Exchange Act rule 13n–4(b)(9)(x), that FINRA may access security-based swap data obtained by security-based swap data repositories. Such access is conditioned on there being in effect an arrangement between the Commission and FINRA to address the confidentiality of the security-based swap information made available to FINRA. Such access further is conditioned on FINRA developing and implementing special handling guidelines as described above, following consultation with Commission staff, to promote the confidentiality afforded to the security-based swap data, prior to FINRA accessing the data.

By the Commission.

Dated: August 11, 2022.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–17641 Filed 8–16–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95478; File No. SR–MIAX–2022–27]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Amend Certain Fees and Rebates for Transactions in SPIKES Options

August 11, 2022.

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 July 29, 2022, Miami International Securities Exchange LLC (''MIAX'' 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 Options Fee Schedule (the ''Fee Schedule'') to amend the MIAX Options Exchange Fee Schedule (the ''Fee Schedule'') to amend certain fees and rebates for transactions in SPIKES options (defined below).

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

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to amend Section (1)(b)(i) of the Fee Schedule to: (1) amend certain fees and rebates for Simple and Complex transactions in SPIKES options;[3] (2) adopt a new ''Routing EEM Rebate Program''[4] for certain SPIKES option orders routed to the Exchange; (3) remove the Market Turner Incentive Program; and (4) amend certain PRIME[5] and cPRIME[6] fees for orders in SPIKES options.

Background

On October 12, 2018, the Exchange received approval from the Commission to list and trade on the Exchange options on the SPIKES® Index, a new index that measures expected 30-day volatility of the SPDR S&P 500 ETF Trust (commonly known and referred to by its ticker symbol, ''SPY'').[7] The Exchange adopted its initial SPIKES options transaction fees on February 15, 2019 and adopted a new section of the Fee Schedule—Section 1)a)xi), SPIKES—for those fees.[8] SPIKES options began trading on the Exchange on February 19, 2019.

Proposed Changes to the Table of Fees for Simple and Complex Orders in SPIKES Options

The Exchange proposes to amend Section (1)(b)(i) of the Fee Schedule to amend the table of Simple and Complex Fees for transactions in SPIKES options. The Exchange charges Simple and Complex fees by origin type to each market participant that places resting liquidity in SPIKES options, *i.e.,* quotes or orders on the MIAX System,[9] which are assessed the ''maker'' fee (each a ''Maker''). The Exchange also charges Simple and Complex fees by origin type to each market participant that executes against (remove) resting liquidity in SPIKES options, which are assessed a higher ''taker'' fee (each a ''Taker'').

Currently, with respect to Simple and Complex Maker fees, the Exchange charges the following, regardless of the contra-side origin: (i) $0.00 per contract for SPIKES options orders for Priority Customers,[10] Market Makers,[11] and Firm Proprietary quotes or orders; and (ii) $0.10 per contract for SPIKES options orders for Non-MIAX Market Makers, Broker-Dealers, and Public Customers that are not Priority

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

[2] 17 CFR 240.19b–4.

[3] SPIKES is a ''Proprietary Product.'' The term ''Proprietary Product'' means a class of options that is listed exclusively on the Exchange. *See* Fee Schedule, Section (1)(b)(i), note ''Δ'' and Exchange Rule 100.

[4] An ''Electronic Exchange Member'' or ''EEM'' means the holder of a Trading Permit who is not a Market Maker. Electronic Exchange Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[5] The Price Improvement Mechanism (''PRIME'') is a process by which a Member may electronically submit for execution (''Auction'') an order it represents as agent (''Agency Order'') against principal interest, and/or an Agency Order against solicited interest. *See* Exchange Rule 515A(a).

[6] ''cPRIME'' is the process by which a Member may electronically submit a ''cPRIME Order'' (as defined in Rule 518(b)(7)) it represents as agent (a ''cPRIME Agency Order'') against principal or solicited interest for execution (a ''cPRIME Auction''), subject to the conditions set forth in Exchange Rule 515A, Interpretation and Policy .12. *See* Exchange Rule 515A, Interpretation and Policy .12.

