SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-98917; File No. SR-MIAX-2023-36)

November 13, 2023

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Order Approving a Proposed Rule Change to Amend Exchange Rule 404, Series of Option Contracts Open for Trading

I.   Introduction

On September 14, 2023, Miami International Securities Exchange LLC ("MIAX" or "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 Exchange Rule 404, Series of Option Contracts Open for Trading. The proposed rule change was published for comment in the Federal Register on October 2, 2023.[3] This order approves the proposed rule change.

II.   Description of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 404, Series of Option Contracts Open for Trading, to adopt Interpretations and Policies .12 to Exchange Rule 404 to implement a strike interval program for stocks that are priced less than $2.50 and have an average daily trading volume of at least 1,000,000 shares per day for the three preceding calendar months (the "Low Priced Stock Strike Price Interval Program"). The Exchange also proposes to amend the table in Exchange Rule 404, Interpretations and Policies .11 to harmonize that table to the proposed rule change.

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

[2]   17 CFR 240.19b-4.

[3]   See Securities Exchange Act Release No. 98534 (September 26, 2023), 88 FR 67830 ("Notice"). The Commission received no comment letters on the proposed rule change.

The Exchange proposes to adopt the Low Priced Stock Strike Price Interval Program for underlying stocks that are not in the $0.50 Strike Program[4] (or the Short Term Option Series Program)[5] and that close below $2.50 and have an average daily trading volume of at least 1,000,000 shares per day for the three preceding calendar months. To be eligible for the inclusion in the proposed Low Priced Stock Strike Price Interval Program, an underlying stock must (i) close below $2.50 in its primary market on the previous trading day and (ii) have an average daily trading volume of at least 1,000,000 shares per day for the three (3) preceding calendar months.[6] For stocks added to the Low Priced Stock Strike Price Interval Program, if the underlying stock closes at or above $2.50 in its primary market no additional series in $0.50 intervals may be listed, and additional series in $0.50 intervals may not be added until the underlying stock again closes below $2.50.[7]

After a stock is added to the Low Priced Stock Strike Price Interval Program, the Exchange proposes that it may list $0.50 strike price intervals from $0.50 up to $2.00.[8] The Exchange represents that there will be no limit to the number of classes eligible for inclusion in

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[4] See Interpretations and Policies .04 of Exchange Rule 404. Exchange Rule 404 includes several different strike interval programs, including the $0.50 Strike Program, the $1 Strike Price Interval Program, and the $2.50 Strike Price Program. See Interpretations and Policies .04 of Exchange Rule 404, Interpretations and Policies .01 of Exchange Rule 404, and Exchange Rule 404(f).

[5] See Interpretations and Policies .02 of Exchange Rule 404.

[6] The Exchange notes this is the same methodology used in the $1 Strike Price Interval Program. See Interpretations and Policies .01(c)(3) of Exchange Rule 404. For the purpose of adding strikes under the Low Priced Stock Strike Price Interval Program, the "price of the underlying stock" shall be measured in the same way as "the price of the underlying security" as set forth in Exchange Rule 404A(b)(1).

[7] See Notice, supra note 3, at 67831.

[8] While the Exchange may list new strikes on underlying stocks that meet the eligibility requirements of the new program, the Exchange states that it will exercise its discretion and will not list strikes on underlying stocks the Exchange believes are subject to imminent delisting from their primary exchange. See Notice, supra note 3, at 67831 n.12.

the proposed program, so long as the underlying stock satisfies both the price and average daily trading volume requirements.[9]

Additionally, the Exchange proposes to amend the table in Exchange Rule 404, Interpretations and Policies .11 to insert a column to harmonize the Exchange's proposal to the strike intervals for Short Term Options Series as described in Interpretations and Policies .02 of Exchange Rule 404. The table in Interpretations and Policies .11 is intended to limit the intervals between strikes for multiply listed equity options within the Short Term Options Series program that have an expiration date more than twenty-one days from the listing date. Specifically, the table defines the applicable strike intervals for options on underlying stocks given the closing price on the primary market on the last day of the calendar quarter, and a corresponding average daily volume of the total number of options contracts traded in a given security for the applicable calendar quarter divided by the number of trading days in the applicable calendar quarter.[10] However, the lowest share price column is titled "Less than $25." The Exchange proposes to insert a column entitled "Less than $2.50" and to set the strike interval at $0.50 for each average daily volume tier represented in the table. Also, the Exchange proposes to amend the heading of the column currently titled "Less than $25" to "$2.50 to less than $25" as a result of the new column entitled, "Less than $2.50."[11]

III.   Discussion and Commission Findings

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[9]   See Notice, supra note 3, at 67831.

[10]   See Securities Exchange Release Act No. 91125 (February 21, 2021), 86 FR 10375 (February 19, 2021) (SR-BX-2020-032) (Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Options 4, Section 5, To Limit Short Term Options Series Intervals Between Strikes That Are Available for Quoting and Trading on BX).

[11]   See Notice, supra note 3, at 67831.

The Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[12] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[13] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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.

The Exchange recognizes that its proposal will increase the total number of option series available on the Exchange; however, it believes this is appropriate to address a gap in strike coverage for low priced stocks, and the Exchange represents that it will only add strikes where there is investor demand and adequate liquidity.[14] The Exchange represents that as of August 9, 2023, 106 symbols met the criteria for inclusion in the proposed program.[15] Of those symbols, 36 are currently in the $1 Strike Price Interval Program with $1.00 and $2.00 strikes listed.[16] If MIAX adds $0.50 and $1.50 strikes for these symbols for the current expiration terms, and $0.50, $1.00, $1.50 and $2.00 strikes to current expiration terms for the remaining 70 symbols eligible under the proposal, a total of approximately 3,250 options would be added, which represents an increase of only 0.294% in the number of options listed on the Exchange.[17]

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[12]   In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[13]   15 U.S.C. 78f(b)(5).

[14]   See Notice, supra note 3, at 67831-32.

[15]   See Notice, supra note 3, at 67832.

[16]   See id.

[17]   See id.

In support of its proposal, the Exchange provided examples of symbols that would qualify for the new program but are not currently in pre-existing strike price interval programs. For example, the Exchange states that on August 9, 2023, symbol SOND closed at $0.50 and had open interest of over 44,000 contracts and an average daily trading volume in the underlying stock of over 1,900,000 shares for the three preceding calendar months.[18] In the absence of the Low Priced Stock Strike Price Interval Program, the lowest strike listed for the symbol is for $2.50, making the lowest strike 400% away from the closing stock price. Similarly, according to the Exchange, symbol CTXR, which closed at $0.92 on August 9, 2023 and had open interest of over 63,000 contracts and an average daily trading volume in the underlying stock of over 1,900,000 shares for the three preceding calendar months, had a lowest strike listed at $2.50 which is more than 170% away from the closing stock price.[19]

The Exchange states that for these and similar symbols that presently have no at-the-money options, as well as no in-the-money calls or out-of-the-money puts, the Low Priced Stock Strike Price Interval Program will provide for more effective and tailored trading and hedging opportunities for this subset of stocks.[20]

The Exchange believes that the proposed average daily trading volume requirement of 1,000,000 shares is a reasonable threshold to ensure adequate liquidity in eligible underlying stocks.[21]

The Exchange represents that it has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Low Priced Stock Strike Price

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[18]   See id.

[19]   See id.

[20]   See id.

[21]   See Notice, supra note 3, at 67833.

Interval Program; it believes that the Options Price Reporting Authority ("OPRA") has the necessary systems capacity to handle any additional messaging traffic associated with this proposed rule change; and that Members will not have capacity issues as a result of the proposed rule change.

Finally, the Exchange believes the change proposed to the table in Interpretations and Policies .11 to Exchange Rule 404 will remove any potential conflict between the strike intervals under the Short Term Options Series Program and those described under the proposed Low Priced Stock Strike Price Interval Program. The Commission believes that this change would add clarity to the Exchange rulebook and help avoid investor confusion.

The Commission believes that the proposal to add the Low Priced Stock Strike Price Interval Program to Exchange Rule 404, and the corresponding changes to the table in Exchange Rule 404, Interpretations and Policies .11, strikes a reasonable balance between the Exchange's desire to offer a wider array of products with the need to avoid unnecessary proliferation of options series and the corresponding increase in quotes. The proposal adds a limited range of more granular strike intervals where they are more relevant and likely more in demand from customers, but only for those lower priced underlying stocks where there is adequate liquidity. In addition, the Commission believes that the proposed rule change is reasonably designed to effectuate the Exchange's goals of increasing liquidity, providing more tailored and effective trading and hedging opportunities for market participants, and improving market quality. Accordingly, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[22] and the rules and regulations thereunder applicable to a national securities exchange.

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[22]   15 U.S.C. 78f(b)(5).

IV.   Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,[23] that the

proposed rule change (SR-MIAX-2023-36), be and hereby is, approved.

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

authority.[24]

Sherry R. Haywood,

Assistant Secretary.

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[23]   15 U.S.C. 78f(b)(2).

[24]   17 CFR 200.30-3(a)(12).