1. Text of the Proposed Rule Change

(a) MIAX PEARL, LLC ("MIAX Pearl" or "Exchange"), pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")[1] and Rule 19b-4 thereunder,[2] proposes to amend the fee schedule (the "Fee Schedule") applicable to the Exchange's options trading platform ("MIAX Pearl Options") to, among other things, adopt new fee categories for the Exchange's proprietary market data feeds the Top of Market ("ToM") feed and the Liquidity Feed ("PLF") feed (collectively, the "market data feeds").[3]

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1, and a copy of the applicable section of the proposed Fee Schedule is attached hereto as Exhibit 5.

(b) Inapplicable.

(c) Inapplicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Chief Executive Officer of the Exchange or his designee pursuant to authority delegated by the Exchange's Board of Directors on January 19, 2024. Exchange staff will advise the Board of Directors of any action taken pursuant to delegated authority. No other action by the Exchange is necessary for the filing of the proposed rule change.

Questions and comments on the proposed rule change may be directed to Chris Solgan, Vice President, Senior Counsel, at (609) 423-9414.

3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis

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

2 17 CFR 240.19b-4.

3 All references to the "Exchange" in this filing refer to MIAX Pearl Options. Any references to the equities trading facility of MIAX PEARL, LLC will specifically be referred to as "MIAX Pearl Equities."

for, the Proposed Rule Change

a. Purpose

The Exchange offers two standard proprietary market data products, the Top of Market ("ToM") feed and the Liquidity Feed ("PLF") feed (collectively, the "market data feeds"). The ToM data feed is a data feed that contains the Exchange's best bid and offer, with aggregate size, and last sale information, based on order and quoting interest on the Exchange.[4] The ToM data feed includes data that is identical to the data sent to the processor for the Options Price Reporting Authority ("OPRA"). The data for ToM and OPRA leave the System[5] at the same time, as required under Section 5.2(c)(iii)(B) of the Limited Liability Company Agreement of the Options Price Reporting Authority LLC (the "OPRA Plan"), which prohibits the dissemination of proprietary information on any more timely basis than the same information is furnished to the OPRA system for inclusion in OPRA's consolidated dissemination of options information. The PLF data feed includes full order book data for orders on the MIAX Pearl Book[6] and includes the following data: origin, limit price, side, size, and time-in-force (e.g., day, GTC).[7]

Section 6 of the Fee Schedule, Market Data Fees, provides fees for both the ToM and PLF data feeds. Currently, the Exchange only charges monthly fees to both Internal and External Distributors (proposed definitions below) of the ToM and PLF data feeds. Specifically, the Exchange charges Internal Distributors a monthly fee of $500.00 for the ToM feed and

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4 See Securities Exchange Act Release No. 79913 (February 1, 2017), 82 FR 9617 (February 7, 2017) (SR-PEARL-2017-01) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish MIAX PEARL Top of Market (''ToM'') and MIAX PEARL Liquidity Feed (''PLF'') Data Products).

5 The term "System" means the automated trading system used by the Exchange for the trading of securities. See Exchange Rule 100.

6 The term "Book" means the electronic book of buy and sell orders and quotes maintained by the System. See Exchange Rule 100.

7 See supra note 4. A Good 'til Cancelled or "GTC" Order is an order to buy or sell which remains in effect until it is either executed, cancelled or the underlying option expires. See Exchange Rule 516(i).

$1,250.00 for the PLF feed. The Exchange also charges External Distributors a monthly fee of $750.00 for the ToM feed and $1,500.00 for the PLF feed. The fees levels have remained unchanged since they were first implemented on March 1, 2018.[8]

The Exchange now proposes to amend the Fee Schedule to, among other things, adopt new fee categories for the Exchange's proprietary market data feeds. The primary purpose of this proposal is to adopt per User (defined below) fees as well as fees for Non-Display Usage (also defined below). The Exchange also proposes to add a "Market Data Definitions" section to Section 6 of the Fee Schedule as well as modify how mid-month subscriptions for Distributors are to be handled. The Exchange believes that adopting the same fee structure as its affiliated exchanges would reduce administrative burdens on market data subscribers that also currently subscribe to market data feeds from the Exchange's affiliates. Each of these proposed changes are described below.

* * * * *

The Exchange believes that exchanges, in setting fees of all types, should meet very high standards of transparency to demonstrate why each new fee or fee increase meets the requirements of the Act that fees be reasonable, equitably allocated, not unfairly discriminatory, and not create an undue burden on competition among Members[9] and markets. The Exchange believes this high standard is especially important when an exchange imposes various fees for market participants to access an exchange's market data.

Approximately 48% of Members subscribe to one or both of the market data feeds from

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8 See Securities Exchange Act Release No. 82867 (March 13, 2018), 83 FR 12044 (March 19, 2018) (SR-PEARL-2018-07).

9 The term "Member" means an individual or organization that is registered with the Exchange pursuant to Chapter II of these Rules for purposes of trading on the Exchange as an "Electronic Exchange Member" or "Market Maker." Members are deemed "members" under the Exchange Act. See Exchange Rule 100.

the Exchange. Of those Members, 55% subscribe to both market data feeds, and the remaining 45% subscribe to only the PLF data feed. The Exchange notes that there is no requirement that any Member or market participant subscribe to the ToM or PLF data feeds offered by the Exchange. Instead, a Member may choose to maintain subscriptions to the ToM or PLF data feeds based on their own business needs and trading models.

The Exchange operates in a highly competitive market. The Securities and Exchange Commission (the "Commission") has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and Self-Regulatory Organization ("SROs") 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." Furthermore, in adopting Regulation NMS, the Commission granted SROs and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data:

> "[E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data."[10]

The Exchange's proposal is described below.