[7] *See* Securities Exchange Act Release No. 84417 (October 12, 2018), 83 FR 52865 (October 18, 2018) (SR–MIAX–2018–14) (Order Granting Approval of a Proposed Rule Change by Miami International Securities Exchange, LLC to List and Trade on the Exchange Options on the SPIKES® Index).

[8] *See* Securities Exchange Release No. 85283 (March 11, 2019), 84 FR 9567 (March 15, 2019) (SR–MIAX–2019–11). The Exchange initially filed the proposal on February 15, 2019 (SR–MIAX–2019–04). That filing was withdrawn and replaced with SR–MIAX–2019–11. On September 30, 2020, the Exchange filed its proposal to, among other things, reorganize the Fee Schedule to adopt new Section (1)(b), Proprietary Products Exchange Fees, and moved the fees and rebates for SPIKES options into new Section (1)(b)(i). *See* Securities Exchange Act Release No. 90146 (October 9, 2020), 85 FR 65443 (October 15, 2020) (SR–MIAX–2020–32).

[9] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[10] A ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial accounts(s). A ''Priority Customer Order'' means an order for the account of a Priority Customer. *See* Exchange Rule 100.

[11] The term ''Market Makers'' refers to ''Lead Market Makers'', ''Primary Lead Market Makers'' and ''Registered Market Makers'' collectively. *See* Exchange Rule 100.

Customers.[12] Currently, with respect to Simple and Complex Taker fees, the Exchange charges the following, regardless of the contra-side origin: (i) $0.00 per contract for SPIKES options orders for Priority Customers; (ii) $0.20 per contract for SPIKES options orders for Market Makers and Firm Proprietary orders; and (iii) $0.25 per contract for SPIKES options orders for Non-MIAX Market Makers, Broker-Dealers, and Public Customers that are not Priority Customers.[13] The Exchange notes that it charges Simple and Complex Taker fees of $0.05 per contract for SPIKES options with a premium price of $0.10 or less for Market Makers and Firm Proprietary quotes or orders, which is denoted by the symbol ''*''.

The Exchange proposes to add two new columns to the table of Simple and Complex Fees to provide for different Maker and Taker fees depending on whether the contra-side origin is a Priority Customer or not. The Exchange proposes that the first fee column in the table of Simple and Complex Fees will now be titled ''Simple/Complex¥ Maker when trading contra to origins Not Priority Customer.'' The Exchange proposes to keep the current Maker fee rates in place for that column. Accordingly, with the proposed changes, the Exchange will charge Simple and Complex Maker fees when trading contra to origins not Priority Customer as follows: (i) $0.00 per contract for SPIKES options orders for Priority Customers, Market Makers, and Firm Proprietary orders; and (ii) $0.10 per contract for SPIKES options orders for Non-MIAX Market Makers, Broker-Dealers, and Public Customers that are not Priority Customers.

Next, the Exchange proposes to add a new second fee column titled ''Simple/Complex¥ Maker when trading contra to Priority Customer.'' The Exchange proposes to charge the following Simple and Complex Maker fees when trading contra to Priority Customer orders: (i) $0.00 per contract for SPIKES options orders for Priority Customers; (ii) $0.10 per contract for SPIKES options orders for Market Makers and Firm Proprietary orders; and (iii) $0.25 per contract for SPIKES options orders for Non-MIAX Market Makers, Broker-Dealers, and Public Customers that are not Priority Customers.

