

their offices while continuing to serve the important investor protection objectives of the inspection obligations under these unique circumstances.

In a time when faced with unique challenges resulting from the sustained pandemic, the proposed rule change will afford dealers the ability to safeguard the health and safety of their personnel and to more effectively allocate resources to serve and promote the protection of investors, municipal entities, obligated persons and the public interest while much uncertainty still remains. In addition, the proposed rule change will also alleviate some of the operational challenges dealers may be experiencing, which will allow them to more effectively allocate resources to the operations that facilitate transactions in municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products.¹³

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 15B(b)(2)(C) of the Act requires that MSRB rules be designed not to impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.¹⁴ In fact, the MSRB does not believe that the proposed rule change will have any burden on competition because the proposed rule change treats all dealers equally in that all dealers have the option to elect to conduct remote inspections remotely through December 31, 2022. The goal of the proposed rule change is to grant additional time for dealers to assess their resources, establish office inspection schedules for the second half of 2022 and meet their office inspection obligations, under Supplementary Material .01 of Rule G-27, while also determining how to best implement their return to office plans in a safe and effective manner during the exigent circumstances of the COVID-19 pandemic. The temporary relief afforded does not alter dealers underlying obligations under the rule and with applicable MSRB rules that directly serve investor protection.

¹³ The proposed amendments only create the option for dealers to conduct office inspections remotely through December 31, 2022. With that in mind, dealers should consider whether, under their particular operating conditions, reliance on remote inspections would be reasonable under the circumstances.

¹⁴ 15 U.S.C. 78o-4(b)(2)(C).

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 on the proposed rule change.

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

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) of the Act¹⁵ and Rule 19b-4(f)(6)¹⁶ thereunder. 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.

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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-MSRB-2022-01 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-MSRB-2022-01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(f)(6).

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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the MSRB. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MSRB-2022-01 and should be submitted on or before April 5, 2022.

For the Commission, by the Office of Municipal Securities, pursuant to delegated authority.¹⁷

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2022-05372 Filed 3-14-22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-94384; File No. SR-MIAX-2022-11]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Options Fee Schedule To Adopt Fees for a New Data Product Called the Liquidity Taker Event Report—Complex Orders

March 9, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 25, 2022, Miami International Securities Exchange, LLC ("MIAX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the

¹⁷ 17 CFR 200.30-3a(a)(2).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 the MIAx Options Fee Schedule (the "Fee Schedule") to adopt fees for a new data product known as the Liquidity Taker Event Report—Complex Orders.³

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 recently established a new data product known as the Liquidity Taker Event Report—Complex Orders (the "Complex Order Report"),⁴ which will be available for purchase by Exchange Members⁵ on a voluntary basis. The Exchange now proposes to adopt fees for the Complex Order Report, which is described under Exchange Rule 531(b).⁶ The Complex Order Report is an optional product available to Members. The Exchange notes that the proposed fees for the Complex Order Report are identical to the fees the Exchange recently established for subscribers to a similar report known as the Liquidity Taker Event Report—Simple Orders (the

"Simple Order Report").⁷ As further described below, the Exchange proposes to also offer a discounted combined fee for Members who purchase annual subscriptions to both the Simple Order Report and Complex Order Report.

By way of background, the Complex Order Report is a daily report that provides a Member ("Recipient Member") with its liquidity response time details for executions of a Complex Order resting on the Strategy Book,⁸ where that Recipient Member attempted to execute against such resting Complex Order⁹ within a certain timeframe. It is important to note that the content of the Complex Order Report is specific to the Recipient Member and the Complex Order Report will not include any information related to any Member other than the Recipient Member.

The following information is included in the Complex Order Report regarding the resting order: (A) The time the resting order was received by the Exchange; (B) symbol; (C) order reference number, which is a unique reference number assigned to a new Complex Order at the time of receipt; (D) whether the Recipient Member is an Affiliate¹⁰ of the Member that entered the resting order; ¹¹ (E) origin type (e.g., Priority Customer,¹² Market Maker¹³);

³ See Securities Exchange Act Release Nos. 92081 (June 1, 2021), 86 FR 30344 (June 7, 2021) (SR-MIAx-2021-21) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 531, Reports and Market Data Products, To Adopt the Liquidity Taker Event Report); 92208 (June 17, 2021), 86 FR 33442 (June 24, 2021) (SR-MIAx-2021-25) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Adopt Fees for a New Data Product Known as the Liquidity Taker Event Report). See Exchange Rule 531(a) for the rule text of the Simple Order Report. See also Fee Schedule, Section 7, Reports, for the fees for the Simple Order Report.

