

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-100588; File No. SR-SAPPHIRE-2024-01)

July 25, 2024

Self-Regulatory Organizations; MIAX Sapphire, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Establish Proprietary Market Data Products

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 19, 2024, MIAX Sapphire, LLC (“MIAX Sapphire” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the 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 proposes to establish proprietary market data products. The text of the proposed rule change is available on the Exchange’s website at <https://www.miaxglobal.com/markets/us-options/miax-sapphire/rule-filings>, at the Exchange’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

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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 establish the MIAX Sapphire Top of Market (“ToM”) data feed, MIAX Sapphire Complex Top of Market (“cToM”) data feed, and MIAX Sapphire Liquidity Feed (“SLF”).

The proposed ToM data feed will provide market participants with a direct data feed that includes the Exchange’s best bid<sup>3</sup> and offer,<sup>4</sup> with aggregate size, and last sale information, based on displayable order and quoting interest on the Exchange. The proposed ToM data feed will include data that is identical to the data sent to the processor for the Options Price Reporting Authority (“OPRA”). The ToM and OPRA data will leave the MIAX Sapphire System<sup>5</sup> at the same time, as required under Section 5.2(c)(iii)(B) of the Limited Liability Company Agreement of the Options Price Reporting Authority LLC (the “OPRA Plan”), which prohibits the dissemination of proprietary information on any more timely basis than the same information is furnished to the OPRA system for inclusion in OPRA’s consolidated dissemination of options information. ToM will also contain a feature that provides the number of Priority Customer<sup>6</sup> contracts that are included in the size associated with the Exchange’s best bid and offer.

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<sup>3</sup> The term “bid” means a limit order to buy one or more options contracts. See Exchange Rule 100.

<sup>4</sup> The term “offer” means a limit order to sell one or more options contracts. See id.

<sup>5</sup> The term “System” means the automated trading system used by the Exchange for the trading of securities. See id.

<sup>6</sup> 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. See id.

The proposed cToM data feed will provide subscribers with the same information as the ToM data product as it relates to complex orders<sup>7</sup> on the Strategy Book,<sup>8</sup> i.e., the Exchange's best bid and offer for a complex strategy, with aggregate size, based on displayable order and quoting interest in the complex strategy on the Exchange. The proposed cToM data feed will also provide subscribers with the identification of the complex strategies currently trading on MIAX Sapphire; complex strategy last sale information; and the status of securities underlying the complex strategy (e.g., halted, open, or resumed). cToM will be distinct from ToM, and any firm that would like to receive cToM data must subscribe to cToM regardless of whether they are a current ToM subscriber. ToM subscribers will not be required to subscribe to cToM, and cToM subscribers will not be required to subscribe to ToM.

The proposed SLF data product will provide market participants with a direct data feed that allows subscribers to receive real-time updates of options orders, products traded on MIAX Sapphire, MIAX Sapphire System status, and MIAX Sapphire underlying trading status. When an order is received or an order state changes, published order information will be transmitted over the SLF, including time stamp, action, product ID, order ID, order side, order type, order price, original order size, open order size, time in force, origin, open or close, and route instruction. For complex orders, complex strategy definition notification and complex order

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<sup>7</sup> A "complex order" is "any order involving the concurrent purchase and/or sale of two or more different options in the same underlying security (the 'legs' or 'components' of the complex order), for the same account, in a conforming or non-conforming ratio...." See Exchange Rule 518(a).

<sup>8</sup> The term "complex strategy" means a particular combination of components and their ratios to one another. New complex strategies can be created as the result of the receipt of a complex order or by the Exchange for a complex strategy that is not currently in the System. The Exchange may limit the number of new complex strategies that may be in the System at a particular time and will communicate this limitation to Members via Regulatory Circular. See Exchange Rule 518(a). The "Strategy Book" is the Exchange's electronic book of complex orders. See Exchange Rule 100. The Strategy Book is organized by complex strategy in that individual orders for a defined complex strategy are organized together in a book that is separate from the orders for a different complex strategy.

notice are also included. Subscribers to the SLF data feed will get a list of all options symbols and strategies that will be traded and sourced on that feed at the start of every session.