The Exchange proposes that the third fee column in the table of Simple and Complex Fees will now be titled ''Simple/Complex¥ Taker when trading contra to origins Not Priority Customer.'' The Exchange proposes to keep the current Taker fee rates in place for that column. Accordingly, with the proposed changes, the Exchange will charge Simple and Complex Taker fees when trading contra to origins not Priority Customer as follows: (i) $0.00 per contract for SPIKES options orders for Priority Customers; (ii) $0.20 per contract for SPIKES options orders for Market Makers and Firm Proprietary orders; and (iii) $0.25 per contract for SPIKES options orders for Non-MIAX Market Makers, Broker-Dealers, and Public Customers that are not Priority Customers.

Next, the Exchange proposes to add a new fourth fee column titled ''Simple/Complex¥ Taker when trading contra to Priority Customer.'' The Exchange proposes to charge the following Simple and Complex Taker fees when trading contra to Priority Customer orders: (i) $0.00 per contract for SPIKES options orders for Priority Customers; (ii) $0.30 per contract for SPIKES options orders for Market Makers and Firm Proprietary orders; and (iii) $0.35 per contract for SPIKES options orders for Non-MIAX Market Makers, Broker-Dealers, and Public Customers that are not Priority Customers. The Exchange notes that it will continue charge Simple and Complex Taker fees of $0.05 per contract for SPIKES options with a premium price of $0.10 or less for Market Makers and Firm Proprietary orders, which will be denoted by the symbol ''*'' in the new column of Taker fees for trading contra to Priority Customer orders.

Next, the Exchange proposes to amend the fee for Simple Opening orders in SPIKES options listed in the table of Simple and Complex Fees in Section (1)(b)(i) of the Fee Schedule. Currently, the Exchange charges the following Simple Opening fees: (i) $0.00 per contract for SPIKES options orders for Priority Customers; and (ii) $0.15 per contract for SPIKES options orders for Market Makers, Non-MIAX Market Makers, Broker-Dealers, Firm Proprietary quotes or orders, and Public Customers that are not Priority Customers. The Exchange now proposes to increase the fee for Simple Opening orders in SPIKES options from $0.15 per contract to $0.25 per contract for all market participants except Priority Customers.

The Exchange does not propose any changes to the fees for Combination Orders,[14] the Simple Large Trade Discount Threshold or the Complex Large Trade Discount Threshold.

The purpose of all these changes is for business and competitive reasons.

Proposal To Adopt the Routing EEM Rebate Program

Next, the Exchange proposes to adopt the ''Routing EEM Rebate Program'' following the footnotes for the table of Simple and Complex Fees for SPIKES options in Section (1)(b)(i) of the Fee Schedule. Pursuant to this program, the Exchange proposes to provide a ($0.25) rebate per executed Priority Customer origin SPIKES options contract to the EEM that routed the order to the Exchange. The Exchange proposes that the following Priority Customer SPIKES options orders would be eligible to participate in the Routing EEM Rebate Program: (a) Simple Orders of 250 contracts or less (including during the Opening Process); (b) for Complex Orders, the lesser of (i) 250 strategies or less, or (ii) orders for a total of 1,000 contracts or less; (c) PRIME Agency Orders of 250 contracts or less; and (d) for cPRIME Agency Orders, the lesser of (i) 250 strategies or less, or (ii) orders for a total of 1,000 contracts or less. The Exchange proposes that the following Priority Customer SPIKES options orders would not be eligible to participate in the Routing EEM Rebate Program: (a) PRIME contra-side orders; (b) cPRIME contra-side orders; and (c) for Combination Orders, (i) a Combination Order, (ii) Combination Orders as part of a larger strategy, and (iii) Combination Orders as part of a cPRIME order. The Exchange also proposes to exclude from the Routing EEM Rebate Program orders that are broken up in order to qualify for the 250 contracts (strategies) size limit described above. The purpose of the change to adopt the Routing EEM Rebate Program is to attract more Priority Customer order flow in SPIKES options, thereby improving the overall marketplace for SPIKES options on the Exchange.

