

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92722; File No. SR–NYSEArca–2021–57]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To List and Trade Shares of the NYDIG Bitcoin ETF Under NYSE Arca Rule 8.201–E

August 23, 2021.

On June 30, 2021, NYSE Arca, Inc. (“NYSE Arca”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b–4 thereunder,² a proposed rule change to list and trade shares of the NYDIG Bitcoin ETF under NYSE Arca Rule 8.201–E. The proposed rule change was published for comment in the **Federal Register** on July 19, 2021.³ The Commission has received comments on the proposed rule change.⁴

Section 19(b)(2) of the Act⁵ provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is September 2, 2021. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the comments received. Accordingly, pursuant to Section 19(b)(2) of the Act,⁶ the Commission designates October 17, 2021, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to

disapprove, the proposed rule change (File No. SR–NYSEArca–2021–57).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92726; File No. SR–EMERALD–2021–27]

Self-Regulatory Organizations: MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Adjust the Options Regulatory Fee

August 23, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on August 12, 2021, MIAX Emerald, LLC (“MIAX Emerald” or “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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 Exchange’s Fee Schedule (“Fee Schedule”) to adjust the Options Regulatory Fee (“ORF”).

The text of the proposed rule change is available on the Exchange’s website at <http://www.miaxoptions.com/rule-filings/emerald>, at MIAX’s principal office, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The

Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

Currently, the Exchange assesses ORF in the amount of \$0.00060 per contract side. The Exchange proposes to increase the amount of ORF from \$0.00060 per contract side to \$0.0016 per contract side. The Exchange initially filed this proposal on July 30, 2021 (SR–EMERALD–2021–24) and withdrew such filing on August 12, 2021. The Exchange proposes to implement the fee change effective August 12, 2021.

In light of historical and projected volume changes and shifts in the industry and on the Exchange, as well as changes to the Exchange’s regulatory cost structure, the Exchange proposes to change the amount of ORF that will be collected by the Exchange. The Exchange’s proposed change to the ORF should balance the Exchange’s regulatory revenue against the anticipated regulatory costs. The Exchange will continue to monitor ORF to ensure that revenue collected from the ORF, in combination with other regulatory fees and fines, does not exceed the Exchange’s total regulatory costs.

The Exchange notes it originally adopted the current ORF amount at a significantly lower rate as the Exchange had just begun operations and that the amount of ORF it collects has remain unchanged since it was first adopted in 2019.³ When the Exchange set the amount of its current ORF (almost 2½ years ago), it was a brand new marketplace, and the amount was based on cost and revenue projections that were applicable to a new market. As such, the Exchange’s cost structure, including regulatory costs and projections, were significantly lower. The Exchange’s regulatory cost structure has since significantly increased since that time, as the Exchange has had to deploy significant resources and capital as the Exchange’s membership base, volume, and market share have grown. The increase in cost structure has outgrown any revenue increase as a result of higher volumes. Therefore, the Exchange believes it is reasonable to increase the amount of ORF assessed to Members, notwithstanding the fact that

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 92395 (July 13, 2021), 86 FR 38129 (July 19, 2021).

⁴ Comments received on the proposed rule change are available at: <https://www.sec.gov/comments/sr-nysearca-2021-57/srnysearca202157.htm>.

⁵ 15 U.S.C. 78s(b)(2).

⁶ *Id.*

⁷ 17 CFR 200.30–3(a)(31).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 85251 (March 6, 2019), 84 FR 8931 (March 12, 2019) (SR–EMERALD–2019–01).