The proposed data products provide valuable information that can help subscribers make informed investment decisions, and operate in the same manner as similar data products offered by the Exchange's affiliate, including Miami International Securities Exchange, LLC ("MIAX"), namely the MIAX Top of Market data feed ("MIAX ToM"),<sup>9</sup> MIAX Complex Top of Market data feed ("MIAX cToM"),<sup>10</sup> and the MIAX Order Feed ("MIAX MOR").<sup>11</sup> The proposed data products also operate in the same manner as similar data products offered by the Exchange's affiliate, MIAX Emerald, LLC ("MIAX Emerald"), namely the MIAX Emerald Top of Market data feed ("Emerald ToM"), MIAX Emerald Complex Top of Market data feed ("Emerald cToM"), and the MIAX Emerald Order Feed ("Emerald MOR").<sup>12</sup>

The Exchange represents that it will make ToM, cToM, and SLF equally available to any market participant that wishes to subscribe to any of those products. The Exchange will submit a separate proposed rule change for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act<sup>13</sup> and Rule 19b-4(f)(2)<sup>14</sup> thereunder to establish fees for the ToM, cToM and SLF data feeds. The Exchange notes that its affiliate, MIAX Emerald, filed a substantively similar proposal to adopt its own market data products – Emerald ToM, Emerald cToM and Emerald MOR – prior

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<sup>9</sup> See Securities Exchange Act Release Nos. 69007 (February 28, 2013), 78 FR 14617 (March 6, 2013) (SR-MIAX-2013-05); 69518 (May 6, 2013), 78 FR 27462 (May 10, 2013) (SR-MIAX-2013-18); 73395 (October 21, 2014), 79 FR 63979 (October 27, 2014) (SR-MIAX-2014-53).

<sup>10</sup> See Securities Exchange Act Release No. 79146 (October 24, 2016), 81 FR 75171 (October 28, 2016) (SR-MIAX-2016-36).

<sup>11</sup> See Securities Exchange Act Release No. 74759 (April 17, 2015), 80 FR 22749 (April 23, 2015) (SR-MIAX-2015-28).

<sup>12</sup> See Securities Exchange Act Release No. 85207 (February 27, 2019), 84 FR 7963 (March 5, 2019) (SR-EMERALD-2019-09).

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f)(2).

to offering such products to market participants prior to launching operations as a national securities exchange.<sup>15</sup>

## 2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b)<sup>16</sup> of the Act in general, and furthers the objectives of Section 6(b)(5)<sup>17</sup> of the Act in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in facilitating transactions in securities, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest.

The ToM market data product is designed to promote just and equitable principles of trade by providing all subscribers with top of market data that includes the Exchange's best bid and offer, with aggregate size, and last sale information, based on order and quoting interest on the Exchange that should enable them to make informed decisions on trading on MIAX Sapphire by using the ToM data to assess current market conditions that directly affect such decisions.

The cToM market data product is designed to promote just and equitable principles of trade by providing all subscribers with top of market data that includes similar information provided via ToM but for the Exchange's complex orders on the Strategy Book, including the Exchange's best bid and offer for a complex strategy, with aggregate size, based on displayable order and quoting interest in the complex strategy on the Exchange that should enable

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<sup>15</sup> See supra note 12.

<sup>16</sup> 15 U.S.C. 78f(b).

<sup>17</sup> 15 U.S.C. 78f(b)(5).

subscribers to make informed decisions on trading on MIAX Sapphire by using the cToM data to assess current market conditions that directly affect such decisions.

The SLF market data product is designed to promote just and equitable principles of trade by providing all subscribers with limit order book data that should enable subscribers to make informed decisions on trading in MIAX Sapphire options by using the SLF data to assess current market conditions that directly affect such decisions. The proposed market data product facilitates transactions in securities, removes impediments to and perfect the mechanisms of a free and open market and a national market system by enhancing the subscribers' ability to make decisions on trading strategy, and by providing data that should help bring about such decisions in a timely manner to the protection of investors and the public interest. The market data provided by SLF removes impediments to, and is designed to further perfect, the mechanisms of a free and open market and a national market system by making the MIAX Sapphire market more transparent and accessible to market participants making routing decisions concerning their options orders. The SLF market data product is also designed to protect investors and the public interest by providing data to subscribers that is already currently available on other exchanges and will enable MIAX Sapphire to compete with such other exchanges, thereby offering market participants with additional data in order to seek the market center with the best price and the most liquidity on which to execute their transactions, all to the benefit of investors and the public interest, and to the marketplace as a whole.

The proposed ToM, cToM, and SLF market data products facilitate transactions in securities, remove impediments to and perfect the mechanisms of a free and open market and a national market system by enhancing the subscriber's ability to make decisions on trading strategies and by providing data which should help bring about such decisions in a timely

manner to benefit the protection of investors and the public interest. The market data provided by ToM, cToM, and SLF removes impediments to, and is designed to further perfect, the mechanisms of a free and open market and a national market system by making the MIAX Sapphire market more transparent and accessible to market participants making routing decisions concerning their options orders. The Exchange notes that these data products are similar to, and provide data that is equivalent to, the ToM, cToM, and MOR data products for MIAX and MIAX Emerald with respect to options traded on those exchanges.<sup>18</sup> The Exchange believes that it is in the public interest to make similar information available with respect to options traded on MIAX Sapphire.

The proposed ToM, cToM, and SLF market data products are also designed to protect investors and the public interest by providing data to subscribers that is already currently available on at least one other competing options exchange<sup>19</sup> and will enable MIAX Sapphire to compete with such other exchanges, thereby offering market participants with additional data in order to seek the market center with the best price and the most liquidity on which to execute their transactions, all to the benefit of investors and the public interest, and to the marketplace as a whole.

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. On the contrary, the Exchange believes that the new market data products will enhance competition in

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<sup>18</sup> See supra notes 9, 10, 11, and 12.

<sup>19</sup> For example, Nasdaq GEMX, LLC ("GEMX") has similar data products to ToM and MOR available for purchase by GEMX users, including the Nasdaq GEMX Top Feed and Nasdaq GEMX Order Feed. See Nasdaq GEMX Options 7, Pricing Schedule, Section 7, Market Data.

the U.S. options markets by providing users of MIAX Sapphire market data products that are similar to that which are currently provided on other competing options exchanges.<sup>20</sup>

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

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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>21</sup> and Rule 19b-4(f)(6) thereunder.<sup>22</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>23</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>24</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the operative delay will enable the Exchange to make

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<sup>20</sup> Id.

<sup>21</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>22</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) 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.

<sup>23</sup> 17 CFR 240.19b-4(f)(6).

<sup>24</sup> 17 CFR 240.19b-4(f)(6)(iii).



the ToM, cToM, and SLF market data products available to subscribers at the time of the launch of trading on the Exchange, which is scheduled for August 12, 2024.<sup>25</sup> The Exchange further states that the proposed rule change does not present any new or novel issues because the proposed market data products are substantially similar to market data products offered by the Exchange's affiliates, MIAX and MIAX Emerald, and by at least one other competing options exchange.<sup>26</sup> For these reasons, and because the proposal does not raise any new or novel issues, the Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.<sup>27</sup>

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 under Section 19(b)(2)(B)<sup>28</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

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<sup>25</sup> See MIAX Sapphire Options Exchange Trading Alert, Regulatory Alert, Technical Alert, dated July 15, 2024, available at <https://www.miaxglobal.com/alert/2024/07/15/miax-sapphire-options-exchange-july-20th-mock-trading-test-plan-preparation>; see also Securities Exchange Act Release No. 100539 (July 15, 2024) (File No. 10-240) (In the Matter of the Application of MIAX Sapphire, LLC for Registration as a National Securities Exchange; Findings, Opinion, and Order of the Commission) (order approving MIAX Sapphire, LLC for registration as a national securities exchange).

<sup>26</sup> See *supra* notes 9, 10, 11, 12 and 19.

<sup>27</sup> 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).

<sup>28</sup> 15 U.S.C. 78s(b)(2)(B).

#### 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](mailto:rule-comments@sec.gov). Please include file number SR-SAPPHIRE-2024-01 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-SAPPHIRE-2024-01. 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 (<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-SAPPHIRE-2024-01 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>29</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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<sup>29</sup> 17 CFR 200.30-3(a)(12), (59).