Removal of the Market Turner Incentive Program

Next, the Exchange proposes to amend Section (1)(b)(i) of the Fee Schedule to remove the Market Turner[15] Incentive Program. The Exchange adopted the Market Turner Incentive Program beginning June 1,

[12] *See* Fee Schedule, Section (1)(b)(i).

[13] *See id.*

[14] A ''SPIKES Combination'' is a purchase (sale) of a SPIKES call option and sale (purchase) of a SPIKES put option having the same expiration date and strike price. *See* Fee Schedule, Section (1)(b)(i), note ''~''.

[15] The term ''Market Turner'' means a Market Maker simple quote (not eQuote) that establishes and maintains the new MIAX best bid (the ''MBB'') or the MIAX best offer (''MBO'') in a SPIKES option. *See* Fee Schedule, Section (1)(b)(i).

2019.[16] Pursuant to the Market Turner Incentive Program, the Exchange provides a per contract rebate to the Market Turner for each SPIKES options contract that executes as the MBB (MBO). The amount of the rebate is as follows: (i) $0.20 per executed contract, for options having a premium price greater than $0.10, or (ii) $0.05 per executed contract, for options having a premium price of $0.10 or less.[17] The Market Turner Incentive Program was adopted to incentivize Market Makers to quote aggressively in SPIKES options on the Exchange, which the Exchange believed would strengthen its market quality for all market participants in SPIKES options. The Market Turner Incentive Program was also designed to attract additional market makers (both existing MIAX Market Makers as well as non-members to join MIAX) to quote in SPIKES options. The Exchange believes that the Market Turner Incentive Program has fulfilled its intended purpose and that the Exchange's other fee changes related to SPIKES options, including the changes described herein, will continue to strengthen the market quality for all market participants in SPIKES options. Accordingly, the Exchange proposes to remove the text for the Market Turner Incentive Program from the Fee Schedule.

Proposed Changes to PRIME and cPRIME Fees for SPIKES Options

Next, the Exchange proposes to amend the table of PRIME and cPRIME fees for SPIKES options in Section (1)(b)(i) of the Fee Schedule. Currently, for SPIKES options orders entered into PRIME or cPRIME, the Exchange charges a contra-side fee for all origin types in the amount of $0.20 and a responder fee in the amount of $0.25. The Exchange now proposes to increase the contra-side and responder fees for SPIKES options orders entered into PRIME or cPRIME for all origin types. In particular, the Exchange proposes to charge a contra-side fee for all origin types in the amount of $0.25 and a responder fee in the amount of $0.50. The purpose of these changes is for business and competitive reasons.

The proposed changes described in this filing will become effective August 1, 2022.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act[18] in general, and furthers the objectives of Section 6(b)(4) of the Act[19] in particular, in that it is an equitable allocation of reasonable fees and other charges among its members and issuers and other persons using its facilities.

Simple and Complex Fee Changes

The Exchange believes the proposed changes to the Simple and Complex fees for transactions in SPIKES option are reasonable, equitable and not unfairly discriminatory because the Exchange will continue to assess lower transaction fees to its Makers as compared to its Takers as an incentive for market participants to provide liquidity on the Exchange. The Exchange believes this will encourage greater order flow from all market participants, which will in turn bring greater volume and liquidity to the Exchange, which benefits all market participants by providing more trading opportunities and tighter spreads. The Exchange believes it is reasonable, equitable and not unfairly discriminatory to charge slightly higher fees for market participants trading contra to Priority Customer SPIKES options orders because there is a history in the options markets of providing preferential treatment to Priority Customers and Priority Customer order flow attracts additional liquidity to the Exchange. The Exchange believes the added Priority Customer SPIKES options order flow will provide all market participants with more trading opportunities and encourage an increase in Market Maker activity, which facilitates tighter spreads. This may cause an additional corresponding increase in order flow from other market participants, contributing overall towards a robust and well-balanced market ecosystem, particularly in a newer product such as SPIKES options.

