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action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [36] of the Act to determine whether the proposed rule change should be approved or disapproved.

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–NYSECHX–2023–22 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–NYSECHX–2023–22. 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–NYSECHX–2023–22 and should be submitted on or before December 13, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–25772 Filed 11–21–23; 8:45 am]

BILLING CODE 8011–01–P

[36] 15 U.S.C. 78s(b)(2)(B).

[37] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98973; File No. SR–MIAX–2023–44]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing of a Proposed Rule Change To Accommodate the Listings of Monthly Options Series

November 16, 2023.

Pursuant to the provisions of 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 November 14, 2023, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange is filing a proposal to amend its Rules to adopt Monthly Options Series.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings,* at MIAX's principal office, 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 Exchange 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 these 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 aspects of such statements.

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

1. Purpose

The Exchange proposes to amend its Rules to accommodate the listing of options series that would expire at the close of business on the last business day of a calendar month (''Monthly Options Series'').

Pursuant to proposed Interpretation and Policy .13 to Exchange Rule 404 and Interpretation and Policy .03 to Exchange Rule 1809, the Exchange may list Monthly Options Series for up to five currently listed option classes that are either index options or options on exchange-traded funds (''ETFs'').[3] In addition, the Exchange may also list Monthly Options Series on any options classes that are selected by other securities exchanges that employ a similar program under their respective rules.[4] The Exchange may list 12 expirations for Monthly Options Series. Monthly Options Series need not be for consecutive months; however, the expiration date of a nonconsecutive expiration may not be beyond what would be considered the last expiration date if the maximum number of expirations were listed consecutively.[5]

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

[2] 17 CFR 240.19b–4.

[3] The Exchange proposes to amend Exchange Rule 404(a) to provide that proposed Interpretation and Policy .13 to Exchange Rule 404 will describe how the Exchange will fix a specific expiration date and exercise price for Monthly Options Series and that proposed Interpretation and Policy .13 to Exchange Rule 404 will govern the procedures for opening Monthly Options Series, respectively. This is consistent with language in current Exchange Rules 404(a) for other Short Term Options Series and Quarterly Options Series.

[4] Currently, Cboe Exchange, Inc. has a similar program. *See* Securities Exchange Act Release No. 98915 (Nov. 13, 2023) (SR–CBOE–2023–049) (Order Approving a Proposed Rule Change To Adopt Monthly Options Series).

[5] The Exchange notes this provision considers consecutive monthly listings. In other words, as other expirations (such as Quarterly Options Series) are not counted as part of the maximum, those

Continued

Other expirations in the same class are not counted as part of the maximum numbers of Monthly Options Series expirations for a class.[6] Monthly Options Series will be P.M.-settled.[7]

The strike price of each Monthly Options Series will be fixed at a price per share, with at least two, but no more than five, strike prices above and at least two, but no more than five, strike prices below the value of the underlying index or price of the underlying security at about the time that a Monthly Options Series is opened for trading on the Exchange. The Exchange will list strike prices for Monthly Options Series that are reasonably related to the current price of the underlying security or current index value of the underlying index to which such series relates at about the time such series of options is first opened for trading on the Exchange. The term ''reasonably related to the current price of the underlying security or index value of the underlying index'' means that the exercise price is within 30% of the current underlying security price or index value.[8] Additional Monthly Options Series of the same class may be open for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet Member [9] demand, or when the market price of the underlying security moves substantially from the initial exercise price or prices. To the extent that any additional strike prices are listed by the Exchange, such additional strike prices will be within 30% above or below the closing price of the underlying index or security on the preceding day. The Exchange may also open additional strike prices of Monthly Options Series that are more than 30% above or below the current price of the underlying security, provided that demonstrated Member interest exists for such series, as expressed by institutional, corporate, Members or their brokers. Market Makers trading for their own account will not be considered when determining Member interest under this provision. The opening of the new Monthly Options Series will not affect the series of options of the same class previously opened.[10] The interval between strike prices on Monthly Options Series will be the same as the interval for strike prices for series in that same options class that expire in accordance with the normal monthly expiration cycle.[11]