Definitions

[10] See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (File No. S7-10-04) (Final Rule) ("Regulation NMS").

The Exchange proposes to include a Definitions section at the beginning of Section 6, Market Data Fees, of the Fee Schedule. The purpose of the Definitions section is to provide market participants greater clarity and transparency regarding the applicability of fees by defining certain terms used in connection with market data feeds within the Fee Schedule in a single location related to the Exchange's market data products. The Exchange notes that it includes similar Definitions in its fee schedule applicable to its own equity trading platform, MIAX Pearl Equities,[11] and that each of the proposed definitions are based on the MIAX Pearl Equities fee schedule and that of other exchanges. The Exchange believes that including a Definitions section for market data products makes the Fee Schedule more user-friendly and comprehensive.

The Exchange proposes to define the following terms in Section 6 of the Fee Schedule:

- Distributor. Any entity that receives the Exchange data product directly from the Exchange or indirectly through another entity and then distributes it internally or externally to a third party.
- External Distributor. A Distributor that receives the Exchange data product and then distributes that data to a third party or one or more Users outside the Distributor's own entity.
- Internal Distributor. A Distributor that receives the Exchange data product and then distributes that data to one or more Users within the Distributor's own entity.

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[11] See MIAX Pearl Equities Fee Schedule, Section 3), Market Data Fees, and Securities Exchange Act Release No. 100319 (June 12, 2024), 89 FR 51562 (June 19, 2024) (SR-PEARL-2024-25). See also Cboe BZX Exchange, Inc. ("Cboe BZX Options") Fee Schedule, Market Data Fees section, and Cboe EDGX Exchange, Inc. ("Cboe EDGX Options") Fee Schedule, Market Data Fees section. See also MEMX LLC ("MEMX Options") Fee Schedule, Market Data Fees section, and Securities Exchange Act Release No. 101370 (October 17, 2024), 89 FR 84638 (October 23, 2024) (SR-MEMX-2024-40) ("MEMX Options Market Data Fee Proposal").

- The Exchange notes that it proposes to use the phrase "own entity" in the definition of Internal Distributor and External Distributor because a Distributor would be permitted to share data received from an exchange data product to other legal entities affiliated with the Distributor's entity that have been disclosed to the Exchange without such distribution being considered external to a third party. For instance, if a company has multiple affiliated broker-dealers under the same holding company, that company could have one of the broker-dealers or a non-broker-dealer affiliate subscribe to an exchange data product and then share the data with other affiliates that have a need for the data. This sharing with affiliates would not be considered external distribution to a third party but instead would be considered internal distribution to data recipients within the Distributor's own entity.
- The Exchange also notes that the explanatory paragraph under both the ToM and PLF data feed fee tables includes the following language which defines the terms Distributor, Internal Distributors, and External Distributors:

> MIAX Pearl will assess Market Data Fees applicable to ToM on Internal and External Distributors in each month the Distributor is credentialed to use ToM in the production environment. A Distributor of MIAX Pearl data is any entity that receives a feed or file of data either directly from MIAX Pearl or indirectly through another entity and then distributes it either internally (within that entity) or externally (outside that entity). All Distributors are required to execute a MIAX

Pearl Distributor Agreement.

The Exchange proposes to remove these provisions from the Fee Schedule because they: (i) duplicate the proposed definitions of Distributor, External Distributor, and External Distributor proposed herein with no substantive difference; and (ii) provide details that are included in the Exchange's market data policies that are also not also provided for in the fee schedules of other options exchanges.[12] Removing these provisions would also harmonize the definition and fee descriptions with its fee schedule applicable to MIAX Pearl Equities.[13]

- Non-Display Usage. Any method of accessing an Exchange data product that involves access or use by a machine or automated device without access or use of a display by a natural person or persons.
- Non-Professional User. A natural person or qualifying trust that uses Exchange data only for personal purposes and not for any commercial purpose and, for a natural person who works in the United States, is not: (i) registered or qualified in any capacity with the Securities and Exchange Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an "investment adviser" as that term is defined in Section 202(a)(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under

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12 See Cboe BZX Options Fee Schedule, Market Data Fees section and Cboe EDGX Options, Market Data Fees section, both available at https://www.cboe.com/us/options/membership/?_gl=1*19q7zz0*_up*MQ..*_ga*NjY5OTA0NzE4LjE3MzQ1MzQzODk.*_ga_5Q99WB9X71*MTczNDUzNzQ0Mi4yLjEuMTczNDUzNzQ5OC4wLjAuMA. See also MEMX Options Fee Schedule and Securities Exchange Act Release No. 101370 (October 17, 2024), 89 FR 84638 (October 23, 2024) (SR-MEMX-2024-40).

13 See MIAX Pearl Equities Fee Schedule, Section 3), Market Data Fees, and Securities Exchange Act Release No. 100319 (June 12, 2024), 89 FR 51562 (June 19, 2024) (SR-PEARL-2024-25).

that Act); or (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt; or, for a natural person who works outside of the United States, does not perform the same functions as would disqualify such person as a Non-Professional User if he or she worked in the United States.

- Professional User. Any User other than a Non-Professional User.
- User. A Professional User or Non-Professional User.

Proposed Market Data Pricing

As described above, the Exchange currently only charges Internal Distributors a monthly fee of $500.00 for the ToM data feed and $1,250.00 for the PLF data feed. The Exchange also only currently charges External Distributors a monthly fee of $750.00 for the ToM data feed and $1,500.00 for the PLF data feed. Again, these fees levels have remained unchanged since they were first implemented on March 1, 2018.[14] The Exchange now proposes to charge the below per User fees as well as Non-Display Usage fees for the ToM and PLF data feeds, which, the Exchange believes are generally similar to or lower than market data fees charged by other similarly situated options exchanges. The Exchange does not propose to adopt any additional fee categories in this proposal. Each of the below capitalized terms are defined above and would be included under the proposed Definitions section under Section 6, Market Data Fees, of the Fee Schedule.