⁸ The term "Strategy Book" means the Exchange's electronic book of complex orders and complex quotes. See Exchange Rule 518(a)(17).

⁹ Only displayed orders will be included in the Complex Order Report. The Exchange notes that it does not currently offer any non-displayed orders types on its options trading platform.

¹⁰ The term "affiliate" of or person "affiliated with" another person means a person who, directly, or indirectly, controls, is controlled by, or is under common control with, such other person. See Exchange Rule 100.

¹¹ The Report will simply indicate whether the Recipient Member is Affiliate of the Member that entered the resting order and not include any other information that may indicate the identity of the Member that entered the resting order.

¹² The term "Priority Customer" means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). The number of orders shall be counted in accordance with Interpretation and Policy .01 to Exchange Rule 100. See Exchange Rule 100.

¹³ The term "Market Maker" refers to "Lead Market Makers", "Primary Lead Market Makers"

(F) side (buy or sell); and (G) displayed price and size of the resting order.¹⁴

The following information is included in the Complex Order Report regarding the execution of the resting order: (A) The Complex MBBO¹⁵ at the time of execution; ¹⁶ (B) the Complex ABBO¹⁷ at the time of execution; ¹⁸ (C) the time first response that executes against the resting order was received by the Exchange and the size of the execution and type of the response; ¹⁹ (D) the time difference between the time the resting order was received by the Exchange and the time the first response that executes against the resting order was received by the Exchange; ²⁰ and (E) whether the response was entered by the Recipient Member. If the resting order executes against multiple contra-side responses,

and "Registered Market Makers" collectively. See Exchange Rule 100.

¹⁴ This is the same type of information included in the Simple Order Report, with the only difference being the information is for Complex Orders on the Strategy Book. The Exchange notes that the displayed price and size are also disseminated via the Exchange's proprietary data feeds. The Exchange also notes that the displayed price of the resting order may be different than the ultimate execution price. This may occur when a resting order is displayed and ranked at different prices upon entry to avoid a locked or crossed market.

¹⁵ The term "MBBO" means the Exchange's best bid or offer. See Exchange Rule 100. The Complex MBBO for a particular Complex Strategy is calculated using the Implied Complex MIAx Best Bid or Offer ("icMBBO") combined with the best price currently available for that particular Complex Strategy on the Strategy Book to establish the Exchange's best net bid or offer for that Complex Strategy. The icMBBO is calculated using the best price from the Simple Order Book for each component of a Complex Strategy including displayed and non-displayed trading interest. For stock-option orders, the icMBBO for a Complex Strategy is calculated using the best price (whether displayed or non-displayed) on the Simple Order Book in the individual option component(s), and the NBBO in the stock component. See Exchange Rule 518(a)(11).

¹⁶ Exchange Rule 531(b)(1)(ii)(A) provides that if the resting order executes against multiple contra-side responses, only the Complex MBBO at the time of the execution against the first response will be included.

¹⁷ The term "ABBO" or "Away Best Bid or Offer" means the best bid(s) or offer(s) disseminated by other Eligible Exchanges (defined in Exchange Rule 1400(g)) and calculated by the Exchange based on market information received by the Exchange from the Options Price Reporting Authority ("OPRA"). See Exchange Rule 100. The Complex ABBO is calculated using the ABBO for each component of a Complex Strategy to establish the away markets' best net bid or offer for a Complex Strategy.

¹⁸ Exchange Rule 531(b)(1)(ii)(B) further provides that if the resting order executes against multiple contra-side responses, only the Complex ABBO at the time of the execution against the first response will be included.

¹⁹ The time the Exchange received the response order would be in nanoseconds and would be the time the response was received by the Exchange's network, which is before the time the response would be received by the System.

²⁰ The time difference would be provided in nanoseconds.

³ See, generally, Exchange Rule 531(b).

⁴ See Securities Exchange Act Release No. 94135 (February 2, 2022), 87 FR 7217 (February 8, 2022) (SR-MIAx-2022-06).

