EXHIBIT 5

New text is <u>underlined;</u>
Deleted text is in [brackets]

MIAX Emerald Options Exchange Rulebook

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Rule 100. Definitions

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Associated Person or Person Associated with a Member
The term "**associated person**" or "**person associated with a Member**" means any partner, officer, director, or branch manager of a Member (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with a Member, or any employee of a Member, except that any person associated with a Member whose functions are solely clerical or ministerial shall not be included in the meaning of such term for purposes of these Rules.

<u>For purposes of "statutory disqualification" as such term is defined in Section 3(a)(39) of the Exchange Act, the terms "person associated with a Member" and "associated person" shall mean (1) a natural person who is registered or has applied for registration under the Rules of the Exchange and (2) a sole proprietor, partner, officer, director, or branch manager of a Member, or other natural person occupying a similar status or performing similar functions, or a natural person engaged in the securities business who is directly or indirectly controlling or controlled by a Member, whether or not any such person is registered or exempt from registration with the Exchange under its Rules.</u>

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Rule 204. Members and Persons Associated with a Member Who Are or Become Subject to a Statutory Disqualification

[(a) The Exchange may determine in accordance with the provisions of this Rule not to allow a Member or associated person of a Member to continue being a Member or associated with a Member, or to condition such continuance as a Member or associated person, if the Member or associated person is or becomes subject to a statutory disqualification under the Exchange Act.

(b) If a Member or associated person of a Member who is or becomes subject to a statutory disqualification under the Exchange Act wants to continue being a Member or associated with a Member, the Member or associated person must, within 30 days of becoming subject to a statutory disqualification, submit an application to the Exchange, in a form and manner prescribed by the Exchange, seeking to continue being a Member or associated with a Member notwithstanding the statutory disqualification. The application shall be accompanied by copies of all documents that are contained in the record of the underlying proceeding that triggered the statutory disqualification. Failure to timely file such an application is a factor that may be taken into consideration by the Exchange in making determinations pursuant to paragraph (c) of this Rule.

(c) Following the receipt of an application submitted pursuant to paragraph (b) of this Rule, or in the event the Exchange becomes aware that a Member or associated person of a Member is subject to a statutory disqualification and has failed to submit an application pursuant to paragraph (b) of this Rule within the required time period, the Exchange shall appoint a panel to conduct a hearing concerning the matter pursuant to the procedure set forth in Chapter XI (Hearings, Review and Arbitration).

(d) Subject to Chapter IX (Summary Suspension) of the Rules, any applicant whose application to become a Member is denied or conditioned, or any person whose association with a Member is denied or conditioned pursuant to paragraph (a), (b) or (c) of Rule 201, and any Member or person associated with a Member who is not permitted pursuant to this Rule to continue as a Member or to be associated with a Member or which continuance as a Member or association is conditioned, may appeal the Exchange's decision under Chapter XI (Hearings, Review and Arbitration) of the Rules.

(e) No determination to discontinue or condition a person as a Member or associated person pursuant to this Rule shall take effect until the review procedures under paragraph (d) of this Rule have been exhausted or the time for review has expired.

Interpretations and Policies:

.01 The Exchange may waive the provisions of this Rule when a proceeding is pending before another self-regulatory organization to determine whether to permit a Member or an associated person of a Member to continue being a Member or associated with the Member notwithstanding a statutory disqualification. In the event the Exchange determines to waive the provisions of this Rule with respect to a Member or associated person, the Exchange shall determine whether it will concur in any Exchange Act Rule 19h-1 filing made by another self-regulatory organization with respect to the Member or associated person.

.02 If a Member or an associated person of a Member is or becomes subject to a statutory disqualification under the Exchange Act, the Member shall immediately provide written notice to the Exchange of the name of the Member or associated person, the associated person's capacity with the Member, and the nature of the statutory disqualification.

.03 In those instances where Exchange Act Rule 19h-1(a)(2) does not require the Exchange to make a notice filing with the Commission to permit an associated person to continue in association with a Member, and where the Exchange intends to grant the associated person's application for continued association, the Exchange may waive the hearing provisions of paragraph (c) above with respect to that associated person.]

<u>(a) Purpose and Definitions</u>

(1) **Purpose**. Rule 204 sets forth procedures for a person to become or remain associated with a Member, notwithstanding the existence of a statutory disqualification as defined in Section 3(a)(39) of the Exchange Act. Such actions hereinafter are referred to as "eligibility proceedings."

