

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Vanessa A. Countryman,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100689; File No. SR-CboeBZX-2024-007]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Withdrawal of a Proposed Rule Change To Amend the Definition of Retail Order, and Codify Interpretations and Policies Regarding Permissible Uses of Algorithms by RMOs

August 9, 2024.

On January 25, 2024, Cboe BZX Exchange, Inc. (“Exchange”) 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 amend the definition of Retail Order,³ and codify interpretations and policies regarding permissible uses of algorithms by Retail Member Organizations.⁴ The proposed rule change was published for comment in the **Federal Register** on February 13, 2024.⁵ On March 21, 2024, pursuant to Section 19(b)(2) of the Act,⁶ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁷ On May 13, 2024, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act⁸ to determine whether to approve or disapprove the proposed rule change.⁹ On July 10, 2024, the Exchange submitted Amendment No. 1

to the proposed rule change, which replaced and superseded the proposed rule change as originally filed. On July 17, 2024, the Exchange withdrew Amendment No. 1. On August 7, 2024, the Exchange withdrew the proposed rule change (SR-CboeBZX-2024-007).

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100686; File No. SR-EMERALD-2024-19]

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

August 9, 2024.

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 31, 2024, MIAX Emerald, LLC (“MIAX Emerald” 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 proposes to amend the MIAX Emerald Options Exchange Fee Schedule (the “Fee Schedule”).

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 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

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 the exchange grouping of options exchanges within the routing fee table in Section 1(c) of the Fee Schedule, Fees for Customer Orders Routed to Another Options Exchange, to reflect the recent addition of a new national securities exchange, MIAX Sapphire, LLC (“MIAX Sapphire”),³ to be listed in the routing fee table. The Exchange proposes to implement the fee change effective August 1, 2024.

Background

Currently, the Exchange assesses routing fees based upon (i) the origin type of the order; (ii) whether or not it is an order for standard option classes in the Penny Interval Program⁴ (“Penny classes”) or an order for standard option classes which are not in the Penny Interval Program (“Non-Penny classes”) (or other explicitly identified classes); and (iii) to which away market it is being routed. This assessment practice is identical to the routing fees assessment practice currently utilized by the Exchange’s affiliates, Miami International Securities Exchange, LLC (“MIAX Options”) and MIAX PEARL, LLC (“MIAX Pearl”). This is also similar to the methodology utilized by the Cboe BZX Exchange, Inc. (“Cboe BZX Options”), a competing options exchange, in assessing routing fees. Cboe BZX Options has exchange groupings in its fee schedule, similar to those of the Exchange, whereby several exchanges are grouped into the same category dependent upon the order’s origin type and whether it is a Penny or Non-Penny class.⁵

As a result of the anticipated launch of MIAX Sapphire in the third quarter

³ See Securities Exchange Act Release No. 100539 (July 15, 2024), 89 FR 58848 (July 19, 2024) (File No. 10-240) (order approving application of MIAX Sapphire, LLC for registration as a national securities exchange).

⁴ See Exchange Rule 510(c).

⁵ See Cboe U.S. Options Fee Schedules, BZX Options, effective July 15, 2024, “Fee Codes and Associated Fees,” at https://www.cboe.com/us/options/membership/fee_schedule/bzx/.

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The term “Retail Order” is defined in Exchange Rule 11.25(a)(2).

⁴ The term “Retail Member Organization” (or “RMO”) is defined in Exchange Rule 11.25(a)(1) to mean a member of the Exchange (or a division thereof) that has been approved by the Exchange under Exchange Rule 11.25 to submit Retail Orders.

⁵ See Securities Exchange Act Release No. 99488 (February 7, 2024), 89 FR 10121 (“Notice”). The Commission has not received any comments on the proposed rule change.

⁶ 15 U.S.C. 78s(b)(2).

⁷ See Securities Exchange Act Release No. 99815, 89 FR 21290 (March 27, 2024).

⁸ 15 U.S.C. 78s(b)(2)(B).

⁹ See Securities Exchange Act Release No. 100115 (May 13, 2024), 89 FR 43491 (May 17, 2024).

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.