1. User Fees. For the ToM data feed, the Exchange proposes to charge a monthly fee of $20.00 for each Professional User and $1.00 for each Non-Professional

[14] See supra note 8.

User. For the PLF data feed, the Exchange also proposes to charge a monthly fee of $20.00 for each Professional User and $1.00 for each Non-Professional User. The proposed User fees would apply to each person that has access to the ToM or PLF data feed that is provided by a Distributor (either Internal or External) for displayed usage. Each Distributor's User count would include every individual that has accesses to the data regardless of the purpose for which the individual uses the data. The above Professional or Non-Professional User fee would provide the same Professional or Non-Professional User access to all other Pearl Options Market Data feeds for no additional per User charge.[15] In other words, a User would receive access to both the ToM and PLF data feeds for the applicable single per User fee and not have to pay separate per User fees for each data feed. As such, Distributors should report the number of Users per the Exchange, and not per individual data feed. This would be noted in Section 6 of the Fee Schedule under footnote 1 following the fee tables for both the ToM and PLF data feeds. Distributors of the ToM or PLF data feed would be required to report all Professional and Non-Professional Users in accordance with the following:

- In connection with a Distributor's distribution of the ToM or PLF data feed, the Distributor must count as one User each unique User that the Distributor is entitled for access to the ToM or PLF data feed.
- Distributors must report each unique individual person who receives access through multiple devices or multiple methods (e.g., a single User has multiple

15 The Exchange notes that similar reporting is required by the Nasdaq options markets, The Nasdaq Stock Market LLC ("Nasdaq Options"), Nasdaq Phlx LLC ("Nasdaq Phlx"), and Nasdaq MRX, LLC ("Nasdaq MRX"). See, e.g., https://www.nasdaqtrader.com/Trader.aspx?id=DPPriceListOptions (providing that "[t]he monthly user fee should be reported once for Nasdaq Options, not once per datafeed").

passwords and user identifications) as one User.

- If a Distributor entitles one or more individuals to use the same device, the Distributor must include only the individuals, and not the device, in the count. Thus, Distributors would not be required to report User device counts associated with a User's display use of the data feed.

2. Non-Display Usage Fees. The Exchange proposes to establish a monthly Non-Display Usage[16] fee of $1,500.00 for the ToM data feed. The Exchange also proposes to establish a monthly Non-Display Usage fee of $1,500.00 for the PLF data feed.

- The Exchange proposes to provide a discount to those that subscribe to both the ToM and PLF data feeds by capping the Non-Display Usage fee for Subscribers of both the ToM and PLF data feeds at $2,500.00. This would be noted in Section 6 of the Fee Schedule under footnote 2 following the fee tables for both the ToM and PLF data feeds.

Lastly, the Exchange proposes to no longer pro-rate fees for Distributors who subscribe or terminate mid-month. The Exchange notes that there were no mid-month subscriptions or terminations over the past twelve (12) months that would have required the monthly fee to be pro-rated. The Exchange also notes that mid-month subscriptions and terminations place an increased burden on Exchange staff and systems that are in place to pro-rate the monthly fee that are not justified by the little to no mid-month subscriptions and terminations that occurred over the past year or that the Exchange anticipates going forward based on its past experience. This

[16] Non-Display Usage would include trading uses such as high frequency or algorithmic trading as well as any trading in any asset class, automated order or quote generation and/or order pegging, price referencing for smart order routing, operations control programs, investment analysis, order verification, surveillance programs, risk management, compliance, and portfolio management.

portion of the proposal should also encourage subscribers to either begin a new subscription or terminate an existing subscription at the beginning or end of a month, respectively. Lastly, removing these provisions would also harmonize the MIAX Pearl Options Fee Schedule with the MIAX Pearl Equities Fee Schedule, which also does not provide for pro-ration.[17] Also, other exchanges do not provide for the similar pro-ration of market data fees.[18] Therefore, the Exchange proposes to remove the following language providing for pro-rated month fees for mid-month subscribers from the explanatory paragraph under both the ToM and PLF data feed fee tables:

> Market Data Fees for [ToM/PLF] will be reduced for new Distributors for the first month during which they subscribe to [ToM/PLF], based on the number of trading days that have been held during the month prior to the date on which they have been credentialed to use [ToM/PLF] in the production environment. Such new Distributors will be assessed a pro-rata percentage of the fees described above, which is the percentage of the number of trading days remaining in the affected calendar month as of the date on which they have been credentialed to use [ToM/PLF] in the production environment, divided by the total number of trading days in the affected calendar month.

The proposed fee structure is not novel as it is based on the fee structure currently in place for MIAX Pearl Equities. The Exchange proposes fees for the market data feeds that are based on the existing fee structure and rates that data recipients already pay for the MIAX Pearl

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17 See MIAX Pearl Equities Fee Schedule, Section 3), Market Data Fees, and Securities Exchange Act Release No. 100319 (June 12, 2024), 89 FR 51562 (June 19, 2024) (SR-PEARL-2024-25).

18 See Cboe BZX Options Fee Schedule and Cboe EDGX Options Fee Schedule, supra note 14. See also MEMX Options Fee Schedule and Securities Exchange Act Release No. 101370 (October 17, 2024), 89 FR 84638 (October 23, 2024) (SR-MEMX-2024-40).

Equities market data feeds. Specifically, the fees for MIAX Pearl Equities also include User Fees and Non-Display Usage.

