



SECURITIES AND EXCHANGE COMMISSION
[Release No. 34-99065; File No. 4-818]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d-2; Notice of Filing of Proposed Plan for the Allocation of Regulatory Responsibilities Between the Financial Industry Regulatory Authority, Inc. and Nasdaq PHLX LLC

December 1, 2023.

Pursuant to section 17(d) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 17d-2 thereunder,² notice is hereby given that on November 17, 2023, the Financial Industry Regulatory Authority, Inc. (“FINRA”) and Nasdaq PHLX LLC (“PHLX”) (together with FINRA, the “Parties”) filed with the Securities and Exchange Commission (“Commission” or “SEC”) a plan for the allocation of regulatory responsibilities, dated November 15, 2023 (“17d-2 Plan” or the “Plan”). The Commission is publishing this notice to solicit comments on the 17d-2 Plan from interested persons.

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) or section 19(g)(2) of the Act.⁴ 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) and 15 U.S.C. 78s(g)(2), respectively.

Section 17(d)(1) of the Act⁵ was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.⁶ 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.⁷ 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.⁸ 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.⁹ 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 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

⁵ 15 U.S.C. 78q(d)(1).

⁶ 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).

⁷ 17 CFR 240.17d-1 and 17 CFR 240.17d-2, respectively.

⁸ See Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

⁹ See Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

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.

II. Proposed Plan

The proposed 17d-2 Plan is intended to reduce regulatory duplication for firms that are common members of both PHLX and FINRA.¹⁰ Pursuant to the proposed 17d-2 Plan, FINRA would assume certain examination and enforcement responsibilities for common members with respect to certain applicable laws, rules, and regulations.

The text of the Plan delineates the proposed regulatory responsibilities with respect to the Parties. Included in the proposed Plan is an exhibit (the “PHLX Certification of Common Rules,” referred to herein as the “Certification”) that lists every PHLX rule, and select federal securities laws, rules, and regulations, for which FINRA would bear responsibility under the Plan for overseeing and enforcing with respect to PHLX members that are also members of FINRA and the associated persons therewith (“Dual Members”).

Specifically, under the 17d-2 Plan, FINRA would assume examination and enforcement responsibility relating to compliance by Dual Members with the rules of PHLX that are substantially similar to the applicable rules of FINRA,¹¹ as well as any provisions of the federal securities laws and the rules and regulations thereunder delineated in the Certification (“Common Rules”). In the event that a Dual Member is the subject of an investigation relating to a transaction on PHLX, the plan acknowledges that PHLX may, in its discretion, exercise concurrent jurisdiction and responsibility for such matter.¹²

¹⁰ The proposed 17d-2 Plan refers to these common members as “Dual Members.” See Paragraph 1(c) of the proposed 17d-2 Plan.

¹¹ See paragraph 1(b) of the proposed 17d-2 Plan (defining Common Rules). See also paragraph 1(f) of the proposed 17d-2 Plan (defining Regulatory Responsibilities). Paragraph 2 of the Plan provides that annually, or more frequently as required by changes in either PHLX rules or FINRA rules, the parties shall review and update, if necessary, the list of Common Rules.

¹² See paragraph 5 of the proposed 17d-2 Plan.

Under the Plan, PHLX would retain full responsibility for surveillance, examination, investigation and enforcement with respect to trading activities or practices involving PHLX's own marketplace, including, without limitation, registration pursuant to its applicable rules of associated persons (i.e., registration rules that are not Common Rules); its duties as a DEA pursuant to Rule 17d-1 under the Act; and any PHLX rules that are not Common Rules, except for PHLX Rules for any PHLX member that operates as a facility (as defined in section 3(a)(2) of the Exchange Act), acts as an outbound router for PHLX and is a member of FINRA ("Router Member").¹³

The text of the proposed 17d-2 Plan is as follows:

AGREEMENT BETWEEN
FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC. AND
NASDAQ PHLX 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 Nasdaq PHLX LLC ("PHLX"), is made this 15th day of November, 2023 (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 PHLX may be referred to individually as a "party" and together as the "parties."