⁵ 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.

⁶ See Exchange Rule 531(b).

only the Complex MBBO and Complex ABBO at the time of the execution against the first response will be included.

The following information is included in the Complex Order Report regarding response(s) sent by the Recipient Member: (A) Recipient Member identifier; (B) the time difference between the time the first response that executes against the resting order was received by the Exchange and the time of each Complex Order sent by the Recipient Member, regardless of whether it executed or not;²¹ (C) size and type of each Complex Order submitted by Recipient Member; and (D) response reference number, which is a unique reference number attached to the response by the Recipient Member.

The Complex Order Report includes the data set for executions and contra-side responses that occurred within 200 microseconds of the time the resting order was received by the Exchange. The Complex Order Report contains historical data from the prior trading day and will be available after the end of the trading day, generally on a T+1 basis. The Complex Order Report does not include real-time data.

The Exchange believes the additional data points from the matching engine outlined above may help Members gain a better understanding about their own interactions with the Exchange. The Exchange believes the Complex Order Report will provide Members with an opportunity to learn more about better opportunities to access liquidity and receive better execution rates. The Complex Order Report will increase transparency and democratize information so that all firms that subscribe to the Complex Order Report have access to the same information on an equal basis, even for firms that do not have the appropriate resources to generate a similar report regarding interactions with the Exchange.

Members generally would use a liquidity accessing Complex Order if there is a high probability that it will execute against an order resting on the Exchange's Strategy Book. The Complex Order Report identifies by how much time an order that may have been marketable missed an execution. The Complex Order Report will provide greater visibility into the missed trading execution, which will allow Members to optimize their models and trading

patterns to yield better execution results.

The Complex Order Report will be a Member-specific report and will help Members to better understand by how much time a particular order missed executing against a specific resting order, thus allowing that Member to determine whether it wants to invest in the necessary resources and technology to mitigate missed executions against certain resting orders on the Exchange's Strategy Book.

The Exchange proposes to provide the Complex Order Report in response to Member demand for data concerning the timeliness of their incoming Complex Orders and executions against resting Complex Orders. Members have periodically requested from the Exchange's trading operations personnel information concerning the timeliness of their incoming orders and efficacy of their attempts to execute against resting liquidity on the Exchange's Strategy Book. The purpose of the Complex Order Report is to provide Members the necessary data in a standardized format on a T+1 basis to those that subscribe to the Complex Order Report on an equal basis.

The product is offered to Members on a completely voluntary basis in that the Exchange is not required by any rule or regulation to make this data available and potential subscribers may purchase the Complex Order Report only if they voluntarily choose to do so. It is a business decision of each Member whether to subscribe to the Complex Order Report or not.

The Exchange proposes to assess the same fees that it currently charges for Members that subscribe to the similar Simple Order Report. As such, the Exchange proposes to amend Section 7), Reports, of the Fee Schedule to provide that Members may purchase the Complex Order Report on a monthly or annual (12 month) basis. In particular, the Exchange proposes to assess Members a fee of \$4,000 per month or \$24,000 per year for a 12 month subscription to the Complex Order Report. Members may cancel their subscription at any time. Just as it does for the Simple Order Report, the Exchange proposes to specify that for mid-month subscriptions to the Complex Order Report, new subscribers will be charged for the full calendar month for which they subscribe and will be provided Complex Order Report data for each trading day of the calendar month prior to the day on which they subscribed.

The Exchange also proposes to provide a discounted rate of \$40,000 per year to Members that purchase 12