(2) **Definitions**

(i) The term "**Application**" means in a form and manner set forth by the Exchange, which may include FINRA's Form MC-400 for individuals or Form MC-400A for Members and Member applicants, filed with the Exchange or designee, which may include FINRA.

(ii) The term "**disqualified Member**" means a Member that is or becomes subject to a disqualification under Section 3(a)(39) of the Exchange Act.

(iii) The term "**disqualified person**" means an associated person of a Member or person seeking to become an associated person of a Member who is or becomes subject to a disqualification under Section 3(a)(39).

(iv) The term "**Exchange staff**" in this Rule means Exchange employees and, as applicable, may also include employees of FINRA who are providing regulatory services to the Exchange in accordance with the regulatory services agreement.

(v) The term "**sponsoring Member**" means the Member or Member applicant that is sponsoring the association or continued association of a disqualified person to be admitted, readmitted, or permitted to continue in association.

(b) Initiation of Eligibility Proceeding

(1) Initiation by the Exchange

(i) **Issuance of Notice of Disqualification or Ineligibility**. If Exchange staff has reason to believe that a disqualification under Section 3(a)39 of the Exchange Act exists or that a Member or person associated with a Member otherwise fails to meet the eligibility requirements of the Exchange, Exchange staff shall issue a written notice to the Member or applicant for membership under Exchange rules. The notice shall specify the grounds for such disqualification or ineligibility. Exchange staff shall not issue such written notice to Members or applicants for membership under Exchange rules with respect to disqualifications arising solely from findings or orders specified in Section 15(b)(4)(D), (E), or (H) of the Exchange Act or arising under Section 3(a)(39)(E) of the Exchange Act, unless the Member or applicant for membership under Exchange rules is required to file an application pursuant to a Regulatory Circular to be issued by the Exchange (the "SD Regulatory Circular").

(ii) **Notice Regarding a Member**. A notice issued to a disqualified Member shall state that the disqualified Member may apply for relief by filing an application or, in the case of a matter set forth in Rule 204(b)(5)(i), a written request for relief, within ten business days after service of the notice. If the Member fails to file the application or, where appropriate, the written request for relief, within the 10-day period, the membership of the Member shall be canceled, unless Exchange staff grants an extension for good cause shown.

(iii) **Notice Regarding an Associated Person**. A notice issued regarding a disqualified person of a Member or applicant for membership under Exchange rules shall state that such Member of an associated person or applicant for membership may file an application on behalf of the associated person or, in the case of a matter set forth in Rule 204(b)(5)(i), a written request for relief, within ten business days after service of the notice. If the Member fails to file the application or, where appropriate, the written request for relief, within the 10-day period, the registration of the disqualified person shall be revoked, unless Exchange staff grants an extension for good cause shown.

(iv) **Service**. A notice issued under this section shall be served by electronic mail or pursuant to Rule 1012(a). Service by electronic mail shall be deemed complete upon sending the notice.

(2) Obligation of Member to Initiate Proceeding

(i) A Member shall file an application or, in the case of a matter set forth in Rule 204(b)(5)(i), a written request for relief, with the Exchange or its designee, which may include FINRA, if the Member determines prior to receiving a notice under paragraph (b) that:

(A) it has become a disqualified Member;

(B) a person associated with such Member or whose association is proposed by a Member applicant under Exchange rules has become a disqualified person; or

(C) the Member or Member applicant under Exchange rules wishes to sponsor the association of a person who is a disqualified person.

(ii) For any disqualifications arising solely from findings or orders specified in Section 15(b)(4)(D), (E), or (H) of the Exchange Act or arising under Section 3(a)(39)(E) of the Exchange Act, a Member shall not file an application unless instructed to do so by the SD Regulatory Circular.

(3) **Withdrawal of Application**. A Member may withdraw its application or written request for relief prior to a hearing by filing a written notice with the Exchange or its designee, which may include FINRA. A Member may withdraw its application after the start of a hearing but prior to the issuance of a decision by the Business Conduct Committee by filing a written notice with the Exchange.

(4) **Ex Parte Communications**. The prohibitions against ex parte communications set forth in Rule 1006(f) shall become effective under Rule 204 when an appeal, pursuant to Rule 204(d), is initiated.