WHEREAS, FINRA and PHLX 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 PHLX 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 U.S. Securities and Exchange Commission (the "SEC" or "Commission") for its approval.

¹³ See paragraph 2 of the proposed 17d-2 Plan.

NOW, THEREFORE, in consideration of the mutual covenants contained hereinafter, FINRA and PHLX 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) **PHLX Rules** or **FINRA Rules** shall mean the rules of PHLX 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 PHLX Rules that are substantially similar to the applicable FINRA Rules and certain provisions of the Exchange Act and SEC rules set forth on Exhibit 1 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 Dual Member's activity, conduct, or output in relation to such provision or rule; provided, however, Common Rules shall not include the application of the SEC, PHLX or FINRA rules as they pertain to violations of insider trading activities, which is covered by a separate 17d-2 Agreement by and among Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., Chicago Stock Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., MEMX LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, NYSE National, Inc., New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., Investors' Exchange LLC and Long-Term Stock Exchange, Inc. approved by the Commission on September 23, 2020. Common Rules shall not include any provisions regarding: (i) notice, reporting or any other filings made directly to or from PHLX; (ii) incorporation by reference of other PHLX 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 PHLX; (iv) prior written approval of PHLX; and (v) payment of fees or fines to PHLX.

(c) “Dual Members” shall mean those PHLX 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 Code of Procedure and FINRA's sanction 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 Dual Members with Rule 14e-4 of the Exchange Act (“Rule 14e-4”), with a focus on the standardized call option provision of Rule 14e-4(a)(1)(ii)(D).

2. Regulatory Responsibilities. FINRA shall assume Regulatory Responsibilities for Dual Members. Attached as Exhibit 1 to this Agreement and made part hereof, PHLX 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 PHLX Rules or FINRA Rules, PHLX shall submit an updated list of Common Rules to FINRA for review which shall add PHLX Rules not included in the current list of Common Rules that qualify as Common Rules as defined in this Agreement; delete PHLX 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 PHLX 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 PHLX shall retain full responsibility for (unless otherwise addressed by separate agreement or rule) the following (collectively, the “Retained Responsibilities”):

- (a) Surveillance, examination, investigation and enforcement with respect to trading activities or practices involving PHLX’s own marketplaces;
- (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 PHLX Rules that are not Common Rules, except for PHLX Rules for any PHLX member that operates as a facility (as defined in section 3(a)(2) of the Exchange Act), acts as an outbound router for PHLX and is a member of FINRA (“Router Member”) as provided in paragraph 5. As of the date of this Agreement, Nasdaq Execution Services, LLC is the only Router Member.

3. No Charge. There shall be no charge to PHLX by FINRA for performing the Regulatory Responsibilities under this Agreement except as hereinafter provided. FINRA shall provide PHLX with ninety (90) days advance written notice in the event FINRA decides to

impose any charges to PHLX for performing the Regulatory Responsibilities under this Agreement. If FINRA determines to impose a charge, PHLX 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.

4. 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.

5. Notification of Violations. In the event that FINRA becomes aware of apparent violations of any PHLX Rules, which are not listed as Common Rules, discovered pursuant to the performance of the Regulatory Responsibilities assumed hereunder, FINRA shall notify PHLX of those apparent violations for such response as PHLX deems appropriate. With respect to apparent violations of any PHLX Rules by any Router Member, FINRA shall not make referrals to PHLX pursuant to this paragraph 5. Such apparent violations shall be processed by, and enforcement proceedings in respect thereto will be conducted by, FINRA as provided in this Agreement. In the event that PHLX becomes aware of apparent violations of any Common Rules, discovered pursuant to the performance of the Retained Responsibilities, PHLX shall notify FINRA of those apparent violations and such matters shall be handled by FINRA as provided in this Agreement. Each party agrees to make available promptly all files, records and witnesses necessary to assist the other in its investigation or proceedings. Apparent violations of 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 PHLX, PHLX may in its discretion assume concurrent jurisdiction and responsibility.

