

waiver request, the Exchange states that the proposal will further the interests of investors and the public by making available a risk functionality by which Members (and each Member's Users) can manage their risk on the Exchange's options platform, MEMX Options. These risk settings will allow each User to configure a risk profile applicable to their risk tolerance and as necessary in the context of their overall risk management program, which the Exchange believes will assist in maintaining the Exchange as a fair and orderly market that better serves the interest of investors. Additionally, as discussed above, the proposed changes will not impose any significant or undue burden on competition because Options Members can decide how they wish to utilize the risk settings offered in the context of their overall risk mitigation strategy.

Further, the Exchange launched MEMX Options on September 27, 2023. Waiver of the 30-day operative delay would allow the Exchange to implement the proposed change to offer the proposed risk settings immediately, which would benefit Members and investors by enabling the Exchange to provide additional functionality for Options Members to manage their risk. The Exchange states that these controls are designed to protect investors and the public interest because the proposed risk mitigation functionality will aid Members in minimizing their financial exposure and reducing the potential for market-disrupting events. For these reasons, and because the proposal does not raise any new or novel issues that have not been previously considered by the Commission, the Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.³⁸

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

³⁸ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-MEMX-2023-28 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 SR-MEMX-2023-28. 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 (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change 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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-MEMX-2023-28 and should be submitted on or before November 8, 2023.

³⁹ 17 CFR 200.30-3(a)(12) and (a)(59).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁹

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023-22925 Filed 10-17-23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-XXX, OMB Control No. 3235-0779]

Proposed Collection; Comment Request; Extension: Rule 2a-5

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), the Securities and Exchange Commission ("Commission") is soliciting comments on the collections of information summarized below. The Commission plans to submit the existing collection of information to the Office of Management and Budget for extension and approval.

Section 2(a)(41) of the Investment Company Act of 1940 ("Investment Company Act")¹ requires funds to value their portfolio investments using the market value of their portfolio securities when market quotations for those securities are "readily available," and, when a market quotation for a portfolio security is not readily available, by using the fair value of that security, as determined in good faith by the fund's board.² The aggregate value of a fund's investments is the primary determinant of the fund's net asset value ("NAV"), which for many funds determines the price at which their shares are offered and redeemed (or repurchased).³

Rule 2a-5 provides requirements for determining in good faith the fair value of the investments of a registered investment company or companies that have elected to be treated as business development companies under the Investment Company Act ("BDCs" and, collectively, "funds") for purposes of section 2(a)(41) of the Investment Company Act and rule 2a-4

¹ 15 U.S.C. 80a-1 *et seq.*

² 15 U.S.C. 80a-2(a)(41). See also 17 CFR 270.2a-4.

³ See 15 U.S.C. 80a-22(c) and 23(c). See also 17 CFR 270.22c-1(a).

thereunder.⁴ Under the rule, fair value as determined in good faith requires assessing and managing material risks associated with fair value determinations; selecting, applying, and testing fair value methodologies; and overseeing and evaluating any pricing services used. The rule also permits a fund's board to designate a "valuation designee" to perform fair value determinations. The valuation designee can be the adviser of the fund or an officer of an internally managed fund.⁵ When a board designates the performance of determinations of fair value to a valuation designee for some or all of the fund's investments under the rule, the rule requires the board to oversee the valuation designee's performance of fair value determinations.

To facilitate the board's oversight, the rule also includes certain reporting and other requirements in the case of designation to a valuation designee.⁶ As relevant here, the rule requires, if the board designates performance of fair value determinations to a valuation designee, that the valuation designee report to the board in both periodic and as needed reports on a per-fund basis.

Specifically, on a periodic basis, the valuation designee must provide to the board:

- **Quarterly Reports.** At least quarterly, in writing, (1) any reports or materials requested by the board related to the fair value of designated investments or the valuation designee's process for fair valuing fund investments and (2) a summary or description of material fair value matters that occurred in the prior quarter. This summary or description must include (1) any material changes in the assessment and management of valuation risks, including any material changes in conflicts of interest of the valuation designee (and any other service provider), (2) any material changes to, or material deviations from, the fair value methodologies, and (3) any material changes to the valuation designee's process for selecting and overseeing pricing services, as well as any material events related to the valuation designee's oversight of pricing services.

- **Annual Reports.** At least annually, in writing, an assessment of the adequacy and effectiveness of the valuation designee's process for determining the fair value of the

designated portfolio of investments. At a minimum, this annual report must include a summary of the results of the testing of fair value methodologies required under the rule and an assessment of the adequacy of resources allocated to the process for determining the fair value of designated investments, including any material changes to the roles or functions of the persons responsible for determining fair value.

Further, the rule requires the valuation designee to provide a written notification to the board of the occurrence of matters that materially affect the fair value of the designated portfolio of investments (defined as "material matters") within a time period determined by the board, but in no event later than five business days after the valuation designee becomes aware of the material matter. Material matters in this instance include, as examples, a significant deficiency or material weakness in the design or effectiveness of the valuation designee's fair value determination process or of material errors in the calculation of net asset value. The valuation designee must also provide such timely follow-on reports as the board may reasonably determine are appropriate.⁷

The Commission staff estimates that 9,800 funds are subject to rule 2a-5. The internal annual burden estimate is 34 hours for a fund. Based on these estimates, the total annual burden hours associated with the rule is estimated to be 333,200 hours. The estimated burden hours associated with rule 2a-5 have increased by 15,810 hours from the current allocation of 317,390 hours. The external cost associated with this collection of information is approximately \$3,674 per fund, and the total annual external cost burden is \$36,005,200. The estimated external cost has increased by \$6,319,900 from the current estimate of \$29,685,300. These increases are due to an increase in the estimated number of affected entities, as well as in the estimated hourly burden and the external cost associated with the information collection requirements.

The estimate of average burden hours is made solely for purposes of the Paperwork Reduction Act and is not derived from a comprehensive or even a representative survey or study of the cost of Commission rules. The collection of information required by rule 2a-5 is necessary to obtain the benefits of the rule. Other information provided to the Commission in connection with staff examinations or investigations is kept confidential

subject to the provisions of applicable law. If information collected pursuant to rule 2a-5 is reviewed by the Commission's examination staff, it is accorded the same level of confidentiality accorded to other responses provided to the Commission in the context of its examination and oversight program.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by December 18, 2023.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: PRA_Mailbox@sec.gov.

Dated: October 13, 2023.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2023-22970 Filed 10-17-23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-98728; File No. SR-EMERALD-2023-28]

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule Related to the Options Regulatory Fee

October 12, 2023.

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 October 5, 2023, MIAX Emerald, LLC ("MIAX Emerald" or "Exchange") filed with the

⁴ See Good Faith Determinations of Fair Value, Investment Company Act Release No. 34128 (Dec. 7, 2020) ("Adopting Release").

⁵ Rule 2a-5(e)(4).

⁶ Rule 2a-5(b).

⁷ Rule 2a-5(b).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.