

participants consent to the longer period.¹⁰ The 240th day after publication of the Notice for the Proposed Amendment is July 18, 2024. The Commission is extending this 240-day period.

The Commission finds that it is appropriate to designate a longer period within which to conclude proceedings regarding the Proposed Amendment so that it has sufficient time to consider the Proposed Amendment and the comments received.¹¹ Accordingly, pursuant to Rule 608(b)(2)(ii) of Regulation NMS,¹² the Commission designates September 16, 2024, as the date by which the Commission shall conclude the proceedings to determine whether to approve or disapprove the Proposed Amendment or to approve the Proposed Amendment with any changes or subject to any conditions the Commission deems necessary or appropriate (File No. 4–631).

By the Commission.

Vanessa A. Countryman,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100546; File No. SR–MIAX–2024–30]

Self-Regulatory Organizations; MIAX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 404, Series of Option Contracts Open for Trading To Amend the Strike Interval for Options on SPDR® Gold Shares

July 17, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on July 9, 2024, Miami International Securities Exchange, LLC (“MIAX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II 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 strike interval for options on SPDR® Gold Shares (“GLD”).

The text of the proposed rule change is available on the Exchange’s website at <https://www.miaxglobal.com/markets/us-options/miax-options/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 paragraph (g) of Rule 404, Series of Option Contracts Open for Trading and Interpretation and Policy .10 of Rule 404.³ Specifically, the Exchange proposes to amend paragraph (g) to allow for the interval between strike prices of series of options on Exchange-Traded Fund Shares⁴ of SPDR® Gold Shares or “GLD” to be \$1 or greater where the strike price is greater than \$200. Additionally, the Exchange proposes to amend Interpretation and Policy .10 to include *SPDR® Gold Trust* (“GLD”).

Currently, Rule 404(g) provides that

The interval between strike prices of series of options on Exchange-Traded Fund Shares approved for options trading pursuant to Rule 402(i) shall be fixed at a price per share which is reasonably close to the price per share at which the underlying security is traded in the primary market at or about the same time such series of options is first open for trading on the Exchange, or at such intervals as may have been established on another options exchange prior to the initiation of trading on the Exchange.

And Rule 404, Interpretation and Policy .10, provides that

Notwithstanding any other provision regarding the interval of strike prices of series of options on Exchange-Traded Fund Shares in this rule, the interval of strike prices on SPDR S&P 500 ETF (“SPY”), iShares S&P 500 Index ETF (“IVV”), Invesco QQQ Trust (“QQQ”), iShares Russell 2000 Index Fund (“IWM”), and the SPDR Dow Jones Industrial Average ETF (“DIA”) options will be \$1 or greater.

At this time, the Exchange proposes to amend paragraph (g) of Rule 404 to add rule text related to the interval between strike prices of series of options on Exchange-Traded Fund Shares to provide that the interval will be \$1 or greater where the strike price is \$200 or less and \$5.00 or greater where the strike price is greater than \$200. Today, other exchanges, including Cboe Exchange, Inc. (“Cboe”) and Nasdaq ISE, LLC (“ISE”) permit the interval between strike prices of series of options on Exchange-Traded Fund Shares to be \$1 or greater where the strike price is \$200 or less and \$5.00 or greater where the strike price is greater than \$200.⁵ Today, the Exchange may fix the interval between strike prices of series of options on Exchange-Traded Fund Shares at such intervals as may have been established on another options exchange prior to the initiation of trading on the Exchange. The Exchange proposes to adopt the language used by Cboe and ISE to provide a strike interval for Exchange-Traded Fund Shares in the event a different interval is not elected at a price per share which is reasonably close to the price per share at which the underlying security is traded in the primary market at or about the same time such series of options is first open for trading on the Exchange, or at such intervals as may have been established on another options exchange prior to the initiation of trading on the Exchange.

Further, current Rule 404, Interpretation and Policy .10 allows for the interval between strike prices of series of options on Exchange-Traded Fund Shares of the SPDR S&P 500 ETF (“SPY”), iShares Core S&P 500 ETF (“IVV”), PowerShares QQQ Trust (“QQQ”), iShares Russell 2000 Index Fund (“IWM”), and the SPDR Dow Jones Industrial Average ETF (“DIA”) to be \$1 or greater where the strike price is greater than \$200.