(5) **Exchange Consideration**

(i) **Matters that may be Approved by Exchange Staff without the Filing of an Application**. Exchange staff, as it deems consistent with the public interest and the protection of investors, is authorized to approve a written request for relief from the eligibility requirements by a disqualified Member or a sponsoring Member without the filing of an application by such disqualified Member or sponsoring Member if a disqualified Member or disqualified person is subject to one or more of the following conditions but is not otherwise subject to disqualification:

(A) a disqualified Member or disqualified person is subject to a disqualification based on an injunction that was entered ten or more years prior to the proposed admission or continuance by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, transfer agent, foreign person performing a function substantially equivalent to any of the above, entity or person required to be registered under the Commodity Exchange Act, or any substantially equivalent foreign statute or regulation, or as an affiliated person or employee of any investment company, bank, insurance company, foreign entity substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.

(B) a sponsoring Member makes a request to change the supervisor of a disqualified person; or

(C) a disqualified Member or sponsoring Member is (i) a Member of the Exchange, or seeking to become a Member, and (ii) a member of another self-regulatory organization; and:

1. the other self-regulatory organization intends to file a Notice under Exchange Act Rule 19h-1 approving the membership continuance of the disqualified Member or, in the case of a sponsoring Member, the proposed association or continued association of the disqualified person; and

2. Exchange staff concurs with that determination.

(ii) **Matters that may be Approved by Exchange Staff after the Filing of an Application**. Exchange staff, as it deems consistent with the public interest and the protection of investors, is authorized to approve an application filed by a disqualified Member or sponsoring Member if the disqualified Member or disqualified person is subject to one or more of the following conditions but is not otherwise subject to disqualification (other than a matter set forth in paragraph(b)(5)(i)):

(A) The disqualified person is already a participant in, a member of, or a person associated with a member of, a self-regulatory organization (other than the Exchange), and the terms and conditions of the proposed admission to the Exchange are the same in all material respects as those imposed or not disapproved in connection with such person's prior admission or continuance pursuant to an order of the SEC under Exchange Act Rule 19h-1 or other substantially equivalent written communication;

(B) Exchange staff finds, after reasonable inquiry, that except for the identity of the employer concerned, the terms and conditions of the proposed admission or continuance are the same in all material respects as those imposed or not disapproved in connection with a prior admission or continuance of the disqualified person pursuant to an order of the SEC under Exchange Act Rule 19h-1 or other substantially equivalent written communication, and that there is no intervening conduct or other circumstance that would cause the employment to be inconsistent with the public interest or the protection of investors;

(C) The disqualification previously was a basis for the institution of an administrative proceeding pursuant to a provision of the federal securities laws, and was considered by the SEC in determining a sanction against such disqualified person in the proceeding; and the SEC concluded in such proceeding that it would not restrict or limit the future securities activities of such disqualified person in the capacity now proposed, or, if it imposed any such restrictions or limitations for a specified time period, such time period has elapsed;

(D) The disqualification consists of a court order or judgment of injunction or conviction, and such order or judgment:

1. expressly includes a provision that, on the basis of such order or judgment, the SEC will not institute a proceeding against such person pursuant to Section 15(b) or 15B of the Exchange Act or that the future securities activities of such persons in the capacity now proposed will not be restricted or limited; or

2. includes such restrictions or limitations for a specified time period and such time period has elapsed;

(E) The disqualified person's functions are purely clerical and/or ministerial in nature; or

(F) The disqualification arises from findings or orders specified in Section 15(b)(4)(D), (E), or (H) of the Exchange Act or arises under Section 3(a)(39)(E) of the Exchange Act.

(iii) Rights of Disqualified Member, Sponsoring Member, Disqualified Person, and Exchange

(A) In the event Exchange staff does not approve a written request for relief from the eligibility requirements pursuant to paragraph (b)(5)(i), the disqualified Member or sponsoring Member may file an application, and such Member shall have the right to proceed under paragraph (c) or (d) of this Rule as applicable. The Exchange staff may require a disqualified Member or sponsoring Member to file an application with the Exchange or its designee, which may include FINRA, notwithstanding the provisions of paragraph (b)(5)(i).

(B) In the event Exchange staff does not approve an application pursuant to paragraph (b)(5)(ii), the disqualified Member or sponsoring Member shall have the right to proceed under paragraph (c) or (d) of this Rule.

(6) **Submission of an Interim Plan of Heightened Supervision**. An application filed pursuant to paragraph (b)(1)(iii) or (b)(2)(i)(B) of this Rule that seeks the continued association of a disqualified person must include:

(i) An interim plan of heightened supervision. The application shall identify an appropriately registered principal responsible for carrying out the interim plan of heightened supervision, who has signed the plan and acknowledged his or her responsibility for implementing and maintaining such plan. The interim plan of heightened supervision shall be in effect throughout the entirety of the application review process which shall be considered concluded only upon the final resolution of the eligibility proceeding. The interim plan of heightened supervision shall comply with the Exchange's supervision rules, including Exchange Rule 1308, and be reasonably designed and tailored to include specific supervisory policies and procedures that address any regulatory concerns related to the nature of the disqualification, the nature of the sponsoring Member's business, and the disqualified person's current and proposed activities during the review process; and

(ii) A written representation from the sponsoring Member that the disqualified person is currently subject to an interim plan of heightened supervision as set forth in paragraph (b)(6)(i) of this Rule.