6. Continued Assistance.

(a) FINRA shall make available to PHLX all information obtained by FINRA in the performance by it of the Regulatory Responsibilities hereunder with respect to the Dual Members subject to this Agreement. In particular, and not in limitation of the foregoing, FINRA shall furnish PHLX any information it obtains about Dual Members which reflects adversely on their financial condition. PHLX 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.

(b) The parties agree that documents or information shared shall be held in confidence, and used only for the purposes of carrying out their respective regulatory obligations. Neither party shall assert regulatory or other privileges as against the other with respect to documents or information that is required to be shared pursuant to this Agreement.

(c) The sharing of documents or information between the parties pursuant to this Agreement shall not be deemed a waiver as against third parties of regulatory or other privileges relating to the discovery of documents or information.

7. 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 partners, officers, registered personnel and any other person required to be approved by the PHLX Rules and FINRA Rules or associated with Dual Members thereof. Upon request, FINRA shall advise PHLX of any changes of allied members, partners, officers, registered personnel and other persons required to be approved by the PHLX 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 7(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 PHLX advised of its actions in this regard for such subsequent proceedings as PHLX 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 an associated person therewith or other persons required to register or qualify by examination meets the PHLX requirements for general membership or for specified categories of membership or participation in PHLX, such as PSX Market Maker, Equities ECN, Order Entry Firm, or any similar type of PHLX membership or participation 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 7(d), including termination or limitation on activities, of a member or a participant of PHLX, or a person associated with, or requesting association with, a member or participant of PHLX.

8. 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 PHLX of the opening, address change and termination of branch and main offices of Dual Members and the names of such branch office managers.

9. Customer Complaints. PHLX shall forward to FINRA copies of all customer complaints involving Dual Members received by PHLX 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.

10. Advertising. FINRA shall assume responsibility to review the advertising of Dual Members subject to the Agreement, provided that such material is filed with FINRA in accordance with FINRA's filing procedures and is accompanied with any applicable filing fees set forth in FINRA Rules.

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 PHLX or FINRA at any time upon the approval of the Commission after one (1) year's written notice to the other party, except as provided in paragraph 3.

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, PHLX and FINRA hereby agree that any such dispute shall be settled by arbitration in Washington, D.C. 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. Each party acknowledges that the timely and complete performance of its obligations pursuant to this Agreement is critical to the business and operations of the other party. In the event of a dispute between the parties, the parties shall continue to perform their respective obligations under this Agreement in good faith during the resolution of such dispute

unless and until this Agreement is terminated in accordance with its provisions. Nothing in this paragraph 14 shall interfere with a party's right to terminate this Agreement as set forth herein.

15. 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.

16. Limitation of Liability. Neither FINRA nor PHLX 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 PHLX 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 PHLX with respect to any of the responsibilities to be performed by each of them hereunder.

17. Relief from Responsibility. Pursuant to sections 17(d)(1)(A) and 19(g) of the Exchange Act and Rule 17d-2 thereunder, FINRA and PHLX join in requesting the Commission, upon its approval of this Agreement or any part thereof, to relieve PHLX 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.

18. 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.

19. Separate Agreement. This Agreement is wholly separate from (1) the multiparty Agreement made pursuant to Rule 17d-2 of the Exchange Act among Cboe BZX Exchange, Inc.,

BOX Exchange, Cboe Exchange, Inc., Cboe C2 Exchange, Inc., Nasdaq ISE, LLC, Financial Industry Regulatory Authority, Inc., Miami International Securities Exchange, LLC, NYSE American LLC, NYSE Arca, Inc., The Nasdaq Stock Market, LLC, Nasdaq BX, Inc., Nasdaq PHLX LLC, Nasdaq GEMX, LLC, Cboe EDGX Exchange, Inc., Nasdaq MRX, LLC, MIAX PEARL, LLC, MIAX Emerald, LLC, and MEMX LCC approved by the Commission on October 18, 2022 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, index warrants, currency index warrants and currency warrants or (2) the multiparty Agreement made pursuant to Rule 17d-2 of the Exchange Act among 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, MIAX Emerald, LLC, and MEMX LLC approved by the Commission on November 23, 2022 involving options-related market surveillance matters and such agreements as may be amended from time to time.