month annual subscriptions to both the Simple and Complex Order Reports (as compared to the 12 month subscription rate of \$24,000 for each report on an individual subscription basis). The Exchange also proposes to pro-rate the discounted 12 month subscription fee for Members that seek to add either their Simple Order Report or the Complex Order Report to an existing subscription. In particular, the Exchange proposes that for those Members with an existing 12 month subscription to either the Simple Order Report or Complex Order Report, but not both, may add a subscription to the Simple Order Report or Complex Order Report during their current 12 month subscription. In such case, the fee for the added report will be pro-rated based on the \$40,000 combined rate for the 12 month subscription discount for the remainder of the subscriber's current 12 month subscription, and the number of months remaining in the existing subscription until the Member's renewal date. Members would then receive the 12 month discount (\$40,000 annually) for subscribing to both reports on the renewal date of their original subscription. For example, assume "Member A" previously subscribed to the Simple Order Report on September 1, 2021 and paid \$24,000 for a 12 month subscription to the Simple Order Report. "Member A's" current subscription expires on August 31, 2022 for the Simple Order Report. Before "Member A's" subscription to the Simple Order Report expires, "Member A" decides to subscribe to the Complex Order Report, beginning March 1, 2022. Rather than being immediately charged \$40,000 for the 12 month subscription discount for subscribing to both reports ("Member A" already paid \$24,000 upfront for the Simple Order Report 12 month subscription), "Member A" would only be charged an additional \$8,000 to add the Complex Order Report for the remaining months of "Member A's" current 12 month subscription to the Simple Order Report. On September 1, 2022, assuming "Member A" decided to keep both reports, "Member A" would then be charged the 12 month discounted rate of \$40,000 for both reports for the next year.

The Exchange proposes to determine the pro-rated fee described above as follows: On the date that "Member A" wanted to begin subscribing to the Complex Order Report (March 1, 2022), there were six months remaining on "Member A's" existing 12 month subscription to the Simple Order Report (March, April, May, June, July and August). The added cost would be

²¹ For purposes of calculating this duration of time, the Exchange will use the time the resting order and the Recipient Member's response(s) is received by the Exchange's network, both of which would be before the order and response(s) would be received by the System. This time difference would be provided in nanoseconds.

calculated as ((6 months remaining/12 months total) * (\$40,000 discounted annual subscription for both reports – \$24,000 for annual subscription to each report individually) = \$8,000 for remaining 6 months. Beginning September 1, 2022 (the original renewal date for the Simple Order Report), “Member A” would then be charged the discounted 12 month subscription rate of \$40,000, assuming “Member A” renews their subscriptions to both the Simple Order Report and the Complex Order Report.

The Exchange intends to begin to offer the Complex Order Report and charge the proposed fees on March 1, 2022.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,²² in general, and furthers the objectives of Section 6(b)(5) of the Act,²³ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that it is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes that its proposal to adopt fees for the Complex Order Report is consistent with Section 6(b) of the Act²⁴ in general, and furthers the objectives of Section 6(b)(4) of the Act²⁵ in particular, in that it is an equitable allocation of dues, fees and other charges among its Members and other recipients of Exchange data.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (“SROs”) and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that the Report further broadens the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. The Complex Order Report also promotes increased transparency through the dissemination of the Complex Order Report. Particularly, the Complex Order Report will benefit investors by facilitating

their prompt access to the value added information that is included in the Complex Order Report. The Complex Order Report will allow Members to access information regarding their trading activity that they may utilize to evaluate their own trading behavior and order interactions.

The Exchange operates in a highly competitive environment. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 12–13% of the equity options market share and currently the Exchange represents only approximately 5.90% of the market share.²⁶ The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”²⁷ Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supra-competitive fees. In the event that a market participant views one exchange’s data product as more attractive than the competition, that market participant can, and often does, switch between similar products. The proposed fees are a result of the competitive environment of the U.S. options industry as the Exchange seeks to adopt fees to attract purchasers of the recently introduced Complex Order Report.

The Exchange believes the proposed fees are reasonable as the proposed fees are both modest and identical to the fees assessed by the Exchange for its substantially similar Simple Order Report.²⁸ Indeed, if the Exchange proposed fees that market participants viewed as excessively high, then the proposed fees would simply serve to reduce demand for the Exchange’s data product, which as noted, is entirely optional. Other options exchanges are also free to introduce their own comparable data products with lower prices to better compete with the

Exchange’s offering. As such, the Exchange believes that the proposed fees are reasonable and set at a level to compete with other options exchanges that may choose to offer similar reports. Moreover, if a market participant views another exchange’s potential report as more attractive, then such market participant can merely choose not to purchase the Exchange’s Complex Order Report and instead purchase another exchange’s similar data product, which may offer similar data points, albeit based on that other market’s trading activity.