Implementation

The Exchange issued alerts publicly announcing the proposed fees on September 30, 2024 and December 17, 2024.[19] The fees subject to this proposal are effective beginning January 1, 2025.

b. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)[20] of the Act in general, and furthers the objectives of Section 6(b)(4)[21] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. Additionally, the Exchange believes that the proposed fees are consistent with the objectives of Section 6(b)(5)[22] of the Act in that they are designed 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 a free and open market and national market system, and, in general, to protect investors and the public interest, and, particularly, are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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19 See Fee Change Alert, MIAX Exchange Group – January 1, 2025 and March 1, 2025 Market Data Fee Changes (dated September 30, 2024), available at https://www.miaxglobal.com/alert/2024/09/30/miax-exchange-group-options-markets-january-1-2025-and-march-1-2025-market-1?nav=all and Fee Change Alert, MIAX Exchange Group – Options Markets – Reminder: January 1, 2025 and March 1, 2025 Market Data Fee Changes (dated December 17, 2024), available at https://www.miaxglobal.com/alert/2024/12/17/miax-exchange-group-options-markets-reminder-january-1-2025-and-march-1-2?nav=all.

20 15 U.S.C. 78f.

21 15 U.S.C. 78f(b)(4).

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

In adopting Regulation NMS, the Commission granted SROs and broker-dealers increased authority and flexibility to offer new and unique market data to the public. 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."[23]

With respect to market data, the decision of the United States Court of Appeals for the District of Columbia Circuit in NetCoalition v. SEC upheld the Commission's reliance on the existence of competitive market mechanisms to evaluate the reasonableness and fairness of fees for proprietary market data:

> In fact, the legislative history indicates that the Congress intended that the market system "evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed" and that the SEC wield its regulatory power "in those situations where competition may not be sufficient," such as in the creation of a "consolidated transactional reporting system."[24]

The court agreed with the Commission's conclusion that "Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.'"[25]

More recently, the Commission confirmed that it applies a "market-based" test in its assessment of market data fees, and that under that test:

> the Commission considers whether the exchange was subject to significant

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23 See Regulation NMS Adopting Release, 70 FR 37495, at 37499.

24 NetCoalition v. SEC, 615 F.3d 525, 535 (D.C. Cir. 2010) ("NetCoalition I") (quoting H.R. Rep. No. 94-229 at 92 (1975), as reprinted in 1975 U.S.C.C.A.N. 323).

25 Id. at 535.

> competitive forces in setting the terms of its proposal for [market data], including the level of any fees. If an exchange meets this burden, the Commission will find that its fee rule is consistent with the Act unless there is a substantial countervailing basis to find that the terms of the rule violate the Act or the rules thereunder.[26]

As discussed below, the Exchange believes that its proposed fees are constrained by competitive forces.

As the D.C. Circuit recognized in NetCoalition I, "[n]o one disputes that competition for order flow is fierce."[27] The court further noted that "no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers," and that an exchange "must compete vigorously for order flow to maintain its share of trading volume."[28]

Further, low barriers to entry mean that new exchanges may rapidly and inexpensively enter the market to compete with the Exchange. For example, since 2023, one new competitor entered the market for equity options trading and a second announced its intention to enter the market: MEMX Options, began operating an options exchange on September 27, 2023[29]; and the Investors Exchange LLC ("IEX") announced its intention to establish rules for trading equity options beginning in 2025.[30]

The Exchange notes that the ToM and PLF data feeds are entirely optional. The Exchange is not required to make the ToM or PLF data feeds available to any customers, nor is any customer required to purchase the ToM or PLF data feeds.

The Proposed Fees are Reasonable and Comparable to the Fees Charged By Other Exchanges for Similar Data Products

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26 See Securities Exchange Act Release No. 34-90217 (October 16, 2020), 85 FR 67392 (October 22, 2020) (SR-NYSENAT-2020-05) ("National IF Approval Order") (internal quotation marks omitted), quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74781 (December 9, 2008).

27 NetCoalition I, 615 F.3d at 544 (internal quotation omitted).

28 Id.

29 See MEMX Alert, Exchange Highlights: MEMX Options makes a successful debut (dated October 12, 2023), available at https://memx.com/exchange-highlights-memx-options-makes-a-successful-debut/.

30 See SR-IEX-2024-25 (not yet noticed by the Commission).

Overall. In setting fees for the ToM and PLF data feeds, the Exchange is constrained by the fact that, if its pricing is unattractive to customers, customers have their pick of alternatives to purchase similar data from competing exchanges instead of purchasing it from the Exchange. The existence of alternatives to the Exchange's data products ensure that the Exchange cannot set unreasonable market data fees without suffering the negative effects of that decision in the competitive market for market data. The proposed fees are comparable to those of competing exchanges. Based on publicly-available information, no single exchange currently had more than approximately 13-14% equity options market share for the month of November 2024,[31] and the Exchange compared the fees proposed herein to the fees charged by competing exchanges with similar market share. A more detailed discussion of the comparison follows.

The Exchange assesses the market share for each of the eighteen options markets utilizing total equity options contracts traded in 2024 through December 16, 2024, as set forth in the following charts:[32]

User Fees

The proposed per User fees for the Exchange's market data products are comparable to those charged by The Nasdaq Stock Market LLC ("Nasdaq Options" or "NOM"), Nasdaq MRX LLC ("Nasdaq MRX"), and Cboe BZX Exchange, Inc. ("Cboe BZX Options"), as summarized in the table below.

Exchange	Market Share	Market Data Product	Monthly Professional User	Monthly Non-Professional User

[31] See the Market Share section of the Exchange's website, U.S. Options, available at https://www.miaxglobal.com/company/data/market-share (last visited December 17, 2024).

[32] Market share is the percentage of volume on a particular exchange relative to the total volume across all exchanges, and indicates the amount of order flow directed to that exchange. High levels of market share enhance the value of trading and ports. Total contracts include both multi-list options and proprietary options products. Proprietary options products are products with intellectual property rights that are not multi-listed.

