

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-100750; File No. SR-SAPPHIRE-2024-16)

August 16, 2024

Self-Regulatory Organizations; MIAX Sapphire, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Establish a Pass-Through of External Connectivity Fees and Establish MPID Fees and a Technical Support Request Fee

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 August 7, 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, 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 Sapphire Options Exchange Fee Schedule (the “Fee Schedule”).

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on August 12, 2024.

The text of the proposed rule change is available on the Exchange’s website at <https://www.miaxglobal.com/markets/us-options/all-options-exchanges/rule-filings>, at MIAX Sapphire’s principal office, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

On July 15, 2024, the U.S. Securities and Exchange Commission (“Commission”) approved the Exchange’s Form 1 application to register as a national securities exchange under Section 6 of the Exchange Act.³ As previously announced, the Exchange anticipates that it will commence electronic operations on August 12, 2024.⁴ In anticipation of the launch of electronic equity options trading, the Exchange proposes to establish the following sections of the Fee Schedule, including proposed fee structures and amounts: (1) pass-through of external connectivity fees for Members⁵ and non-Members; (2) Member Participant Identifier fees (“MPID”); and (3) a technical support request fee.

The Exchange first proposes to establish Section 5), System Connectivity Fees, which

³ See Securities Exchange Act Release No. 100539 (July 15, 2024), 89 FR 58848 (July 19, 2024) (File No. 10-240) (the “Approval Order”).

⁴ See MIAx Sapphire Alert, dated March 6, 2024, available at <https://www.miaxglobal.com/alert/2024/03/06/miax-sapphire-options-exchange-rescheduled-launch-date-august-12-2024>.

⁵ The term “Member” means an individual or organization that is registered with the Exchange pursuant to Chapter II of the Exchange’s Rules for purposes of trading on the Exchange as an “Electronic Exchange Member” or “Market Maker.” Members are deemed “members” under the Exchange Act. See Exchange Rule 100.

will contain sections for various connectivity and port-related fees. The Exchange will file separate rule filings to establish fees for connectivity and ports for Members and non-Members. Accordingly, the Exchange proposes to establish Sections 5)a), 5)b), and 5)d), which will be marked as “Reserved” for those types of fees.

Pass-Through of External Connectivity Fees

The Exchange proposes to establish Section 5)c), Pass-Through of External Connectivity Fees, which provides for the pass through of external connectivity fees to Members and non-Members that establish connections with MIAX Sapphire through a third-party. Fees assessed to MIAX Sapphire by third-party external vendors on behalf of a Member or non-Member connecting to MIAX Sapphire (including cross-connects), will be passed through to the Member or non-Member. The external connectivity fees passed through can include one-time set-up fees, monthly charges, and other fees charged to MIAX Sapphire by a third-party for the benefit of a Member or non-Member. The Exchange notes that its affiliated options markets, MIAX⁶, MIAX Pearl⁷ and MIAX Emerald⁸, provide for the same pass-through of external connectivity fees to their members and non-members.⁹ As such, this proposed fee is not new or novel.

MPID Fees

The Exchange proposes to establish Section 5)e), MPID Fees, pursuant to which the Exchange proposes to assess monthly MPID fees to Members based upon the type of MPID,

⁶ The term “MIAX” means Miami International Securities Exchange, LLC. See Exchange Rule 100.

⁷ The term “MIAX Pearl” means MIAX PEARL, LLC. See Exchange Rule 100. All references to “MIAX Pearl” in this filing are to the options trading facility of MIAX PEARL, LLC. References to the equities trading facility of MIAX PEARL, LLC, will be to “MIAX Pearl Equities.”

⁸ The term “MIAX Emerald” means MIAX Emerald, LLC. See Exchange Rule 100.

⁹ See MIAX Fee Schedule, Section 5)c); MIAX Pearl Fee Schedule, Section 5)c); and MIAX Emerald Fee Schedule, Section 5)c).

either FIX¹⁰ MPID or MEO¹¹ MPID. MPIDs allow the Exchange to provide additional services to its Members, including customer reporting, monitoring and risk protection services, down at the MPID level. MPIDs provide Members the ability to segment their business operations in a manner that can be tailored to their business needs, as well as receive certain additional administrative and operational services provided by the Exchange. MPID fees are assessed for providing these services. The Exchange proposes to provide MPIDs to Members for free. Even though the Exchange proposes to provide MPIDs for free, the Exchange believes that is appropriate to provide market participants with the overall structure of the fees by outlining the structure in the Fee Schedule, so that there is general awareness that the Exchange intends to assess such fees in the future. The Exchange will issue an alert to Members in the future when it plans to establish fee amounts for MPIDs.

Technical Support Request Fee

The Exchange proposes to establish Section 5)f), Member and Non-Member Technical Support Request Fee, which describes the technical support request fee to be charged to both Members and non-Members that request technical support at any of the MIAX Sapphire data centers. MIAX Sapphire proposes to charge a fee of \$250 per hour for requested technical support. The Exchange intends to provide Members and non-Members access to the Exchange's on-site data center personnel for technical support as a convenience to Members and non-Members to test or otherwise assess their connectivity to the Exchange. The Exchange's affiliated markets, MIAX, MIAX Pearl, and MIAX Emerald, charge a slightly lower technical

¹⁰ The term "FIX Interface" means the Financial Information Exchange interface used for submitting certain order types (as set forth in Rule 516) to the MIAX Sapphire System. See Exchange Rule 100.

¹¹ The term "MEO Interface" means a binary order interface used for submitting certain order types (as set forth in Rule 516 and Rule 518) to the MIAX Sapphire System. See Exchange Rule 100.

support request fee of \$200 per hour to their members and non-members.¹² The Exchange notes that its affiliated markets established their respective hourly rate for the technical support request fee over five years ago and the hourly fee for employees to provide technical support has increased since that time.

2. Statutory Basis

The Exchange believes that the proposed fees are consistent with Section 6(b) of the Act¹³ in general, and furthers the objectives of Section 6(b)(4) of the Act¹⁴ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among Members and other persons using any facility or system which the Exchange operates or controls. The Exchange also believes the proposed fees further the objectives of Section 6(b)(5) of the Act¹⁵ in that they are designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protect investors and the public interest and are not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

Pass-Through of External Connectivity Fees

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to pass-through external connectivity fees to Members and non-Members that establish connections with MIAX Sapphire through a third-party. MIAX Sapphire will only pass-through the actual costs it is charged by third-party external vendors. The Exchange's affiliated markets all pass-through

¹² See MIAX Fee Schedule, Section 5)f); MIAX Pearl Options Fee Schedule, Section 5)f); and MIAX Emerald Fee Schedule, Section 5)f).

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(4).

¹⁵ 15 U.S.C. 78f(b)(5).

external connectivity fee charges to their members and non-members.¹⁶ Additionally, at least one competing options exchange also passes along connectivity fee charges assessed to that exchange by third-party external vendors on behalf of its market participants.¹⁷ Accordingly, the Exchange believes the proposed pass-through of external connectivity fees is reasonable, equitable and not unfairly discriminatory.

MPID Fees

The Exchange believes that its proposal to establish an overall fee structure for MPIDs, without proposing fee amounts at this time, is reasonable, equitable and not unfairly discriminatory because it will provide notice to Members that the Exchange intends to assess such fees in the future. The Exchange will announce in advance any change to establish MPID fees so that Members have time to adjust their MPIDs as necessary based upon the proposed fees. The Exchange believes it is reasonable and equitable to waive MPID fees as an incentive for market participants to register and become Members of the Exchange prior to launch. This in turn should provide the Exchange with potential order flow and liquidity providers as it begins operations.

Member and Non-Member Technical Support Request Fee

The Exchange believes that the proposed technical support request fee is reasonable, equitable and not unfairly discriminatory because it will be assessed equally to all Members and non-Members who request technical support at the proposed hourly rate. Furthermore, Members and non-Members are not required to use the service; instead, the Exchange proposes to offer

¹⁶ See *supra* note 9.

¹⁷ See BOX Exchange LLC (“BOX”) Fee Schedule, Section III.A.1. (“BOX will pass-through any connectivity fees to Participants and non-Participants that are assessed to BOX by these third-party external vendors on behalf of a Participant or non-Participant. Connectivity fees can include one-time set-up fees, monthly charges, and other fees charged by the third-party vendor in exchange for the services provided to the market participant.”).

this services as a convenience to all Members and non-Members. The Exchange believes the proposed fee is reasonable because it will permit both Members and non-Members to request the use of the Exchange’s on-site data center personnel as technical support and as a convenience in order to test or otherwise assess the user’s connectivity to the Exchange via its data centers. The proposed fee is reasonable because it is within the range of the fee charged by the Exchange’s affiliated markets.¹⁸

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intra-Market Competition

The Exchange believes the proposed pass-through of external connectivity fees will not result in any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because MIAX Sapphire will only pass-through the actual costs it is charged by third-party external vendors. The Exchange’s affiliated markets all pass-through external connectivity fee charges to their members and non-members,¹⁹ and at least one competing options exchange also passes along connectivity fee charges assessed to that exchange by third-party external vendors on behalf of its market participants.²⁰

The Exchange believes the proposed MPID fee structure, including waiver of the MPID fees, will not result in any burden on intra-market competition that is not necessary or appropriate

¹⁸ See supra note 12.

¹⁹ See supra note 9.

²⁰ See BOX Exchange LLC (“BOX”) Fee Schedule, Section III.A.1. (“BOX will pass-through any connectivity fees to Participants and non-Participants that are assessed to BOX by these third-party external vendors on behalf of a Participant or non-Participant. Connectivity fees can include one-time set-up fees, monthly charges, and other fees charged by the third-party vendor in exchange for the services provided to the market participant.”).

in furtherance of the purposes of the Act because there will be no cost for Members to utilize MPIDs across their firm and business lines. The Exchange believes waiving such fees will not impose any burden on intra-market competition because this will provide an incentive for market participants to register and become Members of the Exchange prior to launch. This in turn should provide the Exchange with potential order flow and liquidity providers as it begins operations, which may benefit all market participants of the Exchange.

The Exchange believes the proposed technical support request fee will not result in any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because it will be assessed equally to all Members and non-Members who request technical support at the proposed hourly rate. Furthermore, Members and non-Members are not required to use the service; instead, the Exchange proposes to offer this services as a convenience to all Members and non-Members. The Exchange believes the proposed fee will not impose any burden on intra-market competition because it will permit both Members and non-Members to request the use of the Exchange's on-site data center personnel as technical support and as a convenience in order to test or otherwise assess the user's connectivity to the Exchange via its data centers. The proposed fee is within the range of the fee charged by the Exchange's affiliated markets for the same service.²¹

Inter-Market Competition

The Exchange believes that the proposed changes will not result in any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, market participants are not forced to connect to and trade on all exchanges. The Exchange believes that the proposed pass-through of external connectivity fees, MPID fee

²¹ See supra note 12.

structure, and technical support request fee will not cause any burden on inter-market competition because none of these changes impact other exchanges' ability to compete.

Accordingly, the Exchange does not believe its proposed fee changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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,²² and Rule 19b-4(f)(2)²³ 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

(<https://www.sec.gov/rules/sro.shtml>); or

²² 15 U.S.C. 78s(b)(3)(A)(ii).

²³ 17 CFR 240.19b-4(f)(2).

- Send an email to rule-comments@sec.gov. Please include file number SR-SAPPHIRE-2024-16 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-2024-16. 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-2024-16 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.²⁴

J. Matthew DeLesDernier,

Deputy Secretary.

²⁴ 17 CFR 200.30-3(a)(12).