20. 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.

* * * * *

EXHIBIT 1

PHLX CERTIFICATION OF COMMON RULES

PHLX hereby certifies that the requirements contained in the rules listed below for PHLX 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 PHLX, (ii) incorporations by reference to other PHLX 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 PHLX, (iv) prior written approval of PHLX, and (v) payment of fees or fines to PHLX.

| PHLX RULE | FINRA or SEC RULE |
|---|--|
| General 2, Section 11 Contact Information Requirements [#] | 4517. Member Filing and Contact Information Requirements |
| General 3, Rule 1002(b) Qualifications of Exchange Members and Associated Persons; Registration of Branch Offices and Designation of Office of Supervisory Jurisdiction [#] | FINRA By-Laws Article III, Sec. 1; FINRA By-Laws Article III, Sec. 3(a) and (b) |
| General 3, Rule 1002(d). Qualifications of Exchange Members and Associated Persons; Registration of Branch Offices and Designation of Office of Supervisory Jurisdiction [#] | 3110(a)(3) Supervision and SM .01 and .02. Supervision* and FINRA By-Laws Article IV, Sec. 8 |
| General 3, Rule 1012(c)(1). Duty to Ensure the Accuracy, Completeness, and Current Nature of Membership Information Filed with the Exchange [#] | 1122. Filing of Misleading Information as to Membership or Registration; FINRA By-Laws Article IV, Sec. 1(c) |
| General 4, Section 1, 1210. Registration Requirements [#] | 1210. Registration Requirements; FINRA By-Laws, Article V, Sec. 1; FINRA By-Laws, Article V, Sec. 2; FINRA By-Laws, Article V, Sec. 3 |
| General 4, Section 1, 1220. Registration Categories ^{1#} | 1220. Registration Categories |
| General 4, Section 1, Rule 1230(1)-(2)(D) and Supplementary Material .01. Associated Persons Exempt from Registration [#] | 1230. Associated Persons Exempt from Registration |
| General 4, Section 1, 1240. Continuing Education Requirements ^{2#} | 1240. Continuing Education |
| General 4, Section 1, 1250. Electronic Filing Requirements for Uniform Forms [#] | 1010. Electronic Filing Requirements for Uniform Forms |
| General 9, Section 1(b). Manipulative Operations and General 9, Section 2(b)(i) Customers' Securities and Excessive Trading of Members | 2020. Use of Manipulative, Deceptive or Other Fraudulent Devices*; 6140 Other Trading Practices; 5350 Stop Orders; 6130 Transactions Related to Initial Public Offerings |
| General 9, Section 1(c)(1). Standards of Commercial Honor and Principles of Trade | 2010. Standards of Commercial Honor and Principles of Trade* |
| General 9, Section 1(a). Prohibition Against Trading Ahead of Customer Orders | 5320. Prohibition Against Trading Ahead of Customer Orders |
| General 9, Section 1(c)(2). Anti-Intimidation/Coordination | 5240. Anti-Intimidation/Coordination |
| General 9, Section 1(c)(3). Conduct Inconsistent with Just and Equitable Principles of Trade | 5290. Order Entry and Execution Practices |