			Fee	Fee
MIAX Pearl Options	4.24%	All	$20.00 (per Exchange)	$1.00 (per Exchange)
Nasdaq Options	5.47%	NOM BONO NOM ITTO	$40.00 (per exchange)	$1.00 (per exchange)
Nasdaq MRX	2.73%	MRX Top MRX Depth	$25.00 (per exchange)	$1.00 (per exchange)
Cboe BZX Options	3.98%	BZX Depth	$30.00 (per feed)	$1.00 (per feed)

A more detailed discussion of the comparison follows.

Nasdaq Options. Nasdaq Options, with a market share of approximately 5.47% that is comparable to the Exchange, charges higher Professional and Non-Professional User fees for its top of book and depth of book feeds than proposed by the Exchange. Further, like Nasdaq Options, the Exchange proposes to charge a single per User fee that would provide access to all of its market data products for a single fee.

The NOM Best of Nasdaq Options ("BONO") feed is an options feed that provides Nasdaq Options' best bid and offer and last sale information.[33] The NOM BONO feed is similar to the Exchange's ToM feed. The NOM ITCH to Trade Options ("ITTO") feed is an options feed that provides full order and quote depth information for individual orders and quotes and last sale information.[34] The NOM ITTO feed is similar to the Exchange's PLF feed.

NOM charges Professional Users $40.00 per month and Non-Professional Users $1.00 per month for the NOM BONO feed and NOM ITTO feed.[35] The Exchange proposes to charge less than NOM for Professional Users and the same as NOM for Non-Professional Users while also providing access to all of its market data feeds for a single per User fee. Specifically, for

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33 See Nasdaq Options Rules, Options 3, Section 23(a)(2).

34 See Nasdaq Options Rules, Options 3, Section 23(a)(1).

35 See Price List – U.S. Derivatives Data, available at https://www.nasdaqtrader.com/Trader.aspx?id=DPPriceListOptions. See also Securities Exchange Act Release No. 73823 (December 11, 2014), 79 FR 75207 (December 17, 2014) (SR-NASDAQ-2014-119).

both the ToM and PLF data feeds, the Exchange proposes to charge Professional Users $20.00 per month and Non-Professional Users $1.00 per month. The Exchange's proposed Professional User fee is lower than NOM and its Non-Professional User fee is equal to NOM. Despite having only incrementally higher market share than the Exchange, NOM charges higher or comparable per User fees than proposed by the Exchange herein.

Nasdaq MRX. Nasdaq MRX, with a market share of approximately 2.73%, lower than the Exchange, charges higher Professional and Non-Professional User fees for its top of book and depth of book feeds than the fees proposed by the Exchange. Further, like Nasdaq MRX, the Exchange proposes to charge a single per User fee that would provide access to all of its market data products for a single fee.

The Nasdaq MRX Top of Market feed is an options feed that provides Nasdaq MRX's best bid and offer and last sale information.[36] The Nasdaq MRX Top of Market feed is similar to the Exchange's ToM feed. The Nasdaq MRX Depth of Market feed is an options feed that provides full order and quote depth information for individual orders and quotes and last sale information.[37] The Nasdaq MRX Depth of Market feed is similar to the Exchange's PLF feed.

Nasdaq MRX charges Professional Users $25.00 per month and Non-Professional Users $1.00 per month for the Nasdaq MRX Top of Market feed and the Nasdaq MRX Depth of Market Feed.[38] The Exchange proposes to charge less than Nasdaq MRX for Professional Users and the same as Nasdaq MRX for Non-Professional Users while also providing access to all of its market data fees for single per User fee. Specifically, for both the ToM and PLF data feeds,

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36 See Nasdaq MRX Options Rules, Options 3, Section 23(a)(3).

37 See Nasdaq MRX Options Rules, Options 3, Section 23(a)(1).

38 See Price List – U.S. Derivatives Data, available at https://www.nasdaqtrader.com/Trader.aspx?id=DPPriceListOptions.

the Exchange proposes to charge Professional Users $20.00 per month and Non-Professional Users $1.00 per month. The Exchange's proposed Professional User fee is lower than Nasdaq MRX and its Non-Professional User fee is equal to Nasdaq MRX. Despite having lower market share than the Exchange, Nasdaq MRX charges higher or comparable per User fees than the fees proposed by the Exchange herein.

Cboe BZX Options. Cboe BZX Options, with a market share of approximately 3.98%, which is comparable to the Exchange's market share, charges higher Professional and Non-Professional User fees for its depth of book feed than the fees proposed by the Exchange. Further, Cboe BZX Options also charges separate per User fees per data product, whereas the Exchange proposes to charge a single lower per User fee that would provide access to all of its market data products for a single fee.

The Cboe BZX Options Depth feed is an options feed that provides depth of book quotations and execution information.[39] The Cboe BZX Options Depth feed is similar to the Exchange's PLF feed.

Cboe BZX Options charges Professional Users $30.00 per month and Non-Professional Users $1.00 per month for the Cboe BZX Options Depth feed. The Exchange proposes to charge less than Cboe BZX Options and provide access to all of its market data fees for single, and still lower, per User fee. Specifically, for both the ToM and PLF data feeds, the Exchange proposes to charge Professional Users $20.00 per month and Non-Professional Users $1.00 per month. The Exchange's proposed Professional User fee is lower than Cboe BZX Options and its Non-Professional User fee is equal to Cboe BZX Options. However, both of the Exchange's proposed fees can be lower than Cboe BZX Options because a User may receive access to each

of the Exchange's data feeds for a single per User fee and, unlike Cboe BZX Options, not be required to pay a separate per User fee for each data product.