The Exchange also believes providing an annual subscription for an overall lower fee than a monthly subscription is equitable and reasonable because it would enable the Exchange to gauge long-term interest in the Complex Order Report. A lower annual subscription fee would also incentivize Members to subscribe to the Complex Order Report on a long-term basis, thereby improving the efficiency by which the Exchange may deliver the Complex Order Report by doing so on a regular basis over a prolonged and set period of time. The Exchange notes it provides an identical annual subscription for its Simple Order Report data and that other exchanges provide annual subscriptions for reports concerning their data product offerings.²⁹

The Exchange also believes the proposed fees are reasonable as they would support the introduction of a new market data product to Members that are interested in gaining insight into latency in connection with Complex Orders that failed to execute against a Complex Order resting on the Exchange’s Strategy Book. The Complex Order Report accomplishes this by providing those Members data to analyze by how much time their order may have missed an execution against a contra-side order resting on the Strategy Book. Members may use this data to optimize their models and trading patterns in an effort to yield better execution results by calculating by how much time their order may have missed an execution.

Selling market data, such as the Complex Order Report, is also a means by which exchanges compete to attract business. To the extent that the Exchange is successful in attracting subscribers for the Complex Order Report, it may earn trading revenues and further enhance the value of its data products. If the market deems the

²⁶ See “The Market at a Glance,” (last visited February 10, 2022), available at <https://www.miaxoptions.com/>.

²⁷ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

²⁸ See *supra* note 7.

²⁹ Cboe Exchange, Inc. (“Cboe”) assesses a \$24,000 annual fee for an intra-day subscription to Open-Close Data. See <https://datashop.cboe.com/options-summary-subscription>.

²² 15 U.S.C. 78f(b).

²³ 15 U.S.C. 78f(b)(5).

²⁴ 15 U.S.C. 78f(b).

²⁵ 15 U.S.C. 78f(b)(4).

proposed fees to be unfair or inequitable, firms can diminish or discontinue their use of the data. The Exchange therefore believes that the proposed fees for the Complex Order Report reflect the competitive environment and would be properly assessed on Member users. The Exchange also believes the proposed fees are equitable and not unfairly discriminatory as the fees would apply equally to all users who choose to purchase such data. It is a business decision of each Member that chooses to purchase the Complex Order Report. The Exchange's proposed fees would not differentiate between subscribers that purchase the Complex Order Report and are set at a modest level that would allow any interested Member to purchase such data based on their business needs.

The Exchange reiterates that the decision as to whether or not to purchase the Complex Order Report is entirely optional for all potential subscribers. Indeed, no market participant is required to purchase the Complex Order Report, and the Exchange is not required to make the Complex Order Report available to all investors. It is entirely a business decision of each Member to subscribe to the Complex Order Report. The Exchange offers the Complex Order Report as a convenience to Members to provide them with additional information regarding trading activity on the Exchange on a delayed basis after the close of regular trading hours. A Member that chooses to subscribe to the Complex Order Report may discontinue receiving the Complex Order Report at any time if that Member determines that the information contained in the Complex Order Report is no longer useful.

The Exchange also believes providing a 12 month discounted fee for subscribers of both the Simple and Complex Order Reports is equitable and reasonable because it would enable the Exchange to gauge long-term interest in both reports. The Exchange believes that a lower annual combined subscription fee may incentivize Members to subscribe to both reports on a long-term basis, thereby allowing the Exchange to better gauge demand for both reports over a longer period of time. Doing so will enable the Exchange to better predict the future demand for both reports. This will allow the Exchange to better prepare and adjust resources for the production and delivery of both reports to Members, improving the efficiency by which the Exchange may deliver both reports over a prolonged and set period of time. The Exchange

also believes that it is reasonable, equitable and not unfairly discriminatory to offer a 12 month discounted fee for Members that subscribe to both reports because all Members may subscribe to both reports and receive the discounted rate.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange made the Complex Order Report available in order to keep pace with changes in the industry and evolving customer needs and demands, and believes the data product will contribute to robust competition among national securities exchanges. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

The Exchange believes the proposed fees would not cause any unnecessary or inappropriate burden on intermarket competition as other exchanges are free to introduce their own comparable data product with lower prices to better compete with the Exchange's offering. The Exchange operates in a highly competitive environment, and its ability to price the Complex Order Report is constrained by competition among exchanges who choose to adopt a similar product. The Exchange must consider this in its pricing discipline in order to compete for the market data. For example, proposing fees that are excessively higher than fees for potentially similar data products would simply serve to reduce demand for the Exchange's data product, which as discussed, market participants are under no obligation to utilize. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for market information. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

