMX, LLC, Nasdaq MRX, LLC, MIAX PEARL, LLC, and MIAX Emerald, LLC* approved by the Commission on [December 5, 2012]*February 11, 2019* involving options-related market surveillance matters and such agreements as may be amended from time to time.

16. Notification of Members. [ISE Mercury]*MRX* and FINRA shall notify Dual Members of this Agreement after the Effective Date by means of a uniform joint notice.

17. Amendment. This Agreement may be amended in writing duly approved by each party. All such amendments must be filed with and approved by the Commission before they become effective.

18. Limitation of Liability. Neither FINRA nor [ISE Mercury]*MRX* nor any of their respective directors, governors, officers or employees shall be liable to the other party to this Agreement for any liability, loss or damage resulting from or claimed to have resulted from any delays, inaccuracies, errors or omissions with respect to the provision of Regulatory Responsibilities as provided hereby or for the failure to provide any such responsibility, except with respect to such liability, loss or damages as shall have been suffered by one or the other of FINRA or [ISE Mercury]*MRX* and caused by the willful misconduct of the other party or their respective directors, governors, officers or employees. No warranties, express or implied, are made by FINRA or [ISE Mercury]*MRX* with respect to any of the responsibilities to be performed by each of them hereunder.

19. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction.

20. Relief From Responsibility. Pursuant to Sections 17(d)(1)(A) and 19(g) of the Exchange Act and Rule 17d–2 thereunder, FINRA and [ISE Mercury]*MRX* join in requesting the Commission, upon its approval of this Agreement or any part thereof, to relieve [ISE Mercury]*MRX* of any and all responsibilities with respect to matters allocated to FINRA pursuant to this Agreement; provided, however, that this Agreement shall not be effective until the Effective Date.

21. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

In witness whereof, each party has executed or caused this Agreement to be executed on its behalf by a duly authorized officer as of the date first written above.

FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC.

By _____
Name:
Title:

[ISE MERCURY]*NASDAQ MRX,* LLC

By _____
Name:
Title:

Note: The entire existing table of rules should be deleted and replaced with the table below.

EXHIBIT 1

[ISE MERCURY]*MRX* CERTIFICATION OF COMMON RULES

[ISE Mercury]*MRX* hereby certifies that the requirements contained in the rules listed below for [ISE Mercury]*MRX* are identical to, or substantially similar to, the comparable FINRA Rules or SEC Rules identified.

 # Common Rules shall not include provisions regarding (i) notice, reporting or any other filings made directly to or from MRX, (ii) incorporations by reference to other MRX Rules that are not Common Rules, (iii) exercise of discretion in a manner that differs from FINRA's exercise of discretion including, but not limited to exercise of exemptive authority, by MRX, (iv) prior written approval of MRX, and (v) payment of fees or fines to MRX.

MRX Rule	FINRA or SEC Rule
General 3, Section 3(b)—Persons Associated with Members; General 4—Nasdaq Stock Market General 4, Rule 1.1250 Electronic Filing Requirements for Uniform Forms incorporated by reference#.	*FINRA Rule 1010 Electronic Filing Requirements for Uniform Forms; FINRA By-Laws Article IV, Sec. 1(c) Application for Membership; FINRA By-Laws, Article V, Section 1 Qualification Requirements; FINRA By-Laws, Article V, Sec. 2 Application for Registration; and FINRA By-Laws Article V, Section 3 Notification by Member to the Corporation and Associated Person of Termination; Amendments to Notification.*
General 4—Nasdaq Stock Market General 4, Section 1.1240 Continuing Education Requirements incorporated by reference#.	*FINRA Rule 1240 Continuing Education Requirements.*
Options 9—Nasdaq ISE Options 9, Section 1 Just and Equitable Principles of Trade incorporated by reference[1].	*FINRA Rule 2010 Standards of Commercial Honor and Principles of Trade; FINRA Rule 0140(a) Applicability.*
Options 9—Nasdaq ISE Options 9, Section 9(a)(1)Prevention of the Misuse of Material, Nonpublic Information incorporated by reference#.	*Section 15(g) of the Securities Exchange Act of 1934, and FINRA Rule 3110(b)(1), (d) Supervision.*

