

costs and fees incurred by the Exchange when routing orders to away markets on behalf of Members and are applied in a uniform manner to all similarly situated Members. Additionally, the Exchange notes that at least one other options exchange employs a similar routing fee structure.²²

The Exchange does not believe that the proposal will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that at least one other options exchange approximates its routing costs in a manner similar to that of the Exchange.²³ Additionally, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. Members have numerous alternative venues that they may participate on and direct their order flow to, including 16 other options exchanges. Based on publicly available information, no single options exchange has more than 16% of the market share.²⁴ Therefore, no exchange possesses significant pricing power in the execution of option order flow. Additionally, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.²⁵ The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. SEC*, the D.C. Circuit stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchanges possesses a

monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’ . . .”²⁶ Accordingly, the Exchange does not believe that its proposal imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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,²⁷ and Rule 19b-4(f)(2)²⁸ 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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-SAPPHIRE-2024-13 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-SAPPHIRE-2024-13. 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 (<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-SAPPHIRE-2024-13 and should be submitted on or before September 5, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁹

Vanessa A. Countryman,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100681; File No. SR-NASDAQ-2024-028]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To List and Trade Shares of the Hashdex Nasdaq Crypto Index US ETF Under Nasdaq Rule 5711(d)

August 9, 2024.

On June 17, 2024, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities

²² See *supra* note 10.

²³ See *supra* note 10.

²⁴ See “Market Share/MTD AVERAGE”, available at <https://www.miaxglobal.com/> (data as of 7/1/2024-7/12/2024).

²⁵ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

²⁶ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSE-2006-21)).

²⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

²⁸ 17 CFR 240.19b-4(f)(2).

²⁹ 17 CFR 200.30-3(a)(12).

Exchange Act of 1934 (“Act”)¹ and Rule 19b–4 thereunder,² a proposed rule change to list and trade shares of the Hashdex Nasdaq Crypto Index US ETF under Nasdaq Rule 5711(d), Commodity-Based Trust Shares. The proposed rule change was published for comment in the *Federal Register* on July 2, 2024.³ The Commission has received no comments on the proposal.

Section 19(b)(2) of the Act⁴ 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 as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or 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 August 16, 2024. The Commission is extending this 45-day time period.

The Commission finds it 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 issues raised therein. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,⁵ designates September 30, 2024, 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–NASDAQ–2024–028).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–18199 Filed 8–14–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100685; File No. SR–MIAX–2024–31]

Self-Regulatory Organizations; Miami International Securities Exchange, 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, 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 Fee Schedule (“Fee Schedule”).

The text of the proposed rule change is available on the Exchange’s website at <https://www.miaxglobal.com/markets/us-options/all-options-exchanges/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 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, MIAX PEARL, LLC (“MIAX Pearl”) and MIAX Emerald, LLC (“MIAX Emerald”). 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 of 2024, the Exchange has determined to amend the exchange groupings of options exchanges within the routing fee table to include MIAX Sapphire and the anticipated associated costs of routing customer orders to MIAX Sapphire for execution.

The impact of this proposed change will be increased routing options for Members.⁶ The Exchange notes that routing through the Exchange is optional and that Members will continue to be able to choose where to route applicable Member orders. Under

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/.

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 100434 (June 26, 2024), 89 FR 54868.

⁴ 15 U.S.C. 78s(b)(2).

⁵ 15 U.S.C. 78s(b)(2).

⁶ 17 CFR 200.30–3(a)(31).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.