At this time, the Exchange proposes to modify the interval setting regime to be \$1 or greater where the strike price is greater than \$200 for GLD options, similar to SPY, IVV, QQQ, IWM and

¹⁰ 17 CFR 242.608(b)(2)(ii).

¹¹ See *supra* note 9 and accompanying text.

¹² 17 CFR 242.608(b)(2)(ii).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ The Exchange notes that all the rules of Chapter IV of the MIAX Options Exchange, including Rule 404, are incorporated by reference to MIAX Emerald.

⁴ See Exchange Rule 402(i).

⁵ See Cboe Rule 4.5 at Interpretation and Policy .07(a); see also ISE Options 4, Section 5(d) and 5(e).

DIA. The Exchange believes that the proposed rule change would make GLD options easier for investors and traders to use and more tailored to their investment needs.

GLD is an Exchange-Traded Fund Share designed to closely track the price and performance of the price of gold bullion. GLD is widely quoted as an indicator of gold stock prices and is a significant indicator of overall economic health. Investors use GLD to diversify their portfolios and benefit from market trends. Additionally, GLD is a leading product in its asset class that trades within a “complex” where, in addition to the underlying security, there are multiple instruments available for hedging such as, COMEX Gold Futures; Gold Daily Futures; iShares GOLD Trust; SPDR GOLD Minishares Trust; Aberdeen Physical Gold Trust; and GraniteShares Gold Shares.

Accordingly, the Exchange believes that offering a wider base of GLD options affords traders and investors important hedging and trading opportunities, particularly in the midst of current price trends. The Exchange believes that not having the proposed \$1 strike price intervals above \$200 in GLD significantly constricts investors’ hedging and trading possibilities. The Exchange therefore believes that by having smaller strike intervals in GLD, investors would have more efficient hedging and trading opportunities due to the lower \$1 interval ascension. The proposed \$1 interval above the \$200 strike price, will result in having at-the-money series based upon the underlying ETF moving less than 1%. The Exchange believes that the proposed strike setting regime is in line with the slower movements of broad-based indices. Considering the fact that \$1 intervals already exist below the \$200 price point and that GLD have consistently inclined in price toward the \$200 level, the Exchange believes that continuing to maintain the current \$200 level (above which intervals increase 500% to \$5), may have a negative effect on investing, trading and hedging opportunities, and volume. The Exchange believes that the investing, trading, and hedging opportunities available with GLD options far outweighs any potential negative impact of allowing GLD options to trade in more finely tailored intervals above the \$200 price point.

The proposed strike setting regime would permit strikes to be set to more closely reflect the increasing value in the underlying and allows investors and traders to roll open positions from a lower strike to a higher strike in conjunction with the price movements

of the underlying ETF. Under the current rule, the next higher available series would be \$5 away above a \$200 strike price, the ability to roll such positions would be impaired. Accordingly, to move a position from a \$200 strike to a \$205 strike under the current rule, an investor would need for the underlying product to move 2.5%, and would not be able to execute a roll up until such a large movement occurred. The Exchange believes that with the proposed rule change, the investor would be in a significantly safer position of being able to roll his open options position from a \$200 to a \$201 strike price, which is only a 0.5% move for the underlying. As a result, the proposed rule change will allow the Exchange to better respond to customer demand for GLD strike price more precisely aligned with the smaller, longer-term incremental increases in the underlying ETF. The Exchange believes that the proposed rule change, like the other strike price programs currently offered by the Exchange, will benefit investors by providing investors the flexibility to more closely tailor their investment and hedging decisions using GLD options. Moreover, by allowing series of GLD options to be listed in \$1 intervals between strike prices over \$200, the proposal will moderately augment the potential total number of options series available on the Exchange. However, the Exchange believes it and the Options Price Reporting Authority (“OPRA”) have the necessary systems capacity to handle any potential additional traffic associated with this proposed rule change. The Exchange also believes that Members⁶ will not have a capacity issue due to the proposed rule change. In addition, the Exchange represents that it does not believe that this expansion will cause fragmentation of liquidity, but rather, believes that finer strike intervals will serve to increase liquidity available as well as price efficiency by providing more trading opportunities for all market participants.