(7) **Determination that an Application is Substantially Incomplete**. If Exchange staff determines that an application filed pursuant to paragraph (b)(1)(iii) or (b)(2)(i)(B) of this Rule that seeks the continued association of a disqualified person is substantially incomplete, it may reject the application and deem it not to have been filed. In such case, Exchange staff shall provide the sponsoring Member notice of the delinquency and its reasons for so doing. The sponsoring Member shall have 10 business days after service of the notice of delinquency to remedy the application, or such other time period as prescribed by Exchange staff. An application will be deemed to be substantially incomplete if:

(i) It does not include the representation required by paragraph (b)(6)(ii) of this Rule; or

(ii) Exchange staff determines that it does not include a reasonably designed interim plan of heightened supervision that complies with the standards of paragraph (b)(6)(i) of this Rule.

(8) **Consequences for Failure to Timely Remedy an Application that is Substantially Incomplete**. If an applicant fails to remedy an application that is substantially incomplete, Exchange staff shall serve a written notice on the sponsoring Member of its determination to reject the application and its reasons for so doing. Upon such rejection, the sponsoring Member must promptly terminate association with the disqualified person.

(c) Acceptance of Exchange Staff Recommendations and Supervisory Plans by Consent Pursuant to Exchange Act Rule 19h-1

(1) With respect to all disqualifications, except those arising solely from findings or orders specified in Section 15(b)(4)(D), (E) or (H) of the Exchange Act or arising under Section 3(a)(39)(E) of the Exchange Act, after an application is filed, Exchange staff may recommend the membership or continued membership of a disqualified Member or sponsoring Member or the association or continuing association of a disqualified person pursuant to a supervisory plan where the disqualified Member, sponsoring Member, and/or disqualified person, as the case may be, consent to the recommendation and the imposition of the supervisory plan. The disqualified Member, sponsoring Member, and/or disqualified person, as the case may be, shall execute a letter consenting to the imposition of the supervisory plan.

(i) If a disqualified Member, sponsoring Member, and/or disqualified person submitted an executed letter consenting to a supervisory plan, by the submission of such letter, the disqualified Member, sponsoring Member and/or disqualified person waive:

(A) the right of appeal to the Business Conduct Committee, the SEC, and the courts, or otherwise challenge the validity of the supervisory plan, if the supervisory plan is accepted.

(B) any right of the disqualified Member, sponsoring Member, and/or disqualified person to claim bias or prejudgment by Exchange staff, the Exchange, the Business Conduct Committee, or any member of the Business Conduct Committee, in connection with such person's or body's participation in discussions regarding the terms and conditions of Exchange staff's recommendation or the supervisory plan, or other consideration of the recommendation or supervisory plan, including acceptance or rejection of such recommendation or supervisory plan; and

(C) any right of the disqualified Member, sponsoring Member, and/or disqualified person to claim that a person violated the ex parte prohibitions of Rule 1006(f), in connection with such person's or body's participation in discussions regarding the terms and conditions of the recommendation or supervisory plan, or other consideration of the recommendation or supervisory plan, including acceptance or rejection of such recommendation or supervisory plan.

(ii) If a recommendation or supervisory plan is rejected, the disqualified Member, sponsoring Member, and/or disqualified person shall be bound by the waivers made under paragraph (c)(1) for conduct by persons or bodies occurring during the period beginning on the date the supervisory plan was submitted and ending upon the rejection of the supervisory plan and shall have the right to proceed under this rule and paragraph (d) of this Rule, as applicable.

(iii) If the disqualified Member, sponsoring Member, and/or disqualified person execute the letter consenting to the supervisory plan, it shall be submitted to Exchange staff with a proposed Notice under Exchange Act Rule 19h-1, where required. The Exchange may accept or reject the recommendation of Exchange staff and the supervisory plan.