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Each of the above examples of other exchanges' market data fees support the proposition that the Exchange's proposed User fees are comparable to those of other exchanges and therefore reasonable.

Non-Display Usage Fee

The proposed Non-Display Usage fee for the Exchange's market data products is comparable to those charged by Nasdaq Options and Nasdaq MRX, as summarized in below table.

Exchange	**Market Share**	**Market Data Products**	**Monthly Non-Display Usage Fee**
MIAX Pearl Options	4.24%	All	$1,500.00 (per feed (capped at $2,500.00)
Nasdaq Options	5.47%	NOM BONO NOM ITTO	$10,000.00 (per exchange)
Nasdaq MRX	2.73%	MRX Top MRX Depth	$7,500.00 (per exchange)

A more detailed discussion of the comparison follows.

Nasdaq Options. Nasdaq Options, with a market share of approximately 5.47%, which is comparable to the Exchange's market share, charges higher Non-Display Usage fees for its top of book and depth of book feeds than proposed by the Exchange. Further, Nasdaq Options also charges the full Non-Display Usage fees to receive all of its data products, whereas the Exchange proposes to cap the Non-Display Usage fee at $2,500.00, which would provide a discount to subscribers that choose to subscribe to multiple Exchange data feeds for Non-Display Usage.

As discussed above, the NOM BONO feed is an options feed that provides Nasdaq

Options' best bid and offer and last sale information.[40] The NOM BONO feed is similar to the Exchange's ToM feed. The NOM ITTO feed is an options feed that provides full order and quote depth information for individual orders and quotes and last sale information.[41] The NOM ITTO feed is similar to the Exchange's PLF feed.

NOM charges a monthly fee of $10,000.00 for Non-Display Usage of the NOM BONO feed and NOM ITTO feed.[42] The Exchange proposes to charge less than NOM while also proposing to cap the Non-Display Usage fee at $2,500.00, which would provide a discount to subscribers that choose to subscribe to multiple Exchange data feeds for Non-Display Usage. Specifically, for both the ToM and PLF data feeds, the Exchange proposes to charge a monthly fee of $1,500.00 for Non-Display Usage and to cap the Non-Display Usage fee at $2,500.00 for those that wish to receive both the ToM and PLF data feed for Non-Display Usage. This cap would be in lieu of paying the full Non-Display Usage Fee for each data product, which would total $3,000.00 per month. Despite having only incrementally higher market share than the Exchange, NOM charges higher Non-Display Usage fees than the fees proposed by the Exchange herein.

Nasdaq MRX. Nasdaq MRX, with a market share of approximately 2.73%, which is lower than the Exchange's market share, charges higher Non-Display Usage fees for its top of book and depth of book feeds than the fees proposed by the Exchange. Further, Nasdaq MRX also charges the full Non-Display Usage fees per data product, whereas the Exchange proposes to cap the Non-Display Usage fee at $2,500.00, which would provide a discount to subscribers

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40 See Nasdaq Options Rules, Options 3, Section 23(a)(2).

41 See Nasdaq Options Rules, Options 3, Section 23(a)(1).

42 See Price List – U.S. Derivatives Data, available at https://www.nasdaqtrader.com/Trader.aspx?id=DPPriceListOptions. See also Securities Exchange Act Release No. 73823 (December 11, 2014), 79 FR 75207 (December 17, 2014) (SR-NASDAQ-2014-119).

that choose to subscribe to multiple Exchange data feeds for Non-Display Usage.

The Nasdaq MRX Top of Market feed is an options feed that provides Nasdaq MRX's best bid and offer and last sale information.[43] The Nasdaq MRX Top of Market feed is similar to the Exchange's ToM feed. The Nasdaq MRX Depth of Market feed is an options feed that provides full order and quote depth information for individual orders and quotes and last sale information.[44] The Nasdaq MRX Depth of Market feed is similar to the Exchange's PLF feed.

Nasdaq MRX charges a monthly fee of $7,500.00 for Non-Display Usage of the Nasdaq MRX Top of Market feed and Nasdaq MRX Depth of Market feed.[45] The Exchange proposes to charge less than Nasdaq MRX while also proposing to cap the Non-Display Usage fee at $2,500.00, which would provide a discount to subscribers that choose to subscribe to multiple Exchange data feeds for Non-Display Usage. Specifically, for both the ToM and PLF data feeds, the Exchange proposes to charge a monthly fee of $1,500.00 and to cap the Non-Display Usage fee at $2,500.00 for those that wish to receive both the ToM and PLF data feed for Non-Display Usage. This cap would be in lieu of paying the full Non-Display Usage Fee for each data product, which would total $3,000.00 per month. Despite having lower market share than the Exchange, Nasdaq MRX charges higher Non-Display Usage fees than the fees proposed by the Exchange herein.

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Each of the above examples of other exchanges' market data fees support the proposition that the Exchange's proposed Non-Display Usage fees are comparable to those of other

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43 See Nasdaq MRX Options Rules, Options 3, Section 23(a)(3).

44 See Nasdaq MRX Options Rules, Options 3, Section 23(a)(1).

45 See Price List – U.S. Derivatives Data, available at https://www.nasdaqtrader.com/Trader.aspx?id=DPPriceListOptions.

exchanges and therefore reasonable. In addition, the proposed fees are reasonable because in setting them, the Exchange is constrained by the availability of substitute market data products. The Commission has been clear that substitute products need not be identical, but only substantially similar to the product at hand.[46] The proposed discount to charge per User fees at the Exchange level, and not per data feed, as well as capping the monthly Non-Display Usage fee for use of multiple data feeds, is reasonable and cause the Exchange's proposed fees to be even lower for subscribers to multiple Exchange data products.