By definition, Monthly Options Series can never expire in the same week that a standard options series that expires on the third Friday of a month in the same class expires. The same, however, is not the case with respect to Short Term Options Series or Quarterly Options Series. Therefore, to avoid any confusion in the marketplace, the Exchange proposes to amend Interpretation and Policy .02 to Exchange Rule 404 to provide that the Exchange will not list a Short Term Options Series in a class on a date on which a Monthly Options Series or Quarterly Options Series expires.[12] Similarly, proposed Interpretation and Policy .13(b) to Exchange Rule 404 provide that no Monthly Options Series may expire on a date that coincides with an expiration date of a Quarterly Options Series in the same index or ETF class. In other words, the Exchange will not list a Short Terms Options Series on an index or ETF if a Monthly Options Series on that index or ETF were to expire on the same date, nor will the Exchange list a Monthly Options Series on an index or ETF if a Quarterly Options Series on that ETF were to expire on the same date to prevent the listing of series with concurrent expirations.[13]

With respect to Monthly Options Series added pursuant to proposed Interpretation and Policy .13(a)–(f) to Exchange Rule 404, the Exchange will, on a monthly basis, review series that are outside a range of five strikes above and five strikes below the current price of the underlying index or security, and delist series with no open interest in both the put and the call series having a strike: (i) higher than the highest strike price with open interest in the put and/or call series for a given expiration month; and (ii) lower than the lowest strike price with open interest in the put and/or call series for a given expiration month. Notwithstanding this delisting policy, Member requests to add strikes and/or maintain strikes in Monthly Options Series in series eligible for delisting will be granted. In connection with this delisting policy, if the Exchange identifies series for delisting, the Exchange will notify other options exchanges with similar delisting policies regarding eligible series for delisting and will work with such other exchanges to develop a uniform list of series to be delisted, so as to ensure uniform series delisting of multiply listed Monthly Options Series.[14]

The Exchange believes that Monthly Options Series will provide investors with another flexible and valuable tool to manage risk exposure, minimize capital outlays, and be more responsive to the timing of events affecting the securities that underlie options contracts. The Exchange believes limiting Monthly Options Series to five classes will ensure the addition of these new series will have a negligible impact

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expirations would not be considered when considering when the last expiration date would be if the maximum number were listed consecutively. For example, if it is January 2024 and the Exchange lists Quarterly Options Series in class ABC with expirations in March, June, September, December, and the following March, the Exchange could also list Monthly Options Series in class ABC with expirations in January, February, April, May, July, August, October, and November 2024 and January and February of 2025. This is because, if Quarterly Options Series, for example, were counted, the Exchange would otherwise never be able to list the maximum number of Monthly Options Series. This is consistent with the listing provisions for Quarterly Options Series, which permit calendar quarter expirations. The need to list series with the same expiration in the current calendar year and the following calendar year (whether Monthly or Quarterly expiration) is to allow market participants to execute one-year strategies pursuant to which they may not roll their exposures in the longer-dated options (*e.g.,* January 2025) prior to the expiration of the nearer-dated option (*e.g.,* January 2024).

[6] *See* proposed Interpretation and Policy .13(b) to Exchange Rule 404.

[7] *See* proposed Interpretation and Policy .13(c) to Exchange Rule 404.

[8] *See* proposed Interpretation and Policy .13(d). The Exchange notes these proposed provisions are consistent with the initial series provision for the Quarterly Options Series program in Interpretation and Policy .03 to Exchange Rule 404. While different than the initial strike listing provision for the Quarterly Options Series program in current Interpretation and Policy .03 to Exchange Rule 404, the Exchange believes the proposed provision is appropriate, as it contemplates classes that may have strike intervals of $5 or greater.

[9] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[10] *See* proposed Interpretation and Policy .13(e) to Exchange Rule 404.

[11] *See* proposed Interpretation and Policy .13(f) to Exchange Rule 404; *see also* Interpretations and Policies .01 and .04, .06, .08, .09, .10 to Exchange Rule 404 (permissible strike prices for ETF classes) and Interpretations and Policies .05, .07, .11 to Exchange Rule 404 (permissible strike prices for index options).

[12] The Exchange also proposes to make a non-substantive change to Interpretation and Policy .02 to Exchange Rule 404 to change current references to ''monthly options series'' to ''standard expiration options series'' (*i.e.,* series that expire on the third Friday of a month), to eliminate potential confusion. The current references to ''monthly options series'' are intended to refer to those series that expire on the third Friday of a month, which are generally referred to in the industry as standard expirations.