The Exchange believes that it is equitable and not unfairly discriminatory that Firm Proprietary orders will continue to be assessed lower Maker and Taker fees for Simple and Complex orders than other origin types because the Exchange believes that Firm Proprietary order flow enhances liquidity on the Exchange for the benefit of all market participants. Firm Proprietary order flow liquidity benefits all market participants by providing more robust trading opportunities, which attract Market Makers. An increase in the activity of those market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The Maker and Taker fees offered to Firm Proprietary orders are intended to attract more Firm Proprietary order volume to the Exchange.

The Exchange further believes that it is equitable and not unfairly discriminatory to continue to assess lower Maker and Taker fees to Market Makers for Simple and Complex orders as compared to other market participants because Market Makers, unlike other market participants, take on a number of obligations, including quoting obligations that other market participants do not have.[20] Further, Market Makers have added market making and regulatory requirements, which normally do not apply to other market participants. For example, Market Makers have obligations to maintain continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and to not make bids or offers or enter into transactions that are inconsistent with a course of dealing. Further, the proposed lower Maker and Taker fees offered to Market Makers are intended to incent Market Makers to quote and trade more in SPIKES options on the Exchange, thereby providing more liquidity and trading opportunities for all market participants in SPIKES options. Additionally, the proposed Maker and Taker fees for Market Makers will be applied equally to all Market Makers in SPIKES options.

Moreover, the Exchange believes that assessing all other market participants that are not Priority Customers a higher transaction fee for orders in SPIKES options, including for Simple Opening orders, is reasonable, equitable, and not unfairly discriminatory because these types of market participants are more sophisticated and have higher levels of order flow activity and system usage. This level of trading activity draws on a greater amount of system resources than that of Priority Customers. Further, the Exchange believes it is equitable and not unfairly discriminatory to assess all other market participants that are not Priority Customers, Market Makers, or Firm Proprietary orders higher Simple and Complex Maker fees for orders in SPIKES options (including Simple Opening orders) because Priority Customers, Market Makers, and Firm Proprietary orders bring valuable liquidity to the market. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market

[16] *See* Securities Exchange Act Release No. 86110 (June 14, 2019), 84 FR 28864 (June 20, 2019) (SR–MIAX–2019–29).

[17] *See* Fee Schedule, Section (1)(b)(i).

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(4) and (5).

[20] *See, generally,* Chapter VI of the Exchange's Rulebook.

participants, which in turn benefits the market as a whole.

The Exchange also believes the proposed changes for SPIKES options Simple and Complex transaction fees are reasonably designed because the proposed fees are within the range of fees assessed by other exchanges employing similar fee structures for singly-listed competing options products. For example, Cboe Exchange, Inc. (''Cboe'') assesses Customers VIX[21] simple order fees based on tiered premium price which ranges from base prices of $0.10 to $0.45 per contract and complex order fees based on tiered premium price which ranges from base prices $0.05 to $0.45 per contract.[22] Further, a Clearing Trading Permit Holder Proprietary is assessed a VIX fee based on a VIX sliding scale which ranges from $0.25 to $0.01 per contract.[23] A Cboe Options Market-Maker/DPM/LMM are assessed fees based on tiered premium price which ranges from $0.05 to $0.23 per contract. Joint Back Office, Non-Trading Permit Holder Market Makers, and Professionals are assessed a VIX $0.40 per contract fee.[24] VIX transactions are assessed a Surcharge Fee/Index License of $0.10 ($0.00 for capacity codes F and L for VIX transactions where the VIX Premium is ≤ $0.10 and the related series has an expiration of seven (7) calendar days or less).[25] Similarly, Nasdaq ISE, LLC (''ISE'') charges all market participants, except priority customers, a $0.75 per contract fee for all regular orders in NDX Index options.[26] For complex orders in NDX Index options, ISE, similar to the Exchange, charges a different Maker fee depending on whether the contra-side is a priority customer or not. For complex orders in NDX Index options, ISE charges a Maker fee of $0.20 per contract for all market participants, except priority customers, when trading contra to origins that are not priority customer.[27] For complex orders in NDX Index options when trading contra to priority customer, ISE charges a Maker fee of $0.86 per contract to market makers and $0.88 per contract to all other market participants, except priority customers.[28] Further, for complex orders in NDX Index options, ISE charges a Taker fee of $0.86 per contract for market makers and $0.88 per contract for all other market participants, except priority customers.[29]

Routing EEM Rebate Program

The Exchange believes the proposal to adopt the Routing EEM Rebate Program is reasonable, equitably allocated and not unfairly discriminatory because it would apply equally to all of the Exchange's EEMs that send Priority Customer SPIKES options orders to the Exchange. The Exchange believes the Routing EEM Rebate Program is reasonable because it is designed to incentivize increased SPIKES options order flow, which should strengthen the market quality for SPIKES options for all market participants, leading to more trading opportunities and tighter spreads. To the extent Priority Customer SPIKES options order flow is increased by the proposal, market participants will increasingly compete for the opportunity to trade on the Exchange including sending more orders and providing narrower and larger-sized quotations in the effort to trade with such Priority Customer order flow.

Removal of Market Turner Incentive Program

The Exchange believes that the proposed change to discontinue the Market Turner Incentive Program and remove that language from the Fee Schedule is reasonable, equitable and not unfairly discriminatory because the elimination of the Market Turner Incentive Program will uniformly apply to all Market Makers in SPIKES options. The Exchange initially adopted the Market Turner Incentive Program to attract additional market makers (both existing MIAX Market Makers as well as non-members to join MIAX) to quote in SPIKES options. The Exchange believes that the Market Turner Incentive Program is no longer necessary and that the Exchange's fees and rebates for transactions in SPIKES options will continue to strengthen the market quality for all market participants in SPIKES options.

Contra-Side and Responder Fee Increases in PRIME and cPRIME Auctions for SPIKES Options

The Exchange believes that the proposed increases to contra-side and responder fees for SPIKES options in PRIME and cPRIME are equitable and not unfairly discriminatory because the proposed fees will apply equally to all origins. The Exchange believes that the application of these fees are equitable and not unfairly discriminatory because the fees are identical for all market participants for contra-side orders or for market participants that respond to PRIME and cPRIME Auctions for SPIKES options orders.

The Exchange believes its proposal to amend its contra-side and responder fees for all origins in PRIME and cPRIME Auctions for SPIKES options is reasonable, equitably allocated and not unfairly discriminatory because these changes are for business and competitive reasons. In order to attract SPIKES options order flow, the Exchange initially set low fees for contra-side and responders for its PRIME and cPRIME Auctions for SPIKES options. The Exchange now believes that it is appropriate to increase these fees but believes they will remain competitive and should enable the Exchange to continue to attract SPIKES options order flow to PRIME and cPRIME Auctions.

The Exchange also believes the proposed contra-side and responder fees are similar to fees charged by competing options exchanges in singly-listed products. The Exchange notes that Cboe assesses Automated Improvement Mechanism (''AIM'')[30] contra-side fees to Customers for VIX transactions based on tiered premium price, which ranges from base prices of $0.10 to $0.45 per contract and complex order fees based on tiered premium price which ranges from base prices of $0.05 to $0.45 per contract.[31] Cboe Options Market-Makers/DPMs/LMMs are assessed VIX AIM contra-side fees based on tiered premium price, which ranges from $0.05 to $0.23 per contract. Joint Back Office, Non-Trading Permit Holder Market Makers, and Professionals are assessed a VIX AIM contra-side fee $0.40 per contract fee.[32] In addition, Cboe assesses a variety of surcharges for VIX transactions, including an AIM Agency/Primary Surcharge fee of $0.04

[21] ''VIX'' refers to options on the The Cboe Volatility Index (the ''VIX Index''). The VIX Index is an up-to-the-minute market estimate of expected volatility that is calculated by using real-time S&P 500® Index (''SPX'') option bid/ask quotes. *See* VIX Options Product Specifications, *available at https://www.cboe.com/tradable_products/vix/vix_options/specifications/* (last visited July 25, 2022).

