

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-96124; File Nos. SR-MIAX-2022-19, SR-EMERALD-2022-18]

### Self-Regulatory Organizations; Miami International Securities Exchange, LLC and MIAX Emerald, LLC; Notice of Withdrawal of Proposed Rule Changes To Establish Fees for the Exchanges' cToM Market Data Products

October 21, 2022.

On April 29, 2022, Miami International Securities Exchange, LLC ("MIAX") and MIAX Emerald, LLC ("MIAX Emerald") (collectively, the "Exchanges") each filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to establish fees for, respectively, the MIAX Complex Top of Market ("cToM") and the MIAX Emerald cToM market data products.

The proposed rule changes were immediately effective upon filing with the Commission pursuant to section 19(b)(3)(A) of the Act.<sup>3</sup> The proposed rule changes were published for comment in the **Federal Register** and, pursuant to section 19(b)(3)(C) of the Act,<sup>4</sup> the Commission: (1) temporarily suspended the proposed rule changes; and (2) instituted proceedings under section 19(b)(2)(B) of the Act<sup>5</sup> to determine whether to approve or disapprove the proposed rule changes.<sup>6</sup> On October 19, 2022, the Exchanges withdrew the proposed rule changes (SR-MIAX-2022-19, SR-EMERALD-2022-18).

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

**J. Matthew DeLesDernier,**  
Deputy Secretary.

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A). A proposed rule change may take effect upon filing with the Commission if it is designated by the exchange as "establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization." 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>4</sup> 15 U.S.C. 78s(b)(3)(C).

<sup>5</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>6</sup> See Securities Exchange Act Release Nos. 94893 (May 11, 2022), 87 FR 29914 (May 17, 2022) (SR-MIAX-2022-19); and 94892 (May 11, 2022), 87 FR 29963 (May 17, 2022) (SR-EMERALD-2022-18).

<sup>7</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-96125; File No. SR-BX-2022-019]

### Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Transaction Fees and Credits at Equity 7, Section 118(e)

October 21, 2022.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 11, 2022, Nasdaq BX, Inc. ("BX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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 proposes to amend the Exchange's transaction fees and credits at Equity 7, section 118(e).

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/bx/rules>, at the principal office of the Exchange, 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 operates on the "taker-maker" model, whereby it generally pays credits to members that take

liquidity and charges fees to members that provide liquidity.<sup>3</sup> Currently, the Exchange has a schedule, at Equity 7, section 118(e), which consists of several different credits and fees for Retail Orders<sup>4</sup> and Retail Price Improvement Orders<sup>5</sup> under Rule 4780 (Retail Price Improvement Program).

The purpose of the proposed rule change is to amend the Exchange's schedule of fees and credits, at Equity 7, section 118(e). Specifically, the Exchange proposes to (1) amend the qualifying criteria for an existing fee for RPI Orders that provide liquidity; and (2) eliminate an existing credit for Retail Orders that access liquidity.

Currently, the Exchange charges a \$0.0018 per share executed fee for RPI Orders entered by a member that (i) quotes RPI Orders in at least 2,500 symbols on average per day and (ii) provides liquidity through RPI Orders equal to or exceeding an average daily volume of 2,500,000 shares. The Exchange charges a fee of \$0.0025 per share executed for all other RPI Orders that provide liquidity. The Exchange proposes to amend the \$0.0018 fee by decreasing the number of quoted symbols needed to qualify for the fee from 2,500 to 1,200 on average per day. The Exchange hopes that the less strict qualifying criteria will encourage member organizations to increase liquidity providing activity on RPI Orders on the Exchange. If the proposal is effective in achieving this purpose, then the quality of the Exchange's market will improve, particularly with respect to RPI and retail orders to the benefit of all participants, especially those who submit RPI and Retail Orders.

Currently, the Exchange provides certain credits for Retail Orders that provide liquidity. The Exchange

<sup>3</sup> The Exchange initially filed the proposed pricing changes on October 3, 2022 (SR-BX-2022-018). The instant filing replaces SR-BX-2022-018, which was withdrawn on October 11, 2022.

<sup>4</sup> Retail Orders shall mean an order type with a Non-Display Order Attribute submitted to the Exchange by a Retail Member Organization (as defined in Rule 4780). A Retail Order must be an agency Order, or riskless principal Order that satisfies the criteria of FINRA Rule 5320.03. The Retail Order must reflect trading interest of a natural person with no change made to the terms of the underlying order of the natural person with respect to price (except in the case of a market order that is changed to a marketable limit order) or side of market and that does not originate from a trading algorithm or any other computerized methodology. See Rule 4702(b)(6).

<sup>5</sup> Retail Price Improving ("RPI") Orders shall mean an Order Type with a Non-Display Order Attribute that is held on the Exchange Book in order to provide liquidity at a price at least \$0.001 better than the NBBO through a special execution process described in Rule 4780. A Retail Price Improving Order may be entered in price increments of \$0.001. RPI Orders collectively may be referred to as "RPI Interest." See Rule 4702(b)(5).

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

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