

1. Text of the Proposed Rule Change

(a) MIAX Sapphire, LLC (“MIAX Sapphire” or “Exchange”), pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² proposes to amend the MIAX Sapphire Options Exchange Fee Schedule (“Fee Schedule”) to (1) establish a fee discount program for the Open-Close Report; (2) delete references to the Initial Waiver Period (defined below) since that period of time is set to expire on February 28, 2025; and (3) remove text regarding fee waivers and discounts in Sections 5)a)-b) pertaining to connectivity fees since the fee waiver period expired and the discount period is set to expire on February 28, 2025.

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) Not applicable.

(c) Not applicable.

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 Board of Directors on February 27, 2025. 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Questions and comments on the proposed rule change may be directed to Michael Slade, AVP, Associate Counsel, at (609) 955-0460.

3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

a. Purpose

The Exchange proposes to amend the Fee Schedule to: (1) amend Section 6)c) for the Open-Close Report to provide a temporary 20% discount on fees assessed to Exchange Members³ and non-Members that purchase a single order of historical Open-Close Report data, effective March 1, 2025 through June 30, 2025; (2) remove references to the Initial Waiver Period⁴ since the fee waiver period is set to expire on February 28, 2025;⁵ and (3) remove text regarding fee waivers and discounts in Sections 5)a)-b) pertaining to connectivity fees since the fee waiver period expired and the discount period is set to expire on February 28, 2025.

The proposed Open-Close Report discount and its application are similar to the discounts recently provided by the Exchange’s affiliates⁶ and by other options exchanges for their open-

³ 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.

⁴ The term “Initial Waiver Period” means, for each applicable fee, the period of time from the initial effective date of the MIAX Sapphire Fee Schedule plus an additional six (6) full calendar months after the completion of the partial month of the Exchange launch. See the Definitions section of the Fee Schedule. The Exchange launched operations on August 13, 2024. See Press Release, Miami International Holdings Announces Successful Launch of MIAX Sapphire Options Exchange, dated August 13, 2024, available at <https://www.miaxglobal.com/news/miami-international-holdings-announces-successful-launch-miax-sapphire>. Accordingly, the Initial Waiver Period covered the entire period of the partial month for August 2024 through the following full six months thereafter, expiring on February 28, 2025.

⁵ The Exchange proposes to remove all references to the “Initial Waiver Period” throughout the Fee Schedule, except in Sections 6)a) and b), which the Exchange filed in a separate fee filing for market data fees. See SR-SAPPHIRE-2025-08.

⁶ See Securities Exchange Act Release Nos. 102094 (January 2, 2025), 90 FR 1562 (January 8, 2025) (SR-MIAX-2024-46); 102095 (January 2, 2025), 90 FR 1554 (January 8, 2025) (SR-PEARL-2024-59); and 102096 (January 2, 2025), 90 FR 1557 (January 8, 2025) (SR-EMERALD-2024-28).

close data products.⁷

Proposal to Establish a Fee Discount Program for the Open-Close Report

By way of background, the Exchange offers two versions of the Open-Close Report, an end-of-day summary and intra-day report.⁸ The End-of-Day Open-Close Report is a volume summary of trading activity on the Exchange at the option level by origin (Priority Customer,⁹ non-Priority Customer, firm, broker-dealer, and Market Maker¹⁰), side of the market (buy or sell), contract volume, and transaction type (opening or closing). The customer and professional customer volume is further broken down into trade size buckets (less than 100 contracts, 100-199 contracts, greater than 199 contracts).

The Intra-Day Open-Close Report provides similar information to that of the End-of-Day version but is produced and updated every 10 minutes during the trading day. Data is captured in “snapshots” taken every 10 minutes throughout the trading day and is available to subscribers within five minutes of the conclusion of each 10-minute period. Each update represents the aggregate data captured from the current “snapshot” and all previous “snapshots.” The Intra-Day

⁷ See Securities Exchange Act Release Nos. 99028 (November 28, 2023), 88 FR 84002 (December 1, 2023) (SR-CBOE-2023-061) (establishing the initial 20% discount on fees assessed to Cboe Exchange, Inc. Members and non-Members that purchase \$20,000 or more of historical Open-Close Data, effective November 15, 2023 through December 31, 2023). See also Securities Exchange Act Release Nos. 100370 (June 18, 2024), 89 FR 53148 (June 25, 2024) (SR-CBOE-2024-025); 101509 (November 4, 2024), 89 FR 88845 (November 8, 2024) (SR-CBOE-2024-049); 99027 (November 28, 2023), 88 FR 84028 (December 1, 2023) (SR-CboeBZX-2023-094); 100371 (June 18, 2024), 89 FR 53140 (June 25, 2024) (SR-CboeBZX-2024-047); 99025 (November 28, 2023), 88 FR 84007 (December 1, 2023) (SR-C2-2023-023); 100427 (June 25, 2023), 89 FR 54552 (June 25, 2023) (SR-C2-2024-012); 99026 (November 28, 2023), 88 FR 84023 (December 1, 2023) (SR-CboeEDGX-2023-070); and 100352 (June 17, 2024), 89 FR 52521 (June 24, 2024) (SR-CboeEDGX-2024-033).