The Exchange notes that the proposed rule change is substantively identical to the proposed rule change recently filed by ISE.⁷ The Exchange notes that MIAX Chapter IV, is incorporated by reference into the rulebooks of the Exchange’s affiliate, MIAX Emerald, LLC (“MIAX Emerald”). As such, the amendments to MIAX Chapter IV proposed herein will

⁶ The term “Member” means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed “members” under the Exchange Act. See Exchange Rule 100.

⁷ See Securities Exchange Act Release No. 100447 (June 28, 2024) (SR-ISE-2024-17).

also apply to MIAX Emerald Chapters IV.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.⁸ Specifically, the Exchange believes the proposed rules changes are consistent with Section 6(b)(5)⁹ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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.

In particular, the proposed rule change will allow investors to more easily use GLD options. Moreover, the proposed rule change would allow investors to better trade and hedge positions in GLD options where the strike price is greater than \$200, and ensure that investors in both options are not at a disadvantage simply because of the strike price.

The Exchange believes the proposed rule change is consistent with Section 6(b)(1) of the Act, which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and the rules and regulations thereunder, and the rules of the Exchange. The proposal allows the Exchange to respond to customer demand to allow GLD options to trade in \$1 intervals above a \$200 strike price. The Exchange does not believe that the proposed rule would create additional capacity issues or affect market functionality. As noted above, ETF options trade in wider \$5 intervals above a \$200 strike price, whereby options at or below a \$200 strike price trade in \$1 intervals. This creates a situation where contracts on the same option class effectively may not be able to execute certain strategies such as, for example, rolling to a higher strike price, simply because of the \$200 strike price above which options intervals increase by 500%. This proposal remedies the situation by establishing an exception to the current ETF interval regime for GLD options to allow such options to trade

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

in \$1 or greater intervals at all strike prices.

The Exchange believes that the proposed rule change, like other strike price programs currently offered by the Exchange, will benefit investors by giving them increased flexibility to more closely tailor their investment and hedging decisions. By way of example, GLD is a leading product in its asset class and it trades within a “complex” where, in addition to the underlying security, there are multiple instruments available for hedging such as, COMEX Gold Futures; Gold Daily Futures; iShares GOLD Trust; SPDR GOLD Minishares Trust; Aberdeen Physical Gold Trust; and GraniteShares Gold Shares.

With regard to the impact of this proposal on system capacity, the Exchange believes it and OPRA have the necessary systems capacity to handle any potential additional traffic associated with this proposed rule change. The Exchange believes that its Members will not have a capacity issue as a result of this proposal.

Finally, the Exchange notes the proposed rule change is substantively the same as a rule change proposed by ISE which the Securities and Exchange Commission (the “Commission”) recently approved.¹⁰

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposed rule change will result in additional investment options and opportunities to achieve the investment and trading objectives of market participants seeking efficient trading and hedging vehicles, to the benefit of investors, market participants, and the marketplace in general. Specifically, the Exchange believes that GLD options investors and traders will significantly benefit from the availability of finer strike price intervals above a \$200 price point. In addition, the interval setting regime the Exchange proposes to apply to GLD options is currently applied to SPY, IVV, QQQ, IWM and DIA options, which are similarly popular and widely traded ETF products and track indexes at similarly high price levels. Thus, the proposed strike setting regime for GLD options will allow options on this an actively traded ETF with index levels at corresponding price levels to trade pursuant to the same strike setting

regime. This will permit investors to employ similar investment and hedging strategies for each of these options.

The Exchange does not believe the proposal will impose any burden on intermarket competition, as nothing prevents other options exchanges from proposing similar rules to make a finer strike price intervals above a \$200 price point available for GLD options. The Exchange notes that the proposed rule change is not a novel proposal, as the Commission recently approved a substantively identical proposal of another exchange.¹¹

Further, the Exchange does not believe the proposal will impose any burden on intramarket competition, as all market participants will be treated in the same manner under this proposal.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹² and Rule 19b-4(f)(6) thereunder.¹³ Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁴ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁵

A proposed rule change filed under Rule 19b-4(f)(6)¹⁶ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁷ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public

interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. According to the Exchange, the proposed rule change is a competitive response to a filing submitted by ISE that recently was approved by the Commission.¹⁸ The Exchange has stated that waiver of the 30-day operative delay would permit the Exchange to implement the proposal in close time proximity to competitor exchanges. The Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.¹⁹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission’s internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-MIAX-2024-30 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-2024-30. This file number should be included on the subject line if email is used. To help the Commission process and review your

¹⁸ See *supra* note 7.