[22] *See* Cboe Fee Schedule, Rate Table—Underlying Symbol List A, Page 2, *available at https://www.cboe.com/us/options/membership/fee_schedule/cone/* (last visited July 25, 2022).

[23] *See id.*

[24] *See id.*

[25] *See id.* The Exchange notes that it is continuing to waive the ''Index License Surcharge'' for SPIKES options of $0.075 per contract. *See* Fee Schedule, Section (1)(b)(i), note ''#''.

[26] *See* ISE Fee Schedule, Options 7 Pricing schedule, Section 5. Index Options Fees and Rebates, Section A, NDX Index Options Fees for Regular Orders, *available at https://listingcenter.nasdaq.com/rulebook/ise/rules/ISE%20Options%207* (last visited July 25, 2022).

[27] *See id.,* Section 4. Complex Order Fees and Rebates.

[28] *See id.*

[29] *See id.*

[30] *See* Cboe Rule 5.37.

[31] *See supra* note 22.

[32] *See id.*

per contract.[33] Similarly, ISE charges all market participants, except priority customers, a $0.75 per contract fee for all originating and contra side of Crossing Orders and Responses to Crossing Orders in NDX Index options.[34] Accordingly, the Exchange believes the proposed changes to contra-side and responder fees for transactions in SPIKES options in PRIME and cPRIME are similar to fees charged by competing options exchanges in singly-listed competing products.

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

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

Intra-Market Competition

The Exchange does not believe that the proposed rule changes will impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed changes will enhance the competitiveness of the Exchange relative to other exchanges that offer their own singly-listed products. The Exchange notes that there are other volatility products available today on other options markets, such as VIX and VOLQ,[35] which allow investors to gauge volatility. As noted above, the Exchange believes that the proposed pricing for transactions in SPIKES options is comparable to and within the range of fees and rebates charged by the Exchange's competitors offering singly-listed products.[36] In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will receive no market share as a result. The Exchange believes that the proposed changes to the fees and rebates for transactions in SPIKES options are not going to have an impact on intra-market competition based on the total cost for participants to transact in such order types versus the cost for participants to transact in other order types available for trading on the Exchange.

Inter-Market Competition

The Exchange does not believe that the proposed rule changes will impose any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. The Exchange believes that the proposed rule change reflects this competitive environment because it is adjusting its fees in a manner that encourages market participants to provide liquidity in SPIKES options, and to attract additional transaction volume 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,[37] and Rule 19b–4(f)(2)[38] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2022–27 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–MIAX–2022–27. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2022–27 and should be submitted on or before September 7, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[39]

J. Matthew DeLesDernier,

Deputy Secretary.

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[33] *See id.*

[34] *See supra* note 26.

[35] "VOLQ" refers to options on the Nasdaq-100® volatility Index (the "VOLQ Index"). The VOLQ Index measures changes in 30-day implied volatility as expressed by options on the Nasdaq-100® Index ("NDX"), a modified market capitalization- weighted index composed of securities issued by 100 of the largest non-financial companies listed on The Nasdaq Stock Market LLC. *See* Nasdaq-100® Volatility Index Option Description, *available at https://indexes.nasdaqomx.com/Index/Overview/VOLQ* (last visited July 25, 2022).

[36] *See supra* notes 22 and 26.

[37] 15 U.S.C. 78s(b)(3)(A)(ii).

[38] 17 CFR 240.19b–4(f)(2).

[39] 17 CFR 200.30–3(a)(12).