⁸ See Exchange Rule 531(d)(1).

⁹ The term “Priority Customer” means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). See Exchange Rule 100.

¹⁰ The term “Market Maker” or “MM” means a Member registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter VI of these Rules. See Exchange Rule 100.

Open-Close data provides a volume summary of trading activity on the Exchange at the option level by origin (Priority Customer, non-Priority Customer, firm, broker-dealer, and Market Maker), side of the market (buy or sell), and transaction type (opening or closing). All volume is further broken down into trade size buckets (less than 100 contracts, 100-199 contracts, greater than 199 contracts).

Both versions of the Open-Close Report contain proprietary Exchange trade data and do not include trade data from any other exchange. The Intra-Day and End-of-Day Open-Close Report data products are completely voluntary products, in that the Exchange is not required by any rule or regulation to make this data available and that potential customers may purchase it on an ad-hoc basis only if they voluntarily choose to do so. The Open-Close Report is also a historical data product and not a real-time data feed.

Since the Exchange launched operations in August 2024, the Exchange made the Open-Close Report available for free to Members and non-Members by waiving such fees during the Initial Waiver Period.¹¹ During the Initial Waiver Period, customers were able to subscribe to the Open-Close Report on a monthly basis or by ad hoc request for a specified month or number of months for free. Upon the automatic expiration of the Initial Waiver Period, the Exchange will begin to assess the following fees for the Open-Close Report beginning March 1, 2025: \$600 per month for subscribers to the End-of-Day summary Open-Close Report and \$2,000 per month for subscribers to the Intra-Day Open-Close Report.¹² Similarly, upon expiration of the Initial Waiver Period, the Exchange will begin to assess a fee of \$500 per request per month for ad-hoc requests for historical End-of-Day Open-Close data.¹³ An ad-hoc request for historical End-of-

¹¹ See Fee Schedule, Section 6)c).

¹² Id.

¹³ Id.

Day Open-Close data can be for any number of months beginning with August 2024 for which the data is available.¹⁴ The Exchange will also begin to assess a fee of \$1,000 per request per month for ad-hoc requests for historical Intra-Day Open-Close data.¹⁵ An ad-hoc request for historical Intra-Day Open-Close data can be for any number of months beginning with August 2024 for which the data is available.¹⁶ The Exchange will also begin to provide discounts in Section 6)c) of the Fee Schedule for customers who request multiple subscriptions or who are Qualifying Academic Purchasers beginning March 1, 2025.¹⁷

Open-Close Report data is subject to direct competition from similar end-of-day and intra-day options trading summaries offered by several other options exchanges.¹⁸ All of these

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

¹⁷ In order to qualify for the academic pricing, an academic purchaser must: (1) be an accredited academic institution or member of the faculty or staff of such an institution, and (2) use the data in independent academic research, academic journals and other publications, teaching and classroom use, or for other bona fide educational purposes (i.e. academic use). See Securities Exchange Act Release No. 100751 (August 16, 2024), 89 FR 68010 (August 22, 2024) (SR-SAPPHIRE-2024-09).