The Proposed Fees are Equitably Allocated

Overall. The Exchange believes that its proposed fees are reasonable, equitable, and not unfairly discriminatory because they are designed to align fees with services provided. The Exchange believes that the proposed fees for the market data feeds are allocated fairly and equitably among the various categories of users of the data feeds, and any differences among categories of users are justified and appropriate.

The Exchange believes that the proposed fees are equitably allocated because they will apply uniformly to all data recipients that choose to subscribe to the market data feeds. Any market participant that chooses to subscribe to the market data feeds is subject to the same Fee Schedule, regardless of what type of business they operate, and the decision to subscribe to one or more market data feeds is based on objective differences in usage of market data feeds among different Members, which are still ultimately in the control of any particular Member. The

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46 For example, in the National IF Approval Order, the Commission recognized that for some customers, the best bid and offer information from consolidated data feeds may function as a substitute for the NYSE National Integrated Feed product, which contains order by order information. See National IF Approval Order, supra note 21, at 67397 [release p. 21] ("[I]nformation provided by NYSE National demonstrates that a number of executing broker-dealers do not subscribe to the NYSE National Integrated Feed and executing broker-dealers can otherwise obtain NYSE National best bid and offer information from the consolidated data feeds." (internal quotations omitted)).

Exchange believes the proposed pricing of the market data feeds is equitably allocated because it is based, in part, upon the amount of information contained in each data feed, which may have additional value to market participants.

Pro-Rata Distribution of Fees. The Exchange believes its proposal to no longer pro-rate mid-month changes to subscriptions is equitably allocated because the Exchange had no mid-month subscriptions or terminations over the past twelve (12) months that would have required the monthly fee to be pro-rated. The Exchange also believes it is equitable to no longer pro-rate fees for Distributors who subscribe mid-month because other options exchanges do not provide for the similar pro-ration of market data fees.[47] Also, removing these provisions would harmonize the MIAX Pearl Options Fee Schedule with the MIAX Pearl Equities Fee Schedule, which does not provide for pro-ration of market data fees.[48]

User Fees. The Exchange believes that the fee structure differentiating Professional User fees from Non-Professional User fees for display use is equitable. This structure has long been used by other exchanges and OPRA to reduce the price of data to Non-Professional Users and make it more broadly available. Offering the market data feeds to Non-Professional Users at a lower cost than Professional Users results in greater equity among data recipients, as Professional Users are categorized as such based on their employment and participation in financial markets, and thus, are compensated to participate in the markets. While Non-Professional Users too can receive significant financial benefits through their participation in the markets, the Exchange believes it is reasonable to charge more to those Users who are more

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47 See the market data sections of the options fee schedules for the Cboe BZX and Cboe EDGX. See also the market data definition section of the MEMX options fee schedule and Securities Exchange Act Release No. 101370 (October 17, 2024), 89 FR 84638 (October 23, 2024) (SR-MEMX-2024-40).

48 See MIAX Pearl Equities Fee Schedule, Section 3), Market Data Definitions, and Securities Exchange Act Release No. 100319 (June 12, 2024), 89 FR 51562 (June 19, 2024) (SR-PEARL-2024-25).

directly engaged in the markets.

Non-Display Usage Fees. The Exchange believes the proposed Non-Display Usage fees are equitably allocated because they would require Distributors to pay fees only for the uses they actually make of the data. As noted above, non-display data can be used by data recipients for a wide variety of profit-generating purposes (including trading and order routing) as well as purposes that do not directly generate revenues (such as risk management and compliance) but nonetheless substantially reduce the recipient's costs by automating certain functions. The Exchange believes that it is equitable to charge non-display data Distributors that use the market data feeds because all such Distributors would have the ability to use such data for as many non-display uses as they wish for one low fee. As noted above, this structure is comparable to that in place for the exchanges referenced above and several other exchanges charge multiple non-display fees to the same client to the extent they use a data feed in several different trading platforms or for several types of non-display use.[49]

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For all of the foregoing reasons, the Exchange believes that the proposed fees for the market data feeds are equitably allocated.

The Proposed Fees Are Not Unfairly Discriminatory

The Exchange believes the proposed fees are not unfairly discriminatory because any differences in the application of the fees are based on meaningful distinctions between

[49] See Cboe BZX Options fee schedule available at https://www.cboe.com/us/options/membership/fee_schedule/bzx/ (providing fees of $2,000.00 to $3,000.00 for Distribution, which includes Non-Display use); C2 fee schedule available at https://www.cboe.com/us/options/membership/fee_schedule/ctwo/ (providing a fee $2,500.00 for Distribution, which includes Non-Display use); Nasdaq Options fee schedule available at, https://www.nasdaqtrader.com/Trader.aspx?id=DPPriceListOptions (providing a fee of $10,000.00 for Non-Display Use); and the NYSE American fee schedule available at https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Pricing.pdf (providing fees of $5,000.00 for Non-Display Use).

customers, and those meaningful distinctions are not unfairly discriminatory between customers.

Overall. The Exchange believes that the proposed fees are not unfairly discriminatory because they would apply to all data recipients that choose to subscribe to the same market data feed(s). Any market participant, including market data vendors, that chooses to subscribe to the market data feeds is subject to the same Fee Schedule, regardless of what type of business they operate. Market participants seeking lower cost options may instead choose to receive data from OPRA or another potentially lower cost option such as a market data vendor. The Exchange notes that market participants can also choose to subscribe to a combination of data feeds for redundancy purposes or to use different feeds for different purposes. In sum, each market participant has the ability to choose the best business solution for itself. The Exchange does not believe it is unfairly discriminatory to base pricing upon the amount of information contained in each data feed and the importance of that information to market participants. As described above, the ToM data feed can be utilized to trade on the Exchange but contains less information than that is available on the PLF data feed. Thus, the Exchange believes it is not unfairly discriminatory for the products to be priced as proposed, with the same fees being proposed for each data feed coupled with the discounts and caps discussed above.