| PHLX RULE | FINRA or SEC RULE |
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| General 9, Section 2(a). Customers' Securities and Excessive Trading of Members | 2150(a). Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts |
| General 9, Section 11. Best Execution and Interpositioning | 5310. Best Execution and Interpositioning |
| General 9, Section 19. Discretionary Accounts | 3260. Discretionary Accounts |
| General 9, Section 20. Supervision | 3110. Supervision |
| General 9, Section 30. Books and Records | 4511. General Requirements |
| General 9, Section 35. Nonregistered Foreign Finders | Rule 2040(c). Payments to Unregistered Persons |
| General 9, Section 39. Fidelity Bonds | 4360. Fidelity Bonds |
| General 9, Section 58. Advertisements, Market Letters, Research Reports and Sales Literature | 2210. Communications with the Public |
| Options 6E, Section 1(a). Maintenance, Retention and Furnishing of Books, Records and Other Information [#] | 4511(a). General Requirements |
| Options 10, Section 7(g) and (h). [#] Supervision of Accounts | 3120. Supervisory Control System 3130. Annual Certification of Compliance and Supervisory Processes |
| Options 10, Section 10. Confirmations to Customers | 2232. Customer Confirmations |
| Options 10, Section 17. Profit Sharing | 2150(c). Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts |

¹ FINRA shall only have Regulatory Responsibilities regarding General 4, Section 1, 1220 to the extent that PHLX recognizes the same categories of limited principal and representative registration.

² FINRA Rule 1240.01 allows for other persons to make their election to participate in the continuing education program under Rule 1240(c) either (1) between January 31, 2022, and March 15, 2022; or (2) between March 15, 2023, and December 31, 2023. In contrast, Supplementary Material .02 of Nasdaq PHLX General 4, Section 1, 1240 allows for other persons to make their election to participate in the continuing education program under PHLX General 4, Section 1, 1240(c) either (1) by March 15, 2022, or (2) between July 6, 2023, and December 31, 2023. Therefore, FINRA shall not have Regulatory Responsibilities regarding elections made by other persons under General 4, Section 1, 1240(c) between March 15, 2023, and July 5, 2023.

* FINRA shall not have any Regulatory Responsibilities for these rules as they pertain to violations of insider trading activities, which is covered by a separate 17d-2 Agreement by and among Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., NYSE Chicago, Inc., Cboe EDGA Exchange Inc., Cboe EDGX Exchange Inc., Financial Industry Regulatory Authority, Inc., MEMX, LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, NYSE National, Inc., New York Stock Exchange, LLC, NYSE American LLC, NYSE Arca Inc., Investors' Exchange LLC, and the Long-Term Stock Exchange, Inc. as approved by the SEC on September 23, 2020.

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

The following provisions are covered by the Agreement between the Parties:

- SEC '34 Act Section 28(e) Effect on Existing Law
- SEC '34 Act Rule 10b-10 Confirmation of Transactions

- SEC '34 Act Rule 203 of Regulation SHO Borrowing and Delivery Requirements
- SEC '34 Act Rule 606 of Regulation NMS Disclosure of Order Routing Information
- SEC '34 Act Rule 607 of Regulation NMS Customer Account Statements
- 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).

III. Date of Effectiveness of the Proposed Plan and Timing for Commission Action

Pursuant to section 17(d)(1) of the Act¹⁴ and Rule 17d-2 thereunder,¹⁵ after [insert date 15 days from publication in the Federal Register], the Commission may, by written notice, declare the plan submitted by PHLX and FINRA, File No. 4-818, to be effective if the Commission finds that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among self-regulatory organizations, or to remove impediments to and foster the development of the national market system and a national system for the clearance and settlement of securities transactions and in conformity with the factors set forth in section 17(d) of the Act.

IV. Solicitation of Comments

In order to assist the Commission in determining whether to approve the proposed 17d-2 Plan and to relieve PHLX of the responsibilities which would be assigned to FINRA, 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/other.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number 4-818 on the subject line.

¹⁴ 15 U.S.C. 78q(d)(1).

¹⁵ 17 CFR 240.17d-2.

Paper comments:

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

All submissions should refer to File Number 4-818. This file number should be included on the subject line if e-mail 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/other.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, D.C. 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 PHLX and FINRA. 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 No. 4-818 and should be submitted on or before [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Sherry R. Haywood,

Assistant Secretary.

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17 CFR 200.30-3(a)(12).