(iv) If the recommendation and supervisory plan is accepted by the Exchange it shall be deemed final and, where required, the proposed Notice under Exchange Act Rule 19h-1 will be filed by Exchange. If the recommendation and supervisory plan are rejected by the Exchange, the Exchange may take any other appropriate action with respect to the disqualified Member, sponsoring Member, and/or disqualified person. If the recommendation and supervisory plan are rejected, the disqualified Member, sponsoring Member, and/or disqualified person shall not be prejudiced by the execution of the letter consenting to the supervisory plan under paragraph (c)(1) and the letter may not be introduced into evidence in any proceeding.

(2) With respect to disqualifications arising solely from findings or orders specified in Section 15(b)(4)(D), (E) or (H) of the Exchange Act or arising under Section 3(a)(39)(E) of the Exchange Act, after an application is filed, in approving an application under Rule 204(b)(5)(ii)(F), Exchange staff is authorized to accept the membership or continued membership of a disqualified Member or sponsoring Member or the association or continuing association of a disqualified person pursuant to a supervisory plan where the disqualified Member, sponsoring Member, and/or disqualified persons, as the case may be, consent to the imposition of the supervisory plan. The disqualified Member, sponsoring Member, and/or disqualified person, as the case may be, shall execute a letter consenting to the imposition of the supervisory plan. Exchange staff shall prepare a proposed Notice under Exchange Act Rule 19h-1, where required, and Exchange staff shall file such Notice.

(i) If a disqualified Member, sponsoring Member, and/or disqualified person submitted an executed letter consenting to a supervisory plan, by the submission of such letter, the disqualified member, sponsoring member and/or disqualified person waive:

(A) the right of appeal to the Business Conduct Committee, the SEC, and the courts, or otherwise challenge the validity of the supervisory plan, if the supervisory plan is accepted;

(B) any right of the disqualified member, sponsoring member, and/or disqualified person to claim bias or prejudgment by the Exchange staff, the Exchange, the Business Conduct Committee, or any member of the Business Conduct Committee in connection with such person's or body's participation in discussions regarding the terms and conditions of Exchange staff's recommended supervisory plan, or other consideration of the supervisory plan, including acceptance or rejection of such recommendation or supervisory plan; and

(C) any right of the disqualified Member, sponsoring Member, and/or disqualified person to claim that a person violated the ex parte prohibitions of Rule 1006(f), in connection with such person's or body's participation in discussions regarding the terms and conditions of the supervisory plan, or other consideration of the supervisory plan, including acceptance or rejection of such supervisory plan.

(ii) If the supervisory plan is rejected, the disqualified Member, sponsoring Member, and/or disqualified person shall be bound by the waivers made under paragraph (c)(2)(i) for conduct by persons or bodies occurring during the period beginning on the date the supervisory plan was submitted and ending upon the rejection of the supervisory plan and shall have the right to proceed under paragraph (d) of this Rule.

(d) Business Conduct Committee Consideration

(1) **Request for Review**. A disqualified Member, sponsoring Member, or applicant, may request that the Business Conduct Committee reviews a decision to reject a supervisory plan under paragraph (c) of this Rule. A request for review shall be made by filing with the Secretary of the Exchange a written request therefor, which states the basis and reasons for such review, within 25 days after notice of the decision is served.

(2) **Review by Business Conduct Committee**. Any review by the Business Conduct Committee shall be based on oral arguments and written briefs and shall be limited to consideration of the record before the Exchange. Upon review, the Business Conduct Committee, by the affirmative vote of a majority of the Business Conduct Committee, may sustain, modify or reverse any such decision. Unless the Business Conduct Committee otherwise specifically directs, the decision of the Business Conduct Committee after review shall be final and conclusive subject to the provisions for review of the Exchange Act.

(3) **Remand**. Notwithstanding the foregoing, if either party upon review applies to the Business Conduct Committee for leave to adduce additional evidence, and shows to the satisfaction of the Business Conduct Committee that the additional evidence is material and that there was reasonable ground for failure to adduce it previously, the Business Conduct Committee may remand the matter for further proceedings, in whatever manner and on whatever conditions the Business Conduct Committee considers appropriate.

(4) **Service by Electronic Mail; When Service is Complete**. For purposes of this Rule, service by electronic mail shall be deemed complete upon sending the documents or decision.

(5) **Application to SEC for Review**. The right to have any action taken pursuant to this Rule 204 reviewed by the SEC is governed by Section 19 of the Exchange Act. The filing of an application for review shall not stay the effectiveness of final action by the Exchange, unless the SEC otherwise orders. Pursuant to Rule 204(d), a decision to deny an application for a disqualified member’s continued membership shall not become effective until the time for filing an application for review with the SEC has expired and no such application is filed or, if such an application is timely filed, until the SEC completes its review under Exchange Act Section 19.

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