Pro-Rata Distribution of Fees. The Exchange believes that the proposal to no longer pro-rate mid-month changes to market data subscriptions is not unfairly discriminatory because there were no mid-month subscriptions or terminations over the past twelve (12) months that would have required the monthly fee to be pro-rated. The Exchange notes that other options exchanges do not provide for the similar pro-ration of market data fees.[50] Also, removing these provisions

[50] See Cboe BZX Options Fee Schedule, Market Data Fees section and Cboe EDGX Options Fee Schedule, Market Data Fees section, supra note 14. See also MEMX Options Fee Schedule and Securities Exchange Act Release No. 101370 (October 17, 2024), 89 FR 84638 (October 23, 2024) (SR-MEMX-2024-40).

would harmonize the MIAX Pearl Options Fee Schedule with the MIAX Pearl Equities Fee Schedule, which does not provide for pro-ration.[51]

User Fees. The Exchange believes that the fee structure differentiating Professional User fees from Non-Professional User fees for display use is not unfairly discriminatory. This structure has long been used by other exchanges and OPRA to reduce the price of data to Non-Professional Users and make it more broadly available. Offering the market data feeds to Non-Professional Users with the same data as is available to Professional Users, albeit at a lower cost, results in greater equity among data recipients. These User fees would be charged uniformly to all individuals that have access to the market data feeds based on the category of User.

The Exchange also believes the proposed User fees are not unfairly discriminatory, with higher fees for Professional Users than Non-Professional Users, because Non-Professional Users may have less ability to pay for such data than Professional Users as well as less opportunity to profit from their usage of such data.

Non-Display Usage Fees. The Exchange believes that the proposed Non-Display Usage fees are not unfairly discriminatory because they would require Distributors for non-display use to pay fees depending on their use of the data. As noted above, non-display data can be used by data recipients for a wide variety of profit-generating purposes as well as purposes that do not directly generate revenues but nonetheless substantially reduce the recipient's costs by automating certain functions.

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For all of the foregoing reasons, the Exchange believes that the proposed fees for the

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[51] See MIAX Pearl Equities Fee Schedule, Section 3), Market Data Definitions and Securities Exchange Act Release No. 100319 (June 12, 2024), 89 FR 51562 (June 19, 2024) (SR-PEARL-2024-25).

Exchange's market data feeds are not unfairly discriminatory.

4. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[52] the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intra-Market Competition

The Exchange does not believe that the proposed fees place certain market participants at a relative disadvantage to other market participants because, as noted above, the proposed fees are associated with usage of the data feed by each market participant based on whether the market participant internally or externally distributes the Exchange market data, which are still ultimately in the control of any particular Member, and such fees do not impose a barrier to entry to smaller participants. Accordingly, the proposed fees do not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the allocation of the proposed fees reflects the types of data consumed by various market participants and their usage thereof. The Exchange also believes that the proposed fees neither favor nor penalize one or more categories of market participants in a manner that would impose an undue burden on competition. To the contrary, by tailoring the proposed fees in this manner, the Exchange believes that it has eliminated the potential burden on competition that might result from unfairly asking Members to pay fees for services they did not use.

The Exchange believes its proposal to no longer pro-rate mid-month changes to market data subscriptions does not place an undue burden on intra-market competition because all market participants will be subject to the same Fee Schedule, regardless of which point in the

[52] 15 U.S.C. 78f(b)(8).

month they subscribe. As noted above, there were no mid-month subscriptions or terminations over the past twelve (12) months that would have required the monthly fee to be pro-rated. The Exchange notes that other options exchanges do not provide for the similar pro-ration of market data fees.[53] Also, removing these provisions would harmonize the MIAX Pearl Options Fee Schedule with the MIAX Pearl Equities Fee Schedule, which does not provide for pro-ration.[54]

Inter-Market Competition

The Exchange does not believe the proposed fees place an undue burden on competition on other SROs that is not necessary or appropriate. In particular, market participants are not forced to subscribe to either data feed, as described above. In setting the proposed fees, the Exchange is constrained by the availability of substitute market data products and by the fact that if its pricing is unattractive, Members will have their pick of alternative non market data products to purchase instead of purchasing the Exchange's products. Because market data users can find suitable substitute feeds, an exchange that overprices its market data products stands a high risk that users may purchase another market's market data product. These competitive pressures ensure that no one exchange's market data fees can impose an unnecessary burden on competition, and the Exchange's proposed fees do not do so here. Additionally, other exchanges have similar market data fees with comparable rates in place for their participants. Competing exchanges are free to adopt comparable fee structures subject to the Commission's rule filing process.

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

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53 See the market data sections of the options fee schedules for the Cboe BZX and Cboe EDGX. See also the market data definition section of the MEMX options fee schedule and Securities Exchange Act Release No. 101370 (October 17, 2024), 89 FR 84638 (October 23, 2024) (SR-MEMX-2024-40).

54 See MIAX Pearl Equities Fee Schedule, Section 3), Market Data Definitions and Securities Exchange Act Release No. 100319 (June 12, 2024), 89 FR 51562 (June 19, 2024) (SR-PEARL-2024-25).

The Exchange neither solicited nor received written comments on the proposed rule change.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Pursuant to Section 19(b)(3)(A)(ii) of the Act,[55] and Rule 19b-4(f)(2) thereunder[56] the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the SRO, which renders the proposed rule change effective upon filing.

8. Proposed Rule Change Based on rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Ac

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

1. Completed notice of proposed rule change for publication in the Federal Register.

5. Copy of the applicable section of the Fee Schedule.

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55 15 U.S.C. 78s(b)(3)(A)(ii).

56 17 CFR 240.19b-4.