[13] The Exchange notes this would not prevent the Exchange from listing a P.M.-settled Monthly Options Series on an index with the same expiration date as an A.M.-settled Short Term Options Series on the same index, both of which may expire on a Friday. The Exchange believes this concurrent listing would provide investors with yet another hedging mechanism and is reasonable given these series would not be identical (unlike if they were both P.M.-settled). This could not occur with respect to ETFs, as all Short Term Options Series on ETFs are P.M.-settled.

[14] *See* proposed Interpretation and Policy .13(g) to Exchange Rule. Pursuant to Exchange Rule 1807, exercise limits for impacted index and ETF classes would be equal to the applicable position limits.

on the Options Price Reporting Authority (''OPRA'') and the Exchange's quoting capacity. The Exchange represents it has the necessary systems capacity to support new options series that will result from the introduction of Monthly Options Series.

The Exchange also proposes to amend Exchange Rules 1804(d) and 1805(d) to provide that positions in Monthly Options Series will be aggregated with positions in options contracts on the same underlying security or index.[15] This is consistent with how position (and exercise) limits are currently imposed on series with other expirations (Short Term Options Series and Quarterly Options Series). Therefore, positions in options within class of index or ETF options, regardless of their expirations, would continue to be subject to existing position (and exercise) limits. The Exchange believes this will address potential manipulative schemes and adverse market impacts surrounding the use of options.

The Exchange also represents its current surveillance programs will apply to Monthly Options Series and will properly monitor trading in the proposed Monthly Options Series. The Exchange currently lists Quarterly Options Series in certain ETF classes [16], which expire at the close of business at the end of four calendar months (*i.e.,* the end of each calendar quarter), and has not experienced any market disruptions nor issues with capacity. The Exchange's surveillance programs currently in place to support and properly monitor trading in these Quarterly Options Series, as well as Short Term Options Series and standard expiration series, will apply to the proposed Monthly Options Series. The Exchange believes its surveillances continue to be designed to deter and detect violations of its Rules, including position and exercise limits and possible manipulative behavior, and these surveillances will apply to Monthly Options Series that the Exchange determines to list for trading. Ultimately, the Exchange does not believe the proposed rule change raises any unique regulatory concerns because existing safeguards—such as position and exercise limits (and the aggregation of options overlying the same index or ETF) and reporting requirements—would continue to apply.

The Exchange notes that the proposed rule change is substantively identical to the proposed rule changes recently filed by the Cboe Exchange, Inc. (''Cboe'').[17] The Exchange notes that MIAX Chapters IV and XVIII are incorporated by reference into the rulebook of the Exchange's affiliate, MIAX Emerald, LLC (''Emerald''). As such, the amendments to MIAX Chapters IV and XVIII proposed herein will also apply to MIAX Emerald Chapters IV and XVIII.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[18] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [19] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [20] requirement that the rules of an exchange not be designed to permit unfair discrimination between Members, issuers, brokers, or dealers.

In particular, the Exchange believes the introduction of Monthly Options Series will remove impediments to and perfect the mechanism of a free and open market and a national market system by expanding hedging tools available to market participants. The Exchange believes the proposed monthly expirations will allow market participants to transact in the index and ETF options listed pursuant to the proposed rule change based on their timings as needed and allow them to tailor their investment and hedging needs more effectively. Further, the Exchange believes the availability of Monthly Options Series would protect investors and the public interest by providing investors with more flexibility to closely tailor their investment and hedging decisions in these options, thus allowing them to better manage their risk exposure.

The Exchange believes the Quarterly Options Series Program has been successful to date and the proposed Monthly Options Series program simply expands the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur at month's end in the same way the Quarterly Options Series Program has expanded the landscape of hedging for quarter-end news. Monthly Options Series will also complement Short Term Options Series, which will allow investors to hedge risk against events that occur throughout a month. The Exchange believes the availability of additional expirations should create greater trading and hedging opportunities for investors, as well as provide investors with the ability to tailor their investment objectives more effectively.