¹⁹ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹¹ *Id.*

¹² 15 U.S.C. 78s(b)(3)(A)(iii).

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁵ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁶ 17 CFR 240.19b-4(f)(6).

¹⁷ 17 CFR 240.19b-4(f)(6)(iii).

¹⁰ See *supra* note 7.

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-MIAX-2024-30 and should be submitted on or before August 13, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-16106 Filed 7-22-24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100544; File No. SR-NASDAQ-2024-037]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change To Amend Rule 5820 To Codify the Standards of Review That Govern Appeals Before the Nasdaq Listing and Hearing Review Council and Calls for Review by the Nasdaq Listing and Hearing Review Council

July 17, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 3,

2024, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II, 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 Rule 5820 to codify the standards of review that govern appeals before the Nasdaq Listing and Hearing Review Council and calls for review by the Nasdaq Listing and Hearing Review Council.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/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

Nasdaq's Listing Qualifications Department (the "Listing Qualifications Department") evaluates Company compliance with quantitative and qualitative listing standards and determines eligibility for initial and continued listing of a company's securities under Nasdaq's Listing Rules (the "Listing Rules"). When the Listing Qualifications Department determines that a company does not meet the requirements to remain listed, the Listing Qualifications Department will issue a Staff Delisting Determination.³ Upon receipt of a Staff Delisting

Determination or a Public Reprimand Letter, or when its application for initial listing is denied, a company may request that a Hearings Panel review the matter.⁴ After reviewing the written record and holding an oral hearing, if one is requested, a Hearings Panel will issue a decision, which is reviewed by the Nasdaq Listing and Hearing Review Council (the "Listing Council"), either on appeal or on its own initiative.⁵ The use of Hearings Panels and the Listing Council, along with the limited discretion given to the Listing Qualifications Department, helps address the perception of conflicts that may otherwise exist given Nasdaq's status as both a self-regulatory organization and a for-profit entity.⁶

Nasdaq's Listing Rules currently do not specify a standard of review that applies when the Listing Council reviews Hearings Panel decisions. In fact, the Listing Rules are ambiguous on this issue. On the one hand, Listing Rule 5820 charges the Listing Council with conducting a "review" and hearing an "appeal" of a Hearings Panel decision—language which suggests that the responsibility of the Listing Council is to determine whether the Hearings Panel's decisions were correct. On the other hand, Listing Rule 5820(d) gives the Listing Council broad discretion to "consider . . . failures previously not considered by the Hearings Panel" and Listing Rule 5820(e) states that the Listing Council may request additional evidence and hold additional hearings. This language suggests that the Listing Council's mandate is broader and that it may render decisions based upon facts and circumstances that were not before the Hearings Panels or that arose subsequent to the Hearings Panels' decisions.

The Exchange believes that it is important to address the absence of a clear standard of review in Listing Council matters. Doing so would provide clarity to all participants in the appeals process as to the appropriate role of the Listing Council vis-à-vis the Hearings Panels. It would help the Listing Council to understand whether and under what circumstances to consider companies' efforts to comply

⁴ See Listing Rule 5815.

⁵ See Listing Rule 5820. Pursuant to the Nasdaq Stock Market LLC By-Laws, the Listing Council is composed of non-Nasdaq-affiliated members, from both industry and non-industry backgrounds, who are nominated by Nasdaq management and approved by a Nominating Committee of its Board of Directors. See Bylaws of the Nasdaq Stock Market LLC, Article V.

⁶ The Exchange notes that the Listing Rules also provide an opportunity for the Board of Directors to review Listing Council decisions on its own initiative. See Listing Rule 5825.

²⁰ 17 CFR 200.30-3(a)(12), (59).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Listing Rule 5810. The Listing Department may also issue a Public Reprimand Letter in certain circumstances.