MRX Rule	FINRA or SEC Rule
Options 9—Nasdaq ISE Options 9, Section 10 Disciplinary Action by Other Organizations incorporated by reference#.	*FINRA Rule 4530(a)(1)(A) and (2) Reporting Requirements; FINRA By-Laws, Article V, Section 2(c); and FINRA By-Laws, Article V, Section 3.*
Options 9—Nasdaq ISE Options 9, Section 21 Anti-Money Laundering Compliance Program incorporated by reference#.	*FINRA Rule 3310 Anti-Money Laundering Compliance Program.*
Options 10—Nasdaq ISE Options 10, Section 12 Statements of Financial Condition to Customers incorporated by reference.	*Rule 17a–5 of the Securities Exchange Act of 1934.*
Options 10—Nasdaq ISE Options 10, Section 19 Transfer of Accounts incorporated by reference#.	*FINRA Rule 11870 Customer Account Transfer Contracts.*
Options 10—Nasdaq ISE Options 10, Section 23. Telemarketing incorporated by reference.	*FINRA Rule 3230 Telemarketing.*
Options 6E—Nasdaq ISE Options 6E, Section 1 Maintenance, Retention, and Furnishing of Books, Records and Other Information incorporated by reference#.	*FINRA Rule 4511(a) Books and Records—Requirements.*

[1] FINRA shall not have Regulatory Responsibilities with respect to the Supplementary Material to Nasdaq ISE Options 9, Section 1. Responsibility for such shall remain with MRX.

In addition, the following provisions shall be part of this 17d–2 Agreement:

*SEA Rule 14e–4—Prohibited Transactions in Connection with Partial Tender Offers^*

^FINRA shall perform surveillance, investigation, and Enforcement Responsibilities for SEA Rule 14e–4(a)1)(ii)(D).

[#FINRA shall not have Regulatory Responsibilities regarding notification or reporting to ISE Mercury. In addition, FINRA shall only have Regulatory Responsibilities to the extent the exercise of discretion by ISE Mercury is the same as FINRA.]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number 4–697 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number 4–697. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plan that are filed with the Commission, and all written communications relating to the proposed plan between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the plan also will be available for inspection and copying at the principal offices of FINRA and MRX. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number 4–697 and should be submitted on or before January 13, 2021.

V. Discussion

The Commission finds that the proposed Amended Plan is consistent with the factors set forth in Section 17(d) of the Act[12] and Rule 17d–2(c) thereunder[13] in that the proposed Amended Plan is necessary or appropriate in the public interest and for the protection of investors, fosters cooperation and coordination among SROs, and removes impediments to and fosters the development of the national market system. In particular, the Commission believes that the proposed Amended Plan should reduce unnecessary regulatory duplication by allocating to FINRA certain examination and enforcement responsibilities for Common Members that would otherwise be performed by both FINRA and MRX. Accordingly, the proposed Amended Plan promotes efficiency by reducing costs to Common Members. Furthermore, because MRX and FINRA will coordinate their regulatory functions in accordance with the Amended Plan, the Amended Plan should promote investor protection.

The Commission notes that, under the Amended Plan, MRX and FINRA have allocated regulatory responsibility for those MRX rules, set forth in the Certification, that are substantially similar to the applicable FINRA rules in that examination for compliance with such provisions and rules would not require FINRA to develop one or more new examination standards, modules, procedures, or criteria in order to analyze the application of the rule, or a Common Member's activity, conduct, or output in relation to such rule. In addition, under the Amended Plan, FINRA would assume regulatory responsibility for certain provisions of the federal securities laws and the rules and regulations thereunder that are set forth in the Certification. The Common Rules covered by the Amended Plan are specifically listed in the Certification, as may be amended by the Parties from time to time.

According to the Amended Plan, MRX will review the Certification at least annually, or more frequently if required by changes in either the rules of MRX or FINRA, and, if necessary, submit to FINRA an updated list of Common Rules to add MRX rules not included on the then-current list of Common Rules that are substantially similar to FINRA rules; delete MRX rules included in the then-current list of Common Rules that no longer qualify as common rules; and confirm that the remaining rules on the list of Common Rules continue to be MRX rules that qualify as common rules.[14] FINRA will then confirm in writing whether the rules listed in any

[12] 15 U.S.C. 78q(d).