¹⁸ These substitute products are as follows: Open-Close Data products from Cboe Exchange, Inc. (“Cboe”), Cboe C2 Exchange, Inc. (“C2”), Cboe EDGX Exchange, Inc. (“EDGX Options”), and Cboe BZX Exchange, Inc. (“BZX Options”); Nasdaq PHLX LLC (“PHLX”) Options Trade Outline, The Nasdaq Stock Market LLC (“Nasdaq”) Options Trade Outline, Nasdaq ISE, LLC (“ISE”) Open/Close Trade Profile, and Nasdaq GEMX, LLC (“GEMX”) Open/Close Trade Profile; and NYSE Options Open-Close Volume Summary for each of NYSE Arca, Inc. (“NYSE Arca”) and NYSE American LLC (“NYSE American”). See e.g., Cboe Fee Schedule, Livevol Fees, Open-Close Data, Page 10, available at https://cdn.cboe.com/resources/membership/Cboe_FeeSchedule.pdf (last visited February 11, 2025); BZX Options Fee Schedule, Cboe LiveVol, LLC Market Data Fees, Open-Close Data, available at https://www.cboe.com/us/options/membership/fee_schedule/bzx/?_gl=1*_ync049*_up*MQ..*_ga*MTc4NDUwMDg0Ny4xNzMzYwNzEw*_ga_5Q99WB9X71*MTczMzc2MDcwOS4xLjEuMTczMzc2MTM3MS4wLjAuMA (last visited February 11, 2025); PHLX Options Rules, Options 7 Pricing Schedule, Section 10. Proprietary Data Feed Fees, PHLX Options Trade Outline (“PHOTO”), available at <https://listingcenter.nasdaq.com/rulebook/phlx/rules/Phlx%20Options%207> (last visited February 11, 2025); ISE Options Rules, Options 7: Pricing Schedule, Sections 10.A.-C., available at <https://listingcenter.nasdaq.com/rulebook/ise/rules/ISE%20Options%207> (last visited February 11, 2025); GEMX Options Rules, Options 7: Pricing Schedule, Sections 7.D.-F., available at <https://listingcenter.nasdaq.com/rulebook/gemx/rules/GEMX%20Options%207> (last visited February 11, 2025); and NYSE Arca Options Proprietary Market Data Fees, NYSE Options Open-Close Volume Summary, page 2, available at https://www.nyse.com/publicdocs/nyse/data/NYSE_Arca_Options_Proprietary_Data_Fee_Schedule.pdf (last visited February 11, 2025).

exchanges offer essentially the same end-of-day and intra-day options trading summary information for trading activity on those exchanges.

The Exchange now proposes to amend Section 6)c) of the Fee Schedule to provide a temporary pricing incentive program in which Members and non-Members that purchase historical Open-Close Report data will receive a percentage fee discount. Specifically, the Exchange proposes to establish new footnote “e.” below the table of fees for the Open-Close Report in Section 6)c) of the Fee Schedule, which will apply to the rows for “End-of-Day Ad-hoc Request (historical data)” and “Intra-Day Ad-hoc Request (historical data)”. Proposed footnote “e.” will provide a 20% discount for ad-hoc purchases of historical Open-Close Report data.¹⁹ To encourage the purchase of monthly subscriptions to Open-Close Report data, the Exchange proposes to provide the proposed discount to only existing subscribers²⁰ who purchase the same category of historical data for which they have a monthly Intra-Day or an End-of-Day subscription. The proposed discount cannot be combined with any other discounts offered by the Exchange, including the academic discount provided for Qualifying Academic Purchasers²¹ of historical Open-Close Report data. The Exchange also proposes to remove the sentence below the table of fees for the Open-Close Report in Section 6)c) of the Fee Schedule that states that such fees are waived during the Initial Waiver Period, as that defined period of time is set to expire on February 28, 2025.

¹⁹ The discount will apply on an order-by-order basis. To qualify for the discount, an order must contain End-of-Day Ad-hoc Requests (historical data) and/or Intra-Day Ad-hoc Requests (historical data) and there is no purchase threshold for such order to qualify for the discount. The Exchange notes that this differs from Cboe family of exchanges’ discount for their open-close data product, which only applies to an order for purchasing \$20,000 or more of historical Open-Close Data.

²⁰ The Exchange notes that this differs from the Cboe family of exchanges’ discount program for their open-close data product, which discount applies to all market participants irrespective of whether the market participant is a new or current purchaser. *See, e.g.*, Securities Exchange Act Release No. 101509 (November 4, 2024), 89 FR 88845 (November 8, 2024) (SR-CBOE-2024-049).

²¹ See supra note 17.

Proposal to Remove References to the Initial Waiver Period

The Exchange proposes to amend the Fee Schedule to remove references to the Initial Waiver Period²² that applied to certain non-transaction fees since the fee waiver period is set to expire on February 28, 2025.

On July 15, 2024, the Securities and Exchange Commission (“Commission”) approved the Exchange’s Form 1 application and corresponding rules for registration as a national securities exchange under Section 6 of the Act.²³ MIAX Sapphire commenced electronic trading in equity options on August 13, 2024.²⁴ In anticipation of the launch of MIAX Sapphire, the Exchange filed a series of rule filings with the Commission to establish the structure and amounts of certain non-transaction fees, all of which were subject to the Initial Waiver Period, and included the following: (1) the definition of Initial Waiver Period; (2) one-time Membership²⁵ application fees; (3) monthly Trading Permit²⁶ fees; (4) Member and non-Member application programming interface (“API”) testing and certification fees; (5) Member and non-Member network connectivity testing and certification fees; (6) port fees; (7) proprietary market data fees; and (8) Liquidity Taker Event Report²⁷ fees.²⁸

²² See supra note 4.

²³ See Securities Exchange Act Release No. 100539 (July 15, 2024) (File No. 10-240) (In the Matter of the Application of MIAX Sapphire, LLC for Registration as a National Securities Exchange; Findings, