Required fields are shown with yellow backgrounds and asterisks.

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2024 - * 25
Amendment No. (req. for Amendments *)

Filing by MIAX Sapphire, LLC

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * ☑ Amendment * ☐ Withdrawal ☐

Section 19(b)(2) * ☐ Section 19(b)(3)(A) * ☑ Section 19(b)(3)(B) * ☐

Pilot ☐

Extension of Time Period for Commission Action * ☐

Date Expires *

Rule

☐ 19b-4(f)(1) ☐ 19b-4(f)(4)
☑ 19b-4(f)(2) ☐ 19b-4(f)(5)
☐ 19b-4(f)(3) ☐ 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) * ☐ Section 806(e)(2) * ☐

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 3C(b)(2) * ☐

Exhibit 2 Sent As Paper Document ☐

Exhibit 3 Sent As Paper Document ☐

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Amend the Fee Schedule to Adopt an ORF

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Greg Last Name * Ziegler

Title * Senior Counsel

E-mail * gziegler@miaxglobal.com

Telephone * (609) 897-1483 Fax

Signature

Pursuant to the requirements of the Securities Exchange of 1934, MIAX Sapphire, LLC has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date 08/21/2024

By Gregory P. Ziegler
(Name *)

(Title *) Senior Counsel

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Gregory Ziegler Date: 2024.08.21 09:52:13 -04'00'

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information *

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SR-SAPPHIRE-2024-25 19b4 ORF.dc

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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SR-SAPPHIRE-2024-25-Exhibit 1.doc

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2- Notices, Written Comments, Transcripts, Other Communications

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

☐ Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

☐ Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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SR-SAPPHIRE-2024-25 Exhibit 5 ORF

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) MIAX Sapphire, LLC ("MIAX Sapphire" or "Exchange"), pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] proposes to amend the MIAX Sapphire Fee Schedule (the "Fee Schedule") to establish an Options Regulatory Fee ("ORF") that would automatically sunset on October 31, 2024.

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on September 1, 2024.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1, and a copy of the applicable section of the Fee Schedule is attached hereto as Exhibit 5.

(b) Inapplicable.

(c) Inapplicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Chief Executive Officer of the Exchange pursuant to authority delegated by the MIAX Sapphire Board of Directors on July 23, 2024. Exchange staff will advise the Board of Directors of any action taken pursuant to delegated authority. No other action by the Exchange is necessary for the filing of the proposed rule change.

Questions and comments on the proposed rule change may be directed to Gregory P. Ziegler, Vice President and Senior Counsel, at (609) 897-1483.

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

2 17 CFR 240.19b-4.

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

a. Purpose

The Exchange proposes to adopt Section b), Options Regulatory Fee, to Chapter 2 of the Fee Schedule. The Exchange proposes to establish an ORF in the amount of $0.0013 per contract side. The amount of the proposed fee is based on historical industry volume, projected volumes on the Exchange, projected Exchange regulatory costs, and an assessment practice which is identical to the assessment practices currently utilized by the Exchange's affiliates, Miami International Securities Exchange, LLC ("MIAX Options") MIAX PEARL, LLC ("MIAX Pearl"), and MIAX Emerald, LLC ("MIAX Emerald"). The Exchange's proposed ORF should balance the Exchange's regulatory revenue against the anticipated regulatory costs. The Exchange acknowledges that alternative ORF models are being pursued, however a consensus has not yet been reached among the industry. Therefore the Exchange proposes that it will start collecting ORF beginning on September 1, 2024, and that the ORF will automatically sunset on October 31, 2024.[3] The Exchange believes this will provide the Exchange additional time to inform its approach to ORF, so that it may compete on equal footing with each of the other option exchanges that charge similar regulatory fees. The Exchange initially filed this proposal on August 7, 2024 (SR-SAPPHIRE-2024-14). The Exchange withdrew SR-SAPPHIRE-2024-14 on August 21, 2024, and submitted this proposal.

The per-contract ORF will be assessed by MIAX Sapphire to each MIAX Sapphire Member[4] for all options transactions cleared or ultimately cleared by the Member which are

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3 The Exchange proposes to adopt a note to its Fee Schedule to communicate the start date and sunset date.

4 The term "Member" means an individual or organization that is registered with the Exchange pursuant to Chapter II of MIAX Sapphire Rules for purposes of trading on the Exchange as an "Electronic Exchange

cleared by the Options Clearing Corporation ("OCC") in the "customer" range, regardless of the exchange on which the transaction occurs. The ORF will be collected by the OCC on behalf of MIAX Sapphire from either: (1) a Member that was the ultimate clearing firm[5] for the transaction; or (2) a non-Member that was the ultimate clearing firm where a Member was the executing clearing firm[6] for the transaction. The Exchange will use reports from the OCC to determine the identity of the executing clearing firm and ultimate clearing firm.

To illustrate how the ORF will be assessed and collected, the Exchange provides the following set of examples. If the transaction is executed on the Exchange and the ORF is assessed, if there is no change to the clearing account of the original transaction, then the ORF is collected from the Member that is the executing clearing firm for the transaction. (The Exchange notes that, for purposes of the Fee Schedule, when there is no change to the clearing account of the original transaction, the executing clearing firm is deemed to be the ultimate clearing firm.) If there is a change to the clearing account of the original transaction (i.e., the executing clearing firm "gives-up" or "CMTAs" the transaction to another clearing firm), then the ORF is collected from the clearing firm that ultimately clears the transaction – the ultimate clearing firm. The ultimate clearing firm may be either a Member or non-Member of the Exchange. If the transaction is executed on an away exchange and the ORF is assessed, then the ORF is collected from the ultimate clearing firm for the transaction. Again, the ultimate clearing firm may be

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Member" or "Market Maker." Members are deemed "members" under the Exchange Act. See Exchange Rule 100.

5 The Exchange takes into account any Clearing Member Trade Assignment ("CMTA") transfers when determining the ultimate clearing firm for a transaction. CMTA is a form of "give up" whereby the position will be assigned to a specific clearing firm at the OCC.

6 Throughout this filing, "executing clearing firm" means the clearing firm through which the entering broker indicated that the transaction would be cleared at the time it entered the original order which executed, and that clearing firm could be a designated "give up", if applicable. The executing clearing firm may be the ultimate clearing firm if no CMTA transfer occurs. If a CMTA transfer occurs, however, the ultimate clearing firm would be the clearing firm that the position was transferred to for clearing via CMTA.

either a Member or non-Member of the Exchange. The Exchange notes, however, that when the transaction is executed on an away exchange, the Exchange does not assess the ORF when neither the executing clearing firm nor the ultimate clearing firm is a Member (even if a Member is "given-up" or "CMTAed" and then such Member subsequently "gives-up" or "CMTAs" the transaction to another non-Member via a CMTA reversal). Finally, the Exchange will not assess the ORF on outbound linkage trades, whether executed at the Exchange or an away exchange. "Linkage trades" are tagged in the Exchange's system, so the Exchange can readily tell them apart from other trades. A customer order routed to another exchange results in two customer trades, one from the originating exchange and one from the recipient exchange. Charging ORF on both trades could result in double-billing of ORF for a single customer order, thus the Exchange will not assess ORF on outbound linkage trades in a linkage scenario. This assessment practice is identical to the assessment practice currently utilized by the Exchange's affiliates, MIAX Options, MIAX Pearl, and MIAX Emerald.[7]

As a practical matter, when a transaction that is subject to the ORF is not executed on the Exchange, the Exchange lacks the information necessary to identify the order entering member for that transaction. There are countless order entering market participants, and each day such participants can drop their connection to one market center and establish themselves as participants on another. For these reasons, it is not possible for the Exchange to identify, and thus assess fees such as an ORF, on order entering participants on away markets on a given trading day.

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[7] See Securities Exchange Act Release Nos. 80875 (June 7, 2017), 82 FR 27096 (June 13, 2017) (SR-PEARL-2017-26); 81063 (June 30, 2017), 82 FR 31668 (July 7, 2017) (SR-MIAX-2017-31); and 85251 (March 6, 2019) 84 FR 8931 (March 12, 2019) (SR-EMERALD-2019-01).

Clearing members, however, are distinguished from order entering participants because they remain identified to the Exchange on information the Exchange receives from the OCC regardless of the identity of the order entering participant, their location, and the market center on which they execute transactions. Therefore, the Exchange believes it is more efficient for the operation of the Exchange and for the marketplace as a whole to collect the ORF from clearing members. Additionally, this collection method was originally instituted for the benefit of clearing firms that desired to have the ORF be collected from the clearing firm that ultimately clears the transaction. The clearing firms may then choose to pass through all, a portion, or none of the cost of the ORF to its customers, i.e., the entering firms.

As discussed below, the Exchange believes it is appropriate to charge the ORF only to transactions that clear as customer at the OCC. The Exchange believes that its broad regulatory responsibilities with respect to a Member's activities support applying the ORF to transactions cleared but not executed by a Member. The Exchange's regulatory responsibilities are the same regardless of whether a Member enters an order that executes or clears a transaction executed on behalf of another party. The Exchange will regularly review all such activities, including performing surveillance for position limit violations, end of day and intra-day manipulation, front-running, contrary exercise advice violations and insider trading. These activities span across multiple exchanges.

The ORF is designed to recover a material portion of the costs of supervising and regulating Members' customer options business including performing routine surveillances and investigations, as well as policy, rulemaking, interpretive and enforcement activities. The Exchange believes that revenue generated from the ORF, when combined with all of the Exchange's other regulatory fees and fines, will cover a material portion, but not all, of the

Exchange's regulatory costs. The Exchange has designed the ORF to generate revenues that, when combined with all of the Exchange's other regulatory fees, will be less than or equal to the Exchange's regulatory costs.

Regulatory costs include direct regulatory expenses and certain indirect expenses for work allocated in support of the regulatory function. The direct expenses include in-house and third-party service provider costs to support the day-to-day regulatory work such as surveillance, investigations and examinations. The indirect expenses include support from personnel in such areas as human resources, legal, information technology, facilities and accounting as well as shared costs necessary to operate the Exchange and to carry on its regulatory function, such as hardware, data center costs and connectivity. The Exchange acknowledges that these indirect expenses are also allocated towards other business operations, such as providing connectivity and market data services, for which the Exchange has also conducted a cost-based analysis. As such, when analyzing the indirect expenses associated with its regulatory program, the Exchange did not double-count any expenses, but instead allocated a portion of the costs not already allocated to other fees imposed by the Exchange. Indirect expenses are estimated to be approximately 52% of the total regulatory costs for 2024. Thus, direct expenses are estimated to be approximately 48% of the total regulatory costs for 2024. The Exchange notes that its regulatory responsibilities with respect to Member compliance with options sales practice rules have been allocated to the Financial Industry Regulatory Authority ("FINRA") under a 17d-2 Agreement. The ORF is not designed to cover the cost of options sales practice regulation. Finally, the Exchange notes that it takes into account all regulatory sources of funding, including fines collected by the Exchange in connection with disciplinary matters, when determining the appropriate ORF rate.

The Exchange will monitor the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. The Exchange will monitor MIAX Sapphire regulatory costs and revenues at a minimum on a semi-annual basis. If the Exchange determines regulatory revenues exceed or are insufficient to cover a material portion of its regulatory costs, the Exchange will adjust the ORF by submitting a fee change filing to the Commission. Going forward, the Exchange will notify Members of adjustments to the ORF via regulatory circular at least 30 days prior to the effective date of the change.

The Exchange believes it is reasonable and appropriate for the Exchange to charge the ORF for customer options transactions regardless of the exchange on which the transactions occur. The Exchange has a statutory obligation to enforce compliance by Members and their associated persons under the Act and the rules of the Exchange and to surveil for other manipulative conduct by market participants (including non-Members) trading on the Exchange. The Exchange cannot effectively surveil for such conduct without looking at and evaluating activity across all options markets. Many of the Exchange's market surveillance programs require the Exchange to look at and evaluate activity across all options markets, such as surveillance for position limit violations, manipulation, front-running and contrary exercise advice violations/expiring exercise declarations. While much of this activity relates to the execution of orders, the ORF is assessed on and collected from clearing firms. The Exchange, because it lacks access to information on the identity of the entering firm for executions that occur on away markets, believes it is appropriate to assess the ORF on its Members' clearing activity, based on information the Exchange receives from OCC, including for away market activity. Among other reasons, doing so better and more accurately captures activity that occurs

away from the Exchange over which the Exchange has a degree of regulatory responsibility. In so doing, the Exchange believes that assessing ORF on Member clearing firms equitably distributes the collection of ORF in a fair and reasonable manner. Also, the Exchange and the other options exchanges are required to populate a consolidated options audit trail ("COATS")[8] system in order to surveil a Member's activities across markets.

In addition to its own surveillance programs, the Exchange will work with other SROs and exchanges on intermarket surveillance related issues. Through its participation in the Intermarket Surveillance Group ("ISG"),[9] the Exchange will share information and coordinate inquiries and investigations with other exchanges designed to address potential intermarket manipulation and trading abuses. The Exchange's participation in ISG helps it to satisfy the requirement that it has coordinated surveillance with markets on which security futures are traded and markets on which any security underlying security futures are traded to detect manipulation and insider trading.[10]

The Exchange believes that charging the ORF across markets will avoid having Members direct their trades to other markets in order to avoid the fee and to thereby avoid paying for their fair share for regulation. If the ORF did not apply to activity across markets then a Member would send their orders to the least cost, least regulated exchange (to the extent permissible under the Options Linkage plan, which, among other requirements, prohibits trading through of better priced quotations). Other exchanges do impose a similar fee on their members' activity,

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8 COATS effectively enhances intermarket options surveillance by enabling the options exchanges to reconstruct the market promptly to effectively surveil certain rules.

9 ISG is an industry organization formed in 1983 to coordinate intermarket surveillance among the SROs by co-operatively sharing regulatory information pursuant to a written agreement between the parties. The goal of the ISG's information sharing is to coordinate regulatory efforts to address potential intermarket trading abuses and manipulations.

10 See Section 6(h)(3)(I) of the Act.

and their fees will extend to include the activities of their own members on the Exchange. In fact, all registered options exchanges currently impose ORF on their members, and, similar to the Exchange, the majority of the options exchanges, including MIAX Sapphire's affiliates, launched over the last decade have implemented an ORF on the day of launch or shortly thereafter in order to properly fund their regulatory programs.[11]

The Exchange notes that there is established precedent for an SRO charging a fee across markets, namely, FINRA's Trading Activity Fee[12] and the ORF assessed by other options exchanges including, but not limited to, NYSE Amex LLC ("NYSE AMEX"), NYSE Arca, Inc. ("NYSE Arca"), Cboe Exchange, Inc. ("Cboe"), Cboe BZX Exchange, Inc. ("BZX"), Cboe EDGX Exchange, Inc. ("EDGX"), Nasdaq PHLX LLC ("Phlx"), Nasdaq ISE, LLC ("ISE"), Nasdaq GEMX, LLC ("GEMX"), MIAX Options and BOX Options Exchange LLC ("BOX").[13]

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11 See Securities Exchange Act Release Nos. 68711 (January 23, 2013), 78 FR 6155 (January 29, 2013) (SR-MIAX-2013-01); 80035 (February 14, 2017), 82 FR 11272 (February 21, 2017 (SR-PEARL-2017-09); 85251 (March 6, 2019), 84 FR 8931 (March 12, 2019) (SR-EMERALD-2019-01).

12 See Securities Exchange Act Release No. 47946 (May 30, 2003), 68 FR 34021 (June 6, 2003) (SR-NASD-2002-148).

13 See Securities Exchange Act Release Nos. 58817 (October 20, 2008), 73 FR 63744 (October 27, 2008) (SR-CBOE-2008-05) (notice of filing and immediate effectiveness of Cboe adopting an ORF applicable to transactions across all options exchanges); 61133 (December 9, 2009), 74 FR 66715 (December 16, 2009) (SR-Phlx-2009-100) (notice of filing and immediate effectiveness of Phlx adopting an ORF applicable to transactions across all options exchanges); 61154 (December 11, 2009), 74 FR 67278 (December 18, 2009) (SR-ISE-2009-105) (notice of filing and immediate effectiveness of ISE adopting an ORF applicable to transactions across all options exchanges); 61388 (January 20, 2010) , 75 FR 4431 (January 27, 2010) (SR-BX-2010-001) (notice of filing and immediate effectiveness of Nasdaq OMX BX, Inc. ("BX") adopting an ORF applicable to transactions across all options exchanges); 70200 (August 14, 2013) 78 FR 51242 (August 20, 2013)(SR- Topaz-2013-01)) (notice of filing and immediate effectiveness of GEMX, formerly known as ISE Gemini and Topaz Exchange, adopting an ORF applicable to transactions across all options exchanges); 64400 (May 4, 2011), 76 FR 27118 (May 10, 2011) (SR-NYSEAmex-2011-27) (notice of filing and immediate effectiveness of NYSE AMEX adopting an ORF applicable to transactions across all options exchanges); 64399 (May 4, 2011), 76 FR 27114 (May 10, 2011) (SR-NYSEArca-2011-20) (notice of filing and immediate effectiveness of NYSE Arca adopting an ORF applicable to transactions across all options exchanges); 65913 (December 8, 2011), 76 FR 77883 (December 14, 2011) (SR-NASDAQ-2011-163) (notice of filing and immediate effectiveness of Nasdaq Options Market ("NOM") adopting an ORF applicable to transactions across all options exchanges); 66979 (May 14, 2012), 77 FR 29740 (May 18, 2012) (SR-BOX-2012-002) (notice of filing and immediate effectiveness of BOX adopting an ORF applicable to transactions across all options exchanges); 67596 (August 6, 2012), 77 FR 47902 (August 10, 2012) (SR-C2-2012-023) (notice of filing and immediate effectiveness of C2 Options Exchange, Inc. ("C2") adopting an ORF applicable to transactions across all options exchanges); 68711 (January 23, 2013)

While the Exchange does not have all the same regulatory responsibilities as FINRA, the Exchange believes that, like other exchanges that have adopted an ORF, its broad regulatory responsibilities with respect to a Member's activities, irrespective of where their transactions take place, supports a regulatory fee applicable to transactions on other markets. Unlike FINRA's Trading Activity Fee, the ORF would apply only to a Member's customer options transactions.

Lastly, the Exchange recognizes that in 2019, the Commission issued suspensions of and orders instituting proceedings to determine whether to approve or disapprove a proposed rule change to modify the Options Regulatory Fee of NYSE American, NYSE Arca, MIAX Options, MIAX PEARL, MIAX Emerald, Cboe, Cboe EDGX Options, and C2.[14] Each of those exchanges had filed to increase their ORF, and the Commission indicated that each of those filings lacked detail and specificity, signaling that more information was needed to speak to

78 FR 6155 (January 29, 2013) (SR-MIAX-2013-01) (notice of filing and immediate effectiveness of MIAX Options adopting an ORF applicable to transactions across all options exchanges); 74214 (February 5, 2015), 80 FR 7665 (February 11, 2015) (SR-BATS-2015-08) (notice of filing and immediate effectiveness of BZX formerly known as BATS, adopting an ORF applicable to transactions across all options exchanges); 80025 (February 13, 2017) 82 FR 11081 (February 17, 2017) (SR-BatsEDGX-2017-04) (notice of filing and immediate effectiveness of EDGX formerly known as Bats EDGX Exchange, Inc., adopting an ORF applicable to transactions across all options exchanges); 80875 (June 7, 2017) 82 FR 27096 (June 13, 2017) (SR-PEARL-2017-26) (notice of filing and immediate effectiveness of MIAX PEARL adopting an ORF applicable to transactions across all options exchanges); 85127 (February 13, 2019) 84 FR 5173 (February 20, 2019) (SR-MRX-2019-03) (notice of filing and immediate effectiveness of Nasdaq MRX, LLC ("MRX") adopting an ORF applicable to transactions across all options exchanges); 85251 (March 6, 2019) 84 FR 8931 (March 12, 2019) (SR-EMERALD-2019-01) (notice of filing and immediate effectiveness of MIAX Emerald adopting an ORF applicable to transactions across all options exchanges).

[14] See Securities Exchange Act Release No. 87168 (September 30, 2019), 84 FR 53210 (October 4, 2019) (SR-Emerald-2019-29); Securities Exchange Act Release No. 87167 (September 30, 2019), 84 FR 53189 (October 4, 2019) (SR-PEARL-2019-23); Securities Exchange Act Release No. 87169 (September 30, 2019), 84 FR 53195 (October 4, 2019) (SR-MIAX-2019-35); Securities Exchange Act Release No. 87170 (September 30, 2019), 84 FR 53213 (October 4, 2019) (SRCBOE- 2019-040); Securities Exchange Act Release No. 87172 (September 30, 2019) 84 FR 53192 (October 4, 2019) (SR-CboeEDGX-2019-051); Securities Exchange Act Release No 87171 (September 30, 2019), 84 FR 53200 (October 4, 2019) (SR-C2-2019-018); Securities Exchange Act Release No. 86832 (August 30, 2019), 84 FR 46980 (September 6, 2019) (SR-NYSEArca-2019-49); Securities Exchange Act Release No. 86833 (August 30, 2019) 84 FR 47029 (September 6, 2019) (SR-NYSEAMER-2019-27).

whether the proposed increased ORFs were reasonable, equitably allocated and not unfairly discriminatory, particularly given that the ORF is assessed on transactions that clear in the "customer" range and regardless of the exchange on which the transaction occurs. The Commission also noted that the filings provided only broad general statements regarding options transaction volume and did not provide any information on those exchanges' historic or projected options regulatory costs (including the costs of regulating activity that cleared in the "customer" range and the costs of regulating activity that occurred off exchange), the amount of regulatory revenue they had generated and expected to generate from the ORF as well as other sources, or the "material portion" of options regulatory expenses that they sought to recover from the ORF. Each of those exchanges withdrew their filings, but continue charging ORF today as discussed above. The Exchange would be at an unfair competitive disadvantage if it were not allowed to charge the ORF to recover a material portion, but not all, of the Exchange's regulatory costs for the supervision and regulation of activity of its Members which as noted above, is charged by all currently operating options exchanges.

The Exchange recognizes that an alternative model is being pursued among industry participants but that a consensus has not yet been reached. Therefore, the Exchange proposes to establish an ORF in the amount of $0.0013 per contract side to be operative on September 1, 2024, until October 31, 2024, at which time its ORF will automatically sunset. The Exchange believes that this will allow it time to gather the necessary data, including its actual regulatory costs and revenues, as well as the cost of regulating executions that clear in a customer capacity and executions that occur on away markets, while also allowing it to adequately cover a portion of the projected costs associated with the regulation of its Members and avoid the unfair competitive disadvantage it would be placed at it if it were not allowed to collect ORF during the

time period needed to assess and collect data it does not have as a new options exchange. Such a process will inform the Exchange's approach to the ORF after the sunset date. To reiterate, as a new exchange, not having the opportunity to fund its regulatory program through the same regulatory fee charged by every other options exchange would place an undue competitive disadvantage upon the Exchange's regulatory program and options business as a whole. Further, the Exchange emphasizes that other exchanges will be charging ORF for transactions occurring on MIAX Sapphire, and as such, it follows that the Exchange that is primarily responsible for monitoring those transactions should also be able to charge ORF for activity occurring on its own market, as well as transactions it surveils on away markets.

The Exchange notes that if, during the proposed ORF collection period of September 1, 2024, until the sunset date of October 31, 2024, a viable alternative ORF methodology presents itself, the Exchange would endeavor to implement said alternative prior to the proposed sunset date of October 31, 2024.

As a new exchange, not having the opportunity to fund its regulatory program through the same regulatory fee charged by every other options exchange would place an undue competitive disadvantage upon the Exchange's regulatory program and options business as a whole. Further, the Exchange emphasizes that other exchanges will be charging ORF for transactions occurring on MIAX Sapphire, and as such, it follows that the exchange that is primarily responsible for monitoring those transactions should also be able to charge the ORF for activity occurring on its own market, as well as transactions it surveils on away markets.

The Exchange will notify current and future Members via a Regulatory Circular of the proposed ORF prior to the operative date of September 1, 2024. The Exchange believes that the

prior notification to future market participants will ensure that the future market participants are prepared to configure their systems to properly account for the proposed ORF.[15]

b. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act[16] in general, and furthers the objectives of Section 6(b)(4) of the Act[17] in particular, in that it is an equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act[18] in that it is designed 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, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange believes that establishing an ORF in the amount of $0.0013 is reasonable because the Exchange's collection of ORF needs to be balanced against the amount of regulatory costs incurred by the Exchange. The Exchange believes that the amount proposed herein will serve to balance the Exchange's regulatory revenue against the anticipated regulatory costs. Moreover, the proposed amount is lower than the amount of ORF assessed on other exchanges.[19]

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15 See MIAX Sapphire Options Alert, "MIAX Sapphire Options Exchange – Options Regulatory Fee," July 23, 2024, available online at https://www.miaxglobal.com/alert/2024/07/23/miax-sapphire-options-exchange-options-regulatory-fee. See also, MIAX Sapphire Regulatory Circular 2024-03, "MIAX Sapphire Options – Options Regulatory Fee," August 2, 2024, available online at https://www.miaxglobal.com/sites/default/files/circular-files/MIAX_Sapphire_Options_RC_2024_03.pdf.

16 15 U.S.C. 78f(b).

17 15 U.S.C. 78f(b)(4).

18 15 U.S.C. 78f(b)(5).

19 See, e.g., NYSE Arca Options Fees and Charges, ORF and NYSE American Options Fees Schedule, Section VII(A), which provide that ORF is assessed at a rate of $0.0055 per contract for each respective exchange. See also Nasdaq PHLX, Options 7 Pricing Schedule, Section 6(D), which provides for an ORF rate of $0.0034 per contract; Cboe Options Fee Schedule, which provides an ORF rate of $0.0017 per

The Exchange also believes the proposed fee change is equitable and not unfairly discriminatory in that it is charged to all Members on all their transactions that clear in the customer range at the OCC, with an exception.[20] The Exchange believes the ORF ensures fairness by assessing higher fees to those members that require more Exchange regulatory services based on the amount of customer options business they conduct. Regulating customer trading activity is much more labor intensive and requires greater expenditure of human and technical resources than regulating non-customer trading activity, which tends to be more automated and less labor-intensive. For example, there are costs associated with main office and branch office examinations (e.g., staff expenses), as well as investigations into customer complaints and the terminations of registered persons. As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-customer component (e.g., member proprietary transactions) of its regulatory program. Moreover, the Exchange notes that it has broad regulatory responsibilities with respect to activities of its Members, irrespective of where their transactions take place. Many of the Exchange's surveillance programs for customer trading activity may require the Exchange to look at activity across all markets, such as reviews related to position limit violations and manipulation. Indeed, the Exchange cannot effectively review for such conduct without looking at and evaluating activity regardless of where it

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contract; Nasdaq Options Market, Options 7 Pricing Schedule, Section 5, which provides an ORF rate of $0.0016 per contract; BOX Options Fee Schedule Section II(C), which provides an ORF rate of $0.00295 per contract; MIAX Options Fee Schedule, Section 2(b), which provides an ORF rate of $0.0019 per contract; MIAX Pearl Fee Schedule, Section 2(b), which provides an ORF rate of $0.0018 per contract; and the MEMX Fee Schedule which provides an ORF rate of $0.0015.

[20] When a transaction is executed on an away exchange, the Exchange does not assess the ORF when neither the executing clearing firm nor the ultimate clearing firm is a Member (even if a Member is "given-up" or "CMTAed" and then such Member subsequently "gives-up" or "CMTAs" the transaction to another non-Member via a CMTA reversal).

transpires. In addition to its own surveillance programs, the Exchange also works with other SROs and exchanges on intermarket surveillance related issues. Through its participation in the Intermarket Surveillance Group ("ISG")[21] the Exchange shares information and coordinates inquiries and investigations with other exchanges designed to address potential intermarket manipulation and trading abuses. Accordingly, there is a strong nexus between the ORF and the Exchange's regulatory activities with respect to customer trading activity of its Members.

The Exchange believes that the proposal to collect the ORF from non-Members when such non-Members ultimately clear the transaction (that is, when the non-Member is the "ultimate clearing firm" for a transaction in which a Member was assessed the ORF), is an equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The Exchange notes that there is a material distinction between "assessing" the ORF and "collecting" the ORF. The Exchange does not assess the ORF to non-Members in any instance. For all executions, regardless of where they occur, the ORF is collected from the ultimate clearing firm, regardless of whether that clearing firm is a Member, but only if the original executing clearing firm is a Member. If the original executing clearing firm is not a Member, no ORF is assessed or collected. If the original executing clearing firm is a Member, while the ORF may be collected from the ultimate non-Member clearing firm, the ORF is assessed to the Member executing clearing firm. The Exchange believes that this collection practice is reasonable and appropriate, given its broad regulatory responsibilities with respect to its Members activity, as well as the fact that this collection method was originally instituted for the benefit of clearing firms that

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[21] ISG is an industry organization formed in 1983 to coordinate intermarket surveillance among the SROs by cooperatively sharing regulatory information pursuant to a written agreement between the parties. The goal of the ISG's information sharing is to coordinate regulatory efforts to address potential intermarket trading abuses and manipulations.

The ORF is designed to recover a material portion of the costs of supervising and regulating Members' customer options business including performing routine surveillances and investigations, as well as policy, rulemaking, interpretive, and enforcement activities. Allowing the Exchange to collect an ORF beginning on September 1, 2024 until the sunset date of October 31, 2024, is reasonable as it allows the Exchange to recoup its regulatory expenses in the exact manner as other options exchanges. MEMX, a competing options exchange, which began operations on September 27, 2023,[22] established an ORF amount of $0.0015.[23] MEMX then adopted a proposal where its ORF would automatically sunset eight months later on May 31, 2024.[24] MEMX then extended the sunset period another five months until October 31, 2024.[25]

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

MIAX Sapphire does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. This proposal will not create an unnecessary or inappropriate intra-market burden on competition because the ORF will apply to all customer activity, and is designed to enable the Exchange to recover a material portion of the Exchange's cost related to its regulatory activities. This proposal will not create an unnecessary or inappropriate inter-market burden on competition because it will be a regulatory fee that supports regulation in furtherance of the purposes of the Act. The Exchange is obligated to ensure that the amount of regulatory revenue collected from

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22 See MEMX Trader Alert 23-42: MEMX Options Exchange Launch Schedule, available at: https://info.memxtrading.com/trader-alert-23-42-memx-options-exchange-schedule-update/

23 See Securities Exchange Act Release No. 98585 (September 28, 2023), 88 FR 68692 (October 4, 2023) (SR-MEMX-2023-25).

24 See Securities Exchange Act Release No. 99259 (January 2, 2024), 89 FR 99259 (January 8, 2024) (SR-MEMX-2023-38).

25 See Securities Exchange Act Release No. 100253 (May 31, 2024), 89 FR 48473 (June 6 2024) (SR-MEMX-2024-23).

the ORF, in combination with its other regulatory fees and fines, does not exceed regulatory costs. MIAX Sapphire's proposed ORF, as described herein, is lower than, or comparable to, fees charged by other options exchanges for the same or similar services.

The Exchange notes that while it does not believe that its proposed ORF will impose any burden on inter-market competition, the Exchange not charging an ORF or being precluded from charging an ORF would, in-fact, represent a significant burden on competition. As noted above, the Exchange is a new entrant in the highly competitive environment for equity options trading. Also, as noted above, all registered options exchanges currently impose the ORF on their members, and such ORF fees imposed by other options exchanges currently do and will continue to extend to executions occurring on the Exchange. The Exchange believes that it is likely that a viable ORF alternative may be presented prior to the Exchange's sunset period, and the Exchange is not precluded from adopting said alternative prior to the sunset date. The Exchange believes that in order to compete with these existing options exchanges, it must, in fact, impose an ORF on its Members, and that the inability to do so would result in an unfair competitive disadvantage to the Exchange.

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Pursuant to Section 19(b)(3)(A)(ii) of the Act,[26] and Rule 19b-4(f)(2) thereunder[27] the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule change is based upon the rules of Miami International Securities Exchange, LLC.[28]

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

1. Completed notice of proposed rule change for publication in the Federal Register.

5. Copy of the applicable section of the MIAX Sapphire Fee Schedule.

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26 15 U.S.C. 78s(b)(3)(A)(ii).

27 17 CFR 240.19b-4.

28 See Securities Exchange Act Release Nos. 68711 (January 23, 2013), 78 FR 6155 (January 29, 2013) (SR-MIAX-2013-01); 71672 (March 10, 2014), 79 FR 14562 (March 14, 2014) (SR-MIAX-2014-10); 72989 (September 4, 2014), 79 FR 53792 (September 10, 2014) (SR-MIAX-2014-47); 81063 (June 30, 2017), 83 FR 31668 (July 7, 2017)(SR-MIAX-2017-31); 98726 (October 12, 2023), 88 FR 71911 (October 18, 2023)(SR-MIAX-2023-040).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-SAPPHIRE-2024-25)

August__, 2024

Self-Regulatory Organizations: Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by MIAX Sapphire LLC to Establish an Options Regulatory Fee ("ORF")

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 August 21, 2024, MIAX Sapphire, LLC ("MIAX Sapphire" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a 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 Fee Schedule (the "Fee Schedule") to establish an Options Regulatory Fee ("ORF") that would automatically sunset on October 31, 2024.

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on September 1, 2024.

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

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

2 17 CFR 240.19b-4.

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 adopt Section b), Options Regulatory Fee, to Chapter 2 of the Fee Schedule. The Exchange proposes to establish an ORF in the amount of $0.0013 per contract side. The amount of the proposed fee is based on historical industry volume, projected volumes on the Exchange, projected Exchange regulatory costs, and an assessment practice which is identical to the assessment practices currently utilized by the Exchange's affiliates, Miami International Securities Exchange, LLC ("MIAX Options") MIAX PEARL, LLC ("MIAX Pearl"), and MIAX Emerald, LLC ("MIAX Emerald"). The Exchange's proposed ORF should balance the Exchange's regulatory revenue against the anticipated regulatory costs. The Exchange acknowledges that alternative ORF models are being pursued, however a consensus has not yet been reached among the industry. Therefore the Exchange proposes that it will start collecting ORF beginning on September 1, 2024, and that the ORF will automatically sunset on October 31, 2024.[3] The Exchange believes this will provide the Exchange additional time to inform its approach to ORF, so that it may compete on equal footing with each of the other option exchanges that charge similar regulatory fees. The Exchange initially filed this proposal

[3] The Exchange proposes to adopt a note to its Fee Schedule to communicate the start date and sunset date.

on August 7, 2024 (SR-SAPPHIRE-2024-14). The Exchange withdrew SR-SAPPHIRE-2024-14 on August 21, 2024, and submitted this proposal.

The per-contract ORF will be assessed by MIAX Sapphire to each MIAX Sapphire Member[4] for all options transactions cleared or ultimately cleared by the Member which are cleared by the Options Clearing Corporation ("OCC") in the "customer" range, regardless of the exchange on which the transaction occurs. The ORF will be collected by the OCC on behalf of MIAX Sapphire from either: (1) a Member that was the ultimate clearing firm[5] for the transaction; or (2) a non-Member that was the ultimate clearing firm where a Member was the executing clearing firm[6] for the transaction. The Exchange will use reports from the OCC to determine the identity of the executing clearing firm and ultimate clearing firm.

To illustrate how the ORF will be assessed and collected, the Exchange provides the following set of examples. If the transaction is executed on the Exchange and the ORF is assessed, if there is no change to the clearing account of the original transaction, then the ORF is collected from the Member that is the executing clearing firm for the transaction. (The Exchange notes that, for purposes of the Fee Schedule, when there is no change to the clearing account of the original transaction, the executing clearing firm is deemed to be the ultimate clearing firm.) If there is a change to the clearing account of the original transaction (i.e., the executing clearing

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4 The term "Member" means an individual or organization that is registered with the Exchange pursuant to Chapter II of MIAX Sapphire 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.

5 The Exchange takes into account any Clearing Member Trade Assignment ("CMTA") transfers when determining the ultimate clearing firm for a transaction. CMTA is a form of "give up" whereby the position will be assigned to a specific clearing firm at the OCC.

6 Throughout this filing, "executing clearing firm" means the clearing firm through which the entering broker indicated that the transaction would be cleared at the time it entered the original order which executed, and that clearing firm could be a designated "give up", if applicable. The executing clearing firm may be the ultimate clearing firm if no CMTA transfer occurs. If a CMTA transfer occurs, however, the ultimate clearing firm would be the clearing firm that the position was transferred to for clearing via CMTA.

firm "gives-up" or "CMTAs" the transaction to another clearing firm), then the ORF is collected from the clearing firm that ultimately clears the transaction – the ultimate clearing firm. The ultimate clearing firm may be either a Member or non-Member of the Exchange. If the transaction is executed on an away exchange and the ORF is assessed, then the ORF is collected from the ultimate clearing firm for the transaction. Again, the ultimate clearing firm may be either a Member or non-Member of the Exchange. The Exchange notes, however, that when the transaction is executed on an away exchange, the Exchange does not assess the ORF when neither the executing clearing firm nor the ultimate clearing firm is a Member (even if a Member is "given-up" or "CMTAed" and then such Member subsequently "gives-up" or "CMTAs" the transaction to another non-Member via a CMTA reversal). Finally, the Exchange will not assess the ORF on outbound linkage trades, whether executed at the Exchange or an away exchange. "Linkage trades" are tagged in the Exchange's system, so the Exchange can readily tell them apart from other trades. A customer order routed to another exchange results in two customer trades, one from the originating exchange and one from the recipient exchange. Charging ORF on both trades could result in double-billing of ORF for a single customer order, thus the Exchange will not assess ORF on outbound linkage trades in a linkage scenario. This assessment practice is identical to the assessment practice currently utilized by the Exchange's affiliates, MIAX Options, MIAX Pearl, and MIAX Emerald.[7]

As a practical matter, when a transaction that is subject to the ORF is not executed on the Exchange, the Exchange lacks the information necessary to identify the order entering member for that transaction. There are countless order entering market participants, and each day such participants can drop their connection to one market center and establish themselves as

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[7] See Securities Exchange Act Release Nos. 80875 (June 7, 2017), 82 FR 27096 (June 13, 2017) (SR-PEARL-2017-26); 81063 (June 30, 2017), 82 FR 31668 (July 7, 2017) (SR-MIAX-2017-31); and 85251 (March 6, 2019) 84 FR 8931 (March 12, 2019) (SR-EMERALD-2019-01).

participants on another. For these reasons, it is not possible for the Exchange to identify, and thus assess fees such as an ORF, on order entering participants on away markets on a given trading day.

Clearing members, however, are distinguished from order entering participants because they remain identified to the Exchange on information the Exchange receives from the OCC regardless of the identity of the order entering participant, their location, and the market center on which they execute transactions. Therefore, the Exchange believes it is more efficient for the operation of the Exchange and for the marketplace as a whole to collect the ORF from clearing members. Additionally, this collection method was originally instituted for the benefit of clearing firms that desired to have the ORF be collected from the clearing firm that ultimately clears the transaction. The clearing firms may then choose to pass through all, a portion, or none of the cost of the ORF to its customers, i.e., the entering firms.

As discussed below, the Exchange believes it is appropriate to charge the ORF only to transactions that clear as customer at the OCC. The Exchange believes that its broad regulatory responsibilities with respect to a Member's activities support applying the ORF to transactions cleared but not executed by a Member. The Exchange's regulatory responsibilities are the same regardless of whether a Member enters an order that executes or clears a transaction executed on behalf of another party. The Exchange will regularly review all such activities, including performing surveillance for position limit violations, end of day and intra-day manipulation, front-running, contrary exercise advice violations and insider trading. These activities span across multiple exchanges.

The ORF is designed to recover a material portion of the costs of supervising and regulating Members' customer options business including performing routine surveillances and investigations, as well as policy, rulemaking, interpretive and enforcement activities. The

Exchange believes that revenue generated from the ORF, when combined with all of the Exchange's other regulatory fees and fines, will cover a material portion, but not all, of the Exchange's regulatory costs. The Exchange has designed the ORF to generate revenues that, when combined with all of the Exchange's other regulatory fees, will be less than or equal to the Exchange's regulatory costs.

Regulatory costs include direct regulatory expenses and certain indirect expenses for work allocated in support of the regulatory function. The direct expenses include in-house and third-party service provider costs to support the day-to-day regulatory work such as surveillance, investigations and examinations. The indirect expenses include support from personnel in such areas as human resources, legal, information technology, facilities and accounting as well as shared costs necessary to operate the Exchange and to carry on its regulatory function, such as hardware, data center costs and connectivity. The Exchange acknowledges that these indirect expenses are also allocated towards other business operations, such as providing connectivity and market data services, for which the Exchange has also conducted a cost-based analysis. As such, when analyzing the indirect expenses associated with its regulatory program, the Exchange did not double-count any expenses, but instead allocated a portion of the costs not already allocated to other fees imposed by the Exchange. Indirect expenses are estimated to be approximately 52% of the total regulatory costs for 2024. Thus, direct expenses are estimated to be approximately 48% of the total regulatory costs for 2024. The Exchange notes that its regulatory responsibilities with respect to Member compliance with options sales practice rules have been allocated to the Financial Industry Regulatory Authority ("FINRA") under a 17d-2 Agreement. The ORF is not designed to cover the cost of options sales practice regulation. Finally, the Exchange notes that it takes into account all regulatory sources of funding, including

fines collected by the Exchange in connection with disciplinary matters, when determining the appropriate ORF rate.

The Exchange will monitor the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. The Exchange will monitor MIAX Sapphire regulatory costs and revenues at a minimum on a semi-annual basis. If the Exchange determines regulatory revenues exceed or are insufficient to cover a material portion of its regulatory costs, the Exchange will adjust the ORF by submitting a fee change filing to the Commission. Going forward, the Exchange will notify Members of adjustments to the ORF via regulatory circular at least 30 days prior to the effective date of the change.

The Exchange believes it is reasonable and appropriate for the Exchange to charge the ORF for customer options transactions regardless of the exchange on which the transactions occur. The Exchange has a statutory obligation to enforce compliance by Members and their associated persons under the Act and the rules of the Exchange and to surveil for other manipulative conduct by market participants (including non-Members) trading on the Exchange. The Exchange cannot effectively surveil for such conduct without looking at and evaluating activity across all options markets. Many of the Exchange's market surveillance programs require the Exchange to look at and evaluate activity across all options markets, such as surveillance for position limit violations, manipulation, front-running and contrary exercise advice violations/expiring exercise declarations. While much of this activity relates to the execution of orders, the ORF is assessed on and collected from clearing firms. The Exchange, because it lacks access to information on the identity of the entering firm for executions that occur on away markets, believes it is appropriate to assess the ORF on its Members' clearing activity, based on information the Exchange receives from OCC, including for away market

activity. Among other reasons, doing so better and more accurately captures activity that occurs away from the Exchange over which the Exchange has a degree of regulatory responsibility. In so doing, the Exchange believes that assessing ORF on Member clearing firms equitably distributes the collection of ORF in a fair and reasonable manner. Also, the Exchange and the other options exchanges are required to populate a consolidated options audit trail ("COATS")[8] system in order to surveil a Member's activities across markets.

In addition to its own surveillance programs, the Exchange will work with other SROs and exchanges on intermarket surveillance related issues. Through its participation in the Intermarket Surveillance Group ("ISG"),[9] the Exchange will share information and coordinate inquiries and investigations with other exchanges designed to address potential intermarket manipulation and trading abuses. The Exchange's participation in ISG helps it to satisfy the requirement that it has coordinated surveillance with markets on which security futures are traded and markets on which any security underlying security futures are traded to detect manipulation and insider trading.[10]

The Exchange believes that charging the ORF across markets will avoid having Members direct their trades to other markets in order to avoid the fee and to thereby avoid paying for their fair share for regulation. If the ORF did not apply to activity across markets then a Member would send their orders to the least cost, least regulated exchange (to the extent permissible under the Options Linkage plan, which, among other requirements, prohibits trading through of

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8 COATS effectively enhances intermarket options surveillance by enabling the options exchanges to reconstruct the market promptly to effectively surveil certain rules.

9 ISG is an industry organization formed in 1983 to coordinate intermarket surveillance among the SROs by co-operatively sharing regulatory information pursuant to a written agreement between the parties. The goal of the ISG's information sharing is to coordinate regulatory efforts to address potential intermarket trading abuses and manipulations.

10 See Section 6(h)(3)(I) of the Act.

better priced quotations). Other exchanges do impose a similar fee on their members' activity, and their fees will extend to include the activities of their own members on the Exchange. In fact, all registered options exchanges currently impose ORF on their members, and, similar to the Exchange, the majority of the options exchanges, including MIAX Sapphire's affiliates, launched over the last decade have implemented an ORF on the day of launch or shortly thereafter in order to properly fund their regulatory programs.[11]

The Exchange notes that there is established precedent for an SRO charging a fee across markets, namely, FINRA's Trading Activity Fee[12] and the ORF assessed by other options exchanges including, but not limited to, NYSE Amex LLC ("NYSE AMEX"), NYSE Arca, Inc. ("NYSE Arca"), Cboe Exchange, Inc. ("Cboe"), Cboe BZX Exchange, Inc. ("BZX"), Cboe EDGX Exchange, Inc. ("EDGX"), Nasdaq PHLX LLC ("Phlx"), Nasdaq ISE, LLC ("ISE"), Nasdaq GEMX, LLC ("GEMX"), MIAX Options and BOX Options Exchange LLC ("BOX").[13]

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11 See Securities Exchange Act Release Nos. 68711 (January 23, 2013), 78 FR 6155 (January 29, 2013) (SR-MIAX-2013-01); 80035 (February 14, 2017), 82 FR 11272 (February 21, 2017 (SR-PEARL-2017-09); 85251 (March 6, 2019), 84 FR 8931 (March 12, 2019) (SR-EMERALD-2019-01).

12 See Securities Exchange Act Release No. 47946 (May 30, 2003), 68 FR 34021 (June 6, 2003) (SR-NASD-2002-148).

13 See Securities Exchange Act Release Nos. 58817 (October 20, 2008), 73 FR 63744 (October 27, 2008) (SR-CBOE-2008-05) (notice of filing and immediate effectiveness of Cboe adopting an ORF applicable to transactions across all options exchanges); 61133 (December 9, 2009), 74 FR 66715 (December 16, 2009) (SR-Phlx-2009-100) (notice of filing and immediate effectiveness of Phlx adopting an ORF applicable to transactions across all options exchanges); 61154 (December 11, 2009), 74 FR 67278 (December 18, 2009) (SR-ISE-2009-105) (notice of filing and immediate effectiveness of ISE adopting an ORF applicable to transactions across all options exchanges); 61388 (January 20, 2010) , 75 FR 4431 (January 27, 2010) (SR-BX-2010-001) (notice of filing and immediate effectiveness of Nasdaq OMX BX, Inc. ("BX") adopting an ORF applicable to transactions across all options exchanges); 70200 (August 14, 2013) 78 FR 51242 (August 20, 2013)(SR- Topaz-2013-01)) (notice of filing and immediate effectiveness of GEMX, formerly known as ISE Gemini and Topaz Exchange, adopting an ORF applicable to transactions across all options exchanges); 64400 (May 4, 2011), 76 FR 27118 (May 10, 2011) (SR-NYSEAmex-2011-27) (notice of filing and immediate effectiveness of NYSE AMEX adopting an ORF applicable to transactions across all options exchanges); 64399 (May 4, 2011), 76 FR 27114 (May 10, 2011) (SR-NYSEArca-2011-20) (notice of filing and immediate effectiveness of NYSE Arca adopting an ORF applicable to transactions across all options exchanges); 65913 (December 8, 2011), 76 FR 77883 (December 14, 2011) (SR-NASDAQ-2011-163) (notice of filing and immediate effectiveness of Nasdaq Options Market ("NOM") adopting an ORF applicable to transactions across all options exchanges); 66979 (May 14, 2012), 77 FR 29740 (May 18, 2012) (SR-BOX-2012-002) (notice of filing and immediate effectiveness of BOX adopting an ORF applicable to transactions across all options exchanges); 67596 (August 6, 2012), 77 FR 47902 (August 10, 2012) (SR-C2-2012-023) (notice of filing and immediate effectiveness of C2 Options Exchange, Inc.

While the Exchange does not have all the same regulatory responsibilities as FINRA, the Exchange believes that, like other exchanges that have adopted an ORF, its broad regulatory responsibilities with respect to a Member's activities, irrespective of where their transactions take place, supports a regulatory fee applicable to transactions on other markets. Unlike FINRA's Trading Activity Fee, the ORF would apply only to a Member's customer options transactions.

Lastly, the Exchange recognizes that in 2019, the Commission issued suspensions of and orders instituting proceedings to determine whether to approve or disapprove a proposed rule change to modify the Options Regulatory Fee of NYSE American, NYSE Arca, MIAX Options, MIAX PEARL, MIAX Emerald, Cboe, Cboe EDGX Options, and C2.[14] Each of those exchanges had filed to increase their ORF, and the Commission indicated that each of those filings lacked detail and specificity, signaling that more information was needed to speak to

("C2") adopting an ORF applicable to transactions across all options exchanges); 68711 (January 23, 2013) 78 FR 6155 (January 29, 2013) (SR-MIAX-2013-01) (notice of filing and immediate effectiveness of MIAX Options adopting an ORF applicable to transactions across all options exchanges); 74214 (February 5, 2015), 80 FR 7665 (February 11, 2015) (SR-BATS-2015-08) (notice of filing and immediate effectiveness of BZX formerly known as BATS, adopting an ORF applicable to transactions across all options exchanges); 80025 (February 13, 2017) 82 FR 11081 (February 17, 2017) (SR-BatsEDGX-2017-04) (notice of filing and immediate effectiveness of EDGX formerly known as Bats EDGX Exchange, Inc., adopting an ORF applicable to transactions across all options exchanges); 80875 (June 7, 2017) 82 FR 27096 (June 13, 2017) (SR-PEARL-2017-26) (notice of filing and immediate effectiveness of MIAX PEARL adopting an ORF applicable to transactions across all options exchanges); 85127 (February 13, 2019) 84 FR 5173 (February 20, 2019) (SR-MRX-2019-03) (notice of filing and immediate effectiveness of Nasdaq MRX, LLC ("MRX") adopting an ORF applicable to transactions across all options exchanges); 85251 (March 6, 2019) 84 FR 8931 (March 12, 2019) (SR-EMERALD-2019-01) (notice of filing and immediate effectiveness of MIAX Emerald adopting an ORF applicable to transactions across all options exchanges).

[14] See Securities Exchange Act Release No. 87168 (September 30, 2019), 84 FR 53210 (October 4, 2019) (SR-Emerald-2019-29); Securities Exchange Act Release No. 87167 (September 30, 2019), 84 FR 53189 (October 4, 2019) (SR-PEARL-2019-23); Securities Exchange Act Release No. 87169 (September 30, 2019), 84 FR 53195 (October 4, 2019) (SR-MIAX-2019-35); Securities Exchange Act Release No. 87170 (September 30, 2019), 84 FR 53213 (October 4, 2019) (SRCBOE- 2019-040); Securities Exchange Act Release No. 87172 (September 30, 2019) 84 FR 53192 (October 4, 2019) (SR-CboeEDGX-2019-051); Securities Exchange Act Release No 87171 (September 30, 2019), 84 FR 53200 (October 4, 2019) (SR-C2-2019-018); Securities Exchange Act Release No. 86832 (August 30, 2019), 84 FR 46980 (September 6, 2019) (SR-NYSEArca-2019-49); Securities Exchange Act Release No. 86833 (August 30, 2019) 84 FR 47029 (September 6, 2019) (SR-NYSEAMER-2019-27).

whether the proposed increased ORFs were reasonable, equitably allocated and not unfairly discriminatory, particularly given that the ORF is assessed on transactions that clear in the "customer" range and regardless of the exchange on which the transaction occurs. The Commission also noted that the filings provided only broad general statements regarding options transaction volume and did not provide any information on those exchanges' historic or projected options regulatory costs (including the costs of regulating activity that cleared in the "customer" range and the costs of regulating activity that occurred off exchange), the amount of regulatory revenue they had generated and expected to generate from the ORF as well as other sources, or the "material portion" of options regulatory expenses that they sought to recover from the ORF. Each of those exchanges withdrew their filings, but continue charging ORF today as discussed above. The Exchange would be at an unfair competitive disadvantage if it were not allowed to charge the ORF to recover a material portion, but not all, of the Exchange's regulatory costs for the supervision and regulation of activity of its Members which as noted above, is charged by all currently operating options exchanges.

The Exchange recognizes that an alternative model is being pursued among industry participants but that a consensus has not yet been reached. Therefore, the Exchange proposes to establish an ORF in the amount of $0.0013 per contract side to be operative on September 1, 2024, until October 31, 2024, at which time its ORF will automatically sunset. The Exchange believes that this will allow it time to gather the necessary data, including its actual regulatory costs and revenues, as well as the cost of regulating executions that clear in a customer capacity and executions that occur on away markets, while also allowing it to adequately cover a portion of the projected costs associated with the regulation of its Members and avoid the unfair competitive disadvantage it would be placed at it if it were not allowed to collect ORF during the time period needed to assess and collect data it does not have as a new options exchange. Such a

process will inform the Exchange's approach to the ORF after the sunset date. To reiterate, as a new exchange, not having the opportunity to fund its regulatory program through the same regulatory fee charged by every other options exchange would place an undue competitive disadvantage upon the Exchange's regulatory program and options business as a whole. Further, the Exchange emphasizes that other exchanges will be charging ORF for transactions occurring on MIAX Sapphire, and as such, it follows that the Exchange that is primarily responsible for monitoring those transactions should also be able to charge ORF for activity occurring on its own market, as well as transactions it surveils on away markets.

The Exchange notes that if, during the proposed ORF collection period of September 1, 2024, until the sunset date of October 31, 2024, a viable alternative ORF methodology presents itself, the Exchange would endeavor to implement said alternative prior to the proposed sunset date of October 31, 2024.

As a new exchange, not having the opportunity to fund its regulatory program through the same regulatory fee charged by every other options exchange would place an undue competitive disadvantage upon the Exchange's regulatory program and options business as a whole. Further, the Exchange emphasizes that other exchanges will be charging ORF for transactions occurring on MIAX Sapphire, and as such, it follows that the exchange that is primarily responsible for monitoring those transactions should also be able to charge the ORF for activity occurring on its own market, as well as transactions it surveils on away markets.

The Exchange will notify current and future Members via a Regulatory Circular of the proposed ORF prior to the operative date of September 1, 2024. The Exchange believes that the

prior notification to future market participants will ensure that the future market participants are prepared to configure their systems to properly account for the proposed ORF.[15]

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act[16] in general, and furthers the objectives of Section 6(b)(4) of the Act[17] in particular, in that it is an equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act[18] in that it is designed 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, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange believes that establishing an ORF in the amount of $0.0013 is reasonable because the Exchange's collection of ORF needs to be balanced against the amount of regulatory costs incurred by the Exchange. The Exchange believes that the amount proposed herein will serve to balance the Exchange's regulatory revenue against the anticipated regulatory costs. Moreover, the proposed amount is lower than the amount of ORF assessed on other exchanges.[19]

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15 See MIAX Sapphire Options Alert, "MIAX Sapphire Options Exchange – Options Regulatory Fee," July 23, 2024, available online at https://www.miaxglobal.com/alert/2024/07/23/miax-sapphire-options-exchange-options-regulatory-fee. See also, MIAX Sapphire Regulatory Circular 2024-03, "MIAX Sapphire Options – Options Regulatory Fee," August 2, 2024, available online at https://www.miaxglobal.com/sites/default/files/circular-files/MIAX_Sapphire_Options_RC_2024_03.pdf.

16 15 U.S.C. 78f(b).

17 15 U.S.C. 78f(b)(4).

18 15 U.S.C. 78f(b)(5).

19 See, e.g., NYSE Arca Options Fees and Charges, ORF and NYSE American Options Fees Schedule, Section VII(A), which provide that ORF is assessed at a rate of $0.0055 per contract for each respective exchange. See also Nasdaq PHLX, Options 7 Pricing Schedule, Section 6(D), which provides for an ORF rate of $0.0034 per contract; Cboe Options Fee Schedule, which provides an ORF rate of $0.0017 per contract; Nasdaq Options Market, Options 7 Pricing Schedule, Section 5, which provides an ORF rate of

The Exchange also believes the proposed fee change is equitable and not unfairly discriminatory in that it is charged to all Members on all their transactions that clear in the customer range at the OCC, with an exception.[20] The Exchange believes the ORF ensures fairness by assessing higher fees to those members that require more Exchange regulatory services based on the amount of customer options business they conduct. Regulating customer trading activity is much more labor intensive and requires greater expenditure of human and technical resources than regulating non-customer trading activity, which tends to be more automated and less labor-intensive. For example, there are costs associated with main office and branch office examinations (e.g., staff expenses), as well as investigations into customer complaints and the terminations of registered persons. As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-customer component (e.g., member proprietary transactions) of its regulatory program. Moreover, the Exchange notes that it has broad regulatory responsibilities with respect to activities of its Members, irrespective of where their transactions take place. Many of the Exchange's surveillance programs for customer trading activity may require the Exchange to look at activity across all markets, such as reviews related to position limit violations and manipulation. Indeed, the Exchange cannot effectively review for such conduct without looking at and evaluating activity regardless of where it transpires. In addition to its own surveillance programs, the Exchange also works with other

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\$0.0016 per contract; BOX Options Fee Schedule Section II(C), which provides an ORF rate of \$0.00295 per contract; MIAX Options Fee Schedule, Section 2(b), which provides an ORF rate of \$0.0019 per contract; MIAX Pearl Fee Schedule, Section 2(b), which provides an ORF rate of \$0.0018 per contract; and the MEMX Fee Schedule which provides an ORF rate of \$0.0015.

[20] When a transaction is executed on an away exchange, the Exchange does not assess the ORF when neither the executing clearing firm nor the ultimate clearing firm is a Member (even if a Member is "given-up" or "CMTAed" and then such Member subsequently "gives-up" or "CMTAs" the transaction to another non-Member via a CMTA reversal).

SROs and exchanges on intermarket surveillance related issues. Through its participation in the Intermarket Surveillance Group ("ISG")[21] the Exchange shares information and coordinates inquiries and investigations with other exchanges designed to address potential intermarket manipulation and trading abuses. Accordingly, there is a strong nexus between the ORF and the Exchange's regulatory activities with respect to customer trading activity of its Members.

The Exchange believes that the proposal to collect the ORF from non-Members when such non-Members ultimately clear the transaction (that is, when the non-Member is the "ultimate clearing firm" for a transaction in which a Member was assessed the ORF), is an equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The Exchange notes that there is a material distinction between "assessing" the ORF and "collecting" the ORF. The Exchange does not assess the ORF to non-Members in any instance. For all executions, regardless of where they occur, the ORF is collected from the ultimate clearing firm, regardless of whether that clearing firm is a Member, but only if the original executing clearing firm is a Member. If the original executing clearing firm is not a Member, no ORF is assessed or collected. If the original executing clearing firm is a Member, while the ORF may be collected from the ultimate non-Member clearing firm, the ORF is assessed to the Member executing clearing firm. The Exchange believes that this collection practice is reasonable and appropriate, given its broad regulatory responsibilities with respect to its Members activity, as well as the fact that this collection method was originally instituted for the benefit of clearing firms that

[21] ISG is an industry organization formed in 1983 to coordinate intermarket surveillance among the SROs by cooperatively sharing regulatory information pursuant to a written agreement between the parties. The goal of the ISG's information sharing is to coordinate regulatory efforts to address potential intermarket trading abuses and manipulations.

The ORF is designed to recover a material portion of the costs of supervising and regulating Members' customer options business including performing routine surveillances and investigations, as well as policy, rulemaking, interpretive, and enforcement activities. Allowing the Exchange to collect an ORF beginning on September 1, 2024 until the sunset date of October 31, 2024, is reasonable as it allows the Exchange to recoup its regulatory expenses in the exact manner as other options exchanges. MEMX, a competing options exchange, which began operations on September 27, 2023,[22] established an ORF amount of $0.0015.[23] MEMX then adopted a proposal where its ORF would automatically sunset eight months later on May 31, 2024.[24] MEMX then extended the sunset period another five months until October 31, 2024.[25]

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

MIAX Sapphire does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. This proposal will not create an unnecessary or inappropriate intra-market burden on competition because the ORF will apply to all customer activity, and is designed to enable the Exchange to recover a material portion of the Exchange's cost related to its regulatory activities. This proposal will not create an unnecessary or inappropriate inter-market burden on competition because it will be a regulatory fee that supports regulation in furtherance of the purposes of the Act. The Exchange is obligated to ensure that the amount of regulatory revenue collected from the ORF, in combination with its other regulatory fees and fines, does not exceed regulatory

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22 See MEMX Trader Alert 23-42: MEMX Options Exchange Launch Schedule, available at: https://info.memxtrading.com/trader-alert-23-42-memx-options-exchange-schedule-update/

23 See Securities Exchange Act Release No. 98585 (September 28, 2023), 88 FR 68692 (October 4, 2023) (SR-MEMX-2023-25).

24 See Securities Exchange Act Release No. 99259 (January 2, 2024), 89 FR 99259 (January 8, 2024) (SR-MEMX-2023-38).

25 See Securities Exchange Act Release No. 100253 (May 31, 2024), 89 FR 48473 (June 6 2024) (SR-MEMX-2024-23).

costs. MIAX Sapphire's proposed ORF, as described herein, is lower than, or comparable to, fees charged by other options exchanges for the same or similar services.

The Exchange notes that while it does not believe that its proposed ORF will impose any burden on inter-market competition, the Exchange not charging an ORF or being precluded from charging an ORF would, in-fact, represent a significant burden on competition. As noted above, the Exchange is a new entrant in the highly competitive environment for equity options trading. Also, as noted above, all registered options exchanges currently impose the ORF on their members, and such ORF fees imposed by other options exchanges currently do and will continue to extend to executions occurring on the Exchange. The Exchange believes that it is likely that a viable ORF alternative may be presented prior to the Exchange's sunset period, and the Exchange is not precluded from adopting said alternative prior to the sunset date. The Exchange believes that in order to compete with these existing options exchanges, it must, in fact, impose an ORF on its Members, and that the inability to do so would result in an unfair competitive disadvantage to the Exchange.

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,[26] and Rule 19b-4(f)(2)[27] 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,

[26] 15 U.S.C. 78s(b)(3)(A)(ii).

[27] 17 CFR 240.19b-4(f)(2).

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-SAPPHIRE-2024-25 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-2024-25. 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-2024-25 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.[28]

Sherry R. Haywood
Assistant Secretary

[28] 17 CFR 200.30-3(a)(12).

Exhibit 5

New text is underlined;
Deleted text is in [brackets]

MIAX Sapphire Options Exchange Fee Schedule

* * * * *

2) Regulatory Fees

a) No change.

b) Options Regulatory Fee

The per-contract Options Regulatory Fee ("ORF") is assessed by MIAX Sapphire to each MIAX Sapphire Member for all options transactions, including Mini Options, cleared or ultimately cleared by the Member that are cleared by OCC in the "customer" range, regardless of the exchange on which the transaction occurs. The ORF is not assessed on outbound linkage trades. The ORF is collected by OCC on behalf of MIAX Sapphire from either (1) a Member that was the ultimate clearing firm for the transaction or (2) a non-Member that was the ultimate clearing firm where a Member was the executing clearing firm for the transaction. The Exchange uses reports from OCC to determine the identity of the executing clearing firm and ultimate clearing firm.

Options Regulatory Fee (ORF)	**Per Executed Contract side**
All Classes	$0.0013

The ORF will become effective on September 1, 2024, and automatically sunset on October 31, 2024.

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