[13] 17 CFR 240.17d–2(c).

[14] *See* paragraph 2 of the Amended Plan.

updated list are Common Rules as defined in the Amended Plan. Under the Amended Plan, MRX also will provide FINRA with a current list of Common Members and will update the list no less frequently than once each quarter.[15] The Commission believes that these provisions are designed to provide for continuing communication between the Parties to ensure the continued accuracy of the scope of the proposed allocation of regulatory responsibility.

The Commission is hereby declaring effective an Amended Plan that, among other things, allocates regulatory responsibility to FINRA for the oversight and enforcement of all MRX rules that are substantially similar to the rules of FINRA for Common Members of MRX and FINRA. Therefore, modifications to the Certification need not be filed with the Commission as an amendment to the Amended Plan, provided that the Parties are only adding to, deleting from, or confirming changes to MRX rules in the Certification in conformance with the definition of Common Rules provided in the Amended Plan. However, should the Parties decide to add a MRX rule to the Certification that is not substantially similar to a FINRA rule; delete a MRX rule from the Certification that is substantially similar to a FINRA rule; or leave on the Certification a MRX rule that is no longer substantially similar to a FINRA rule, then such a change would constitute an amendment to the Amended Plan, which must be filed with the Commission pursuant to Rule 17d-2 under the Act.[16]

Under paragraph (c) of Rule 17d–2, the Commission may, after appropriate notice and comment, declare a plan, or any part of a plan, effective. In this instance, the Commission believes that appropriate notice and comment can take place after the proposed amendment is effective. The primary purpose of the amendment is to allocate surveillance, investigation, and enforcement responsibilities for Rule 14e–4 under the Act, to reflect the name change of ISE Mercury, LLC to Nasdaq MRX, LLC. By declaring it effective today, the Amended Plan can become effective and be implemented without undue delay. The Commission notes that the prior version of this plan immediately prior to this proposed amendment was published for comment and the Commission did not receive any comments thereon.[17] Furthermore, the Commission does not believe that the amendment to the plan raises any new regulatory issues that the Commission has not previously considered.

VI. Conclusion

This order gives effect to the Amended Plan filed with the Commission in File No. 4–697. The Parties shall notify all members affected by the Amended Plan of their rights and obligations under the Amended Plan.

It is therefore ordered, pursuant to Section 17(d) of the Act, that the Amended Plan in File No. 4–697, between the FINRA and MRX, filed pursuant to Rule 17d–2 under the Act, hereby is approved and declared effective.

It is further ordered that MRX is relieved of those responsibilities allocated to FINRA under the Amended Plan in File No. 4–697.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

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[15] *See* paragraph 3 of the Amended Plan.

[16] The addition to or deletion from the Certification of any federal securities laws, rules, and regulations for which FINRA would bear responsibility under the Amended Plan for examining, and enforcing compliance by, Common Members, also would constitute an amendment to the Amended Plan.

[17] *See supra* note 11 (citing to Securities Exchange Act Release No. 77321).

[18] 17 CFR 200.30–3(a)(34).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90710; File No. SR–NYSEAMER–2020–83]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Rule 6800 Series

December 17, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 4, 2020, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78a.

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Rule 6800 Series, the Exchange's compliance rule (''Compliance Rule'') regarding the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'') [3] to be consistent with a conditional exemption granted by the Commission from certain allocation reporting requirements set forth in Sections 6.4(d)(ii)(A)(1) and (2) of the CAT NMS Plan (''Allocation Exemption'').[4] The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend the Rule 6800 Series to be consistent with the Allocation Exemption. The Commission granted the relief conditioned upon the Participants' adoption of Compliance Rules that implement the alternative approach to reporting allocations to the Central Repository described in the Allocation Exemption (referred to as the ''Allocation Alternative'').

(1) Request for Exemptive Relief

Pursuant to Section 6.4(d)(ii)(A) of the CAT NMS Plan, each Participant must, through its Compliance Rule, require its Industry Members to record and report to the Central Repository, if the order is executed, in whole or in part: (1) An

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the Compliance Rule.

[4] *See* Securities Exchange Act Rel. No. 90223 (October 19, 2020), 85 FR 67576 (October 23, 2020) (''Allocation Exemptive Order'').