The Exchange also believes that the proposed fees do not cause any unnecessary or inappropriate burden on intermarket competition because the latency information that would be provided in the Complex Order Report would enhance competition between exchanges that offer complex order functionality. Members that subscribe to the Complex Order Report could use the information in the report to recalibrate their models and trading strategies to improve their overall trading experience

on the Exchange. This may improve the Exchange's overall trading environment resulting in increased liquidity and order flow on the Exchange. In response, other exchanges may similarly seek ways to provide latency related data in an effort to improve their own market quality for complex orders.

The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed product and fees apply uniformly to any purchaser in that the Exchange does not differentiate between subscribers that purchase the Complex Order Report. The proposed fees are set at a modest level that would allow any interested Member to purchase such data based on their business needs.

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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,³⁰ and Rule 19b-4(f)(2)³¹ thereunder. 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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-MIAX-2022-11 on the subject line.

³⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

³¹ 17 CFR 240.19b-4(f)(2).

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–2022–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed 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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2022–11, and should be submitted on or before April 5, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³²

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94386; File No. SR–EMERALD–2022–08]

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Emerald Fee Schedule To Adopt Fees for a New Data Product Called the Liquidity Taker Event Report—Complex Orders

March 9, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on February 25, 2022, MIAX Emerald, LLC (“MIAX Emerald” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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 the MIAX Emerald Fee Schedule (the “Fee Schedule”) to adopt fees for a new data product known as the Liquidity Taker Event Report—Complex Orders.³

The text of the proposed rule change is available on the Exchange’s website at <http://www.miaxoptions.com/rule-filings/emerald>, 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See, generally, Exchange Rule 531(b).

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

1. Purpose

The Exchange recently established a new data product known as the Liquidity Taker Event Report—Complex Orders (the “Complex Order Report”),⁴ which will be available for purchase by Exchange Members⁵ on a voluntary basis. The Exchange now proposes to adopt fees for the Complex Order Report, which is described under Exchange Rule 531(b).⁶ The Complex Order Report is an optional product available to Members. The Exchange notes that the proposed fees for the Complex Order Report are identical to the fees the Exchange recently established for subscribers to a similar report known as the Liquidity Taker Event Report—Simple Orders (the “Simple Order Report”).⁷ As further described below, the Exchange proposes to also offer a discounted combined fee for Members who purchase annual subscriptions to both the Simple Order Report and Complex Order Report.

By way of background, the Complex Order Report is a daily report that provides a Member (“Recipient Member”) with its liquidity response time details for executions of a Complex Order resting on the Strategy Book,⁸ where that Recipient Member attempted to execute against such resting Complex Order⁹ within a certain timeframe. It is important to note that the content of the Complex Order Report is specific to the Recipient Member and the Complex

⁴ See Securities Exchange Act Release No. 94136 (February 2, 2022), 87 FR 7223 (February 8, 2022) (SR–EMERALD–2022–02).

⁵ 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 the Definitions Section of the Fee Schedule and Exchange Rule 100.

⁶ See Exchange Rule 531(b).

⁷ See Securities Exchange Act Release Nos. 91787 (May 6, 2021), 86 FR 26111 (May 12, 2021) (SR–EMERALD–2021–09) (Order Approving Proposed Rule Change To Adopt Exchange Rule 531(a), Reports, To Provide for a New “Liquidity Taker Event Report”); 92028 (May 26, 2021), 86 FR 29608 (June 2, 2021) (SR–EMERALD–2021–19) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Adopt Fees for a New Data Product Known as the Liquidity Taker Event Report). See Exchange Rule 531(a) for the rule text of the Simple Order Report. See also Fee Schedule, Section 7, Reports, for the fees for the Simple Order Report.

⁸ The term “Strategy Book” means the Exchange’s electronic book of complex orders and complex quotes. See Exchange Rule 518(a)(17).

⁹ Only displayed orders will be included in the Complex Order Report. The Exchange notes that it does not currently offer any non-displayed orders types on its options trading platform.

³² 17 CFR 200.30–3(a)(12).