The Exchange notes the proposed terms of Monthly Options Series, including the limitation to five index and ETF option classes, are substantively the same as the current terms of Quarterly Options Series.[21] Quarterly Options Series expire on the last business day of a calendar quarter, which is the last business day of every third month. The proposed Monthly Options Series would fills the gaps between Quarterly Options Series expirations by permitting series to expire on the last business day of every month, rather than every third month. The proposed Monthly Options Series may be listed in accordance with the same terms as Quarterly Options Series, including permissible strikes. As is the case with Quarterly Options Series, no Short Term Options Series may expire on the same day as a Monthly Options Series. Similarly, as proposed, no Monthly Options Series may expire on the same day as a Quarterly Options Series. The Exchange believes preventing listing series with concurrent expirations in a class will eliminate potential investors confusion and thus protect investors and the public interest. Given that Quarterly Options Series the Exchange currently lists are essentially Monthly Options Series that can expire at the end of only certain calendar months, the Exchange believes it is reasonable to list Monthly Options Series in accordance with the same terms, as it will promote just and equitable principles of trade. The Exchange believes limiting Monthly Options Series to five classes will

[15] *See* proposed Exchange Rules 1804(d) (regarding position limits for broad-based index options) and 1805(d) (regarding position limits for industry index options).

[16] The Exchange notes it currently lists quarterly expirations on certain ETF options pursuant to Interpretation and Policy .03 to Exchange Rule 404.

[17] *See* supra note 4.

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(5).

[20] *Id.*

[21] *Compare* proposed Interpretation and Policy .13 Exchange Rule 404 *to* Interpretation and Policy .03 to Exchange Rule 404.

ensure the addition of these new series will have a negligible impact on the Exchange and OPRA's quoting capacity. The Exchange represents it has the necessary systems capacity to support new options series that will result from the introduction of Monthly Options Series.

The Exchange further believes the proposed rule change regarding the treatment of Monthly Options Series with respect to determining compliance with position and exercise limits is designed to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade. Monthly Options Series will be aggregated with options overlying the same ETF or index for purposes of compliance with position (and exercise) limits, which is consistent with how position (and exercise) limits are currently imposed on series with other expirations (Short Term Options Series and Quarterly Options Series). Therefore, options positions within ETF or index option classes for which Monthly Options Series are listed, regardless of their expirations, would continue to be subject to existing position (and exercise) limits. The Exchange believes this will address potential manipulative schemes and adverse market impacts surrounding the use of options. The Exchange also represents its current surveillance programs will apply to Monthly Options Series and will properly monitor trading in the proposed Monthly Options Series. As mentioned above, the Exchange currently trades Quarterly Options Series in certain ETF classes, which expire at the close of business at the end of three calendar months (*i.e.,* the end of each calendar quarter), and has not experienced any market disruptions nor issues with capacity. The Exchange's surveillance programs currently in place to support and properly monitor trading in these Quarterly Options Series, as well as Short Term Options Series, and standard expiration series, will apply to the proposed Monthly Options Series. The Exchange believes its surveillances continue to be designed to deter and detect violations of its Rules, including position and exercise limits and possible manipulative behavior, and these surveillances will apply to Monthly Options Series that the Exchange determines to list for trading. Ultimately, the Exchange does not believe the proposed rule change raises any unique regulatory concerns because existing safeguards—such as position and exercise limits (and the aggregation of options overlying the same ETF or index) and reporting requirements—would continue to apply.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [22] and Rule 19b–4(f)(6) thereunder.[23] Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [24] and subparagraph (f)(6) of Rule 19b–4 thereunder.[25]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [26] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [27] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the Exchange may immediately list Monthly Options Series, thereby providing an additional market to investors, which the Exchange believes will benefit investors by promoting competition in Monthly Options Series. The Commission notes that it recently approved Cboe's substantially similar proposal.[28] The Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[29]

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 necessary or appropriate in the public interest, for the protection of investors, or 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.

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–MIAX–2023–44 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–MIAX–2023–44. 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,

[22] 15 U.S.C. 78s(b)(3)(A)(iii).

[23] 17 CFR 240.19b–4(f)(6).

[24] 15 U.S.C. 78s(b)(3)(A)(iii).

[25] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[26] 17 CFR 240.19b–4(f)(6).

[27] 17 CFR 240.19b–4(f)(6)(iii).

[28] *See* supra note 4.

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

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–MIAX–2023–44 and should be submitted on or before December 13, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–25779 Filed 11–21–23; 8:45 am]

BILLING CODE 8011–01–P

[30] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98963; File No. SR–NYSEAMER–2023–59]

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

November 16, 2023.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on November 9, 2023, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''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.

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

The Exchange proposes to amend the Connectivity Fee Schedule (''Fee Schedule'') regarding colocation services and fees to provide Users with wireless connectivity to CME Group market data. 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 Exchange proposes to amend the Connectivity Fee Schedule (''Fee Schedule'') regarding colocation services and fees to provide Users[4] with wireless connectivity to CME Group market data.[5]

The Exchange currently provides Users with wireless connections to eight market data feeds or combinations of feeds from third-party markets (the ''Existing Third Party Data''),[6] and wired connections to more than 45 market data feeds or combinations of feeds.[7] The Exchange proposes to add to the Fee Schedule wireless connections to CME Group, Inc. (''CME Group'') market data (''CME Group Data'' and, together with the Existing Third Party Data, the ''Third Party Data''). Users would be offered the proposed wireless connection to the CME Group Data through connections into the colocation center in the Mahwah, New Jersey data center (''MDC'').[8]

The Exchange expects that the proposed rule change would become operative in the fourth quarter of 2023, and in any event, no later than December 31, 2023. The Exchange will announce the date that the wireless connection to the CME Group Data will be available through a customer notice.

To receive CME Group Data, the User would enter into an agreement with a third party for permission to receive the data, if required. The User would pay this third party any fees for the data content.

The Exchange proposes to revise the Fee Schedule to reflect fees related to the wireless connection to CME Group Data. For each wireless connection to CME Group Data, a User would be charged a $5,000 non-recurring initial charge and a monthly recurring charge of $6,000. If a User were to purchase more than one wireless connection to CME Group Data, it would pay more than one non-recurring initial charge. Each proposed wireless connection would include the use of one port for connectivity to CME Group Data, and a User would not pay a separate fee for the use of such port.[9]

The Exchange's proposed wireless connectivity to CME Group market data would not include the entire CME Group market data feed, which includes market data for approximately 1,200 futures symbols. Wireless bandwidth capacity is a small fraction of the capacity required to transport the full CME Group feed. Accordingly, FIDS has consulted with customers about which of the CME Group symbols they would like to be available wirelessly and plans to offer connectivity to a subgroup of symbols based on this customer feedback. The Exchange understands

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] For purposes of the Exchange's colocation services, a ''User'' means any market participant that requests to receive colocation services directly from the Exchange. *See* Securities Exchange Act Release No. 76009 (September 29, 2015), 80 FR 60213 (October 5, 2015) (SR–NYSEMKT–2015–67). As specified in the Fee Schedule, a User that incurs colocation fees for a particular colocation service pursuant thereto would not be subject to colocation fees for the same colocation service charged by the Exchange's affiliates the New York Stock Exchange LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (together, the ''Affiliate SROs''). Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2023–44, SR–NYSEARCA–2023–79, SR–NYSECHX–2023–22, and SR–NYSENAT–2023–26.

[5] The Exchange filed a similar proposal in 2021, which it subsequently withdrew. *See* Securities Exchange Act Release No. 93810 (December 17, 2021), 86 FR 73026 (December 23, 2021) (SR–NYSE–2021–67, SR–NYSEAMER–2021–43, SR–NYSEARCA–2021–97, SR–NYSECHX–2021–17, SR–NYSENAT–2021–23).

[6] *See* Securities Exchange Act Release Nos. 76748 (December 23, 2015), 80 FR 81648 (December 30, 2015) (SR–NYSEMKT–2015–85); 78376 (July 21, 2016), 81 FR 49311 (July 27, 2016) (SR–NYSEMKT–2016–17); and 80117 (February 28, 2017), 82 FR 12646 (March 6, 2017) (SR–NYSEMKT–2017–09).

[7] *See* Securities Exchange Act Release No. 80309 (March 24, 2017), 82 FR 15725 (March 30, 2017) (SR–NYSEMKT–2016–63).

[8] Through its Fixed Income and Data Services (''FIDS'') (previously ICE Data Services) business, Intercontinental Exchange, Inc. (''ICE'') operates the MDC. The Exchange and the Affiliate SROs are indirect subsidiaries of ICE. The proposed service would be provided by FIDS pursuant to an agreement with a non-ICE entity. FIDS does not own the wireless network that would be used to provide the service.

[9] If a User also connects to Existing Third Party Data, it would not be able to connect to such Existing Third Party Data using the same port that it uses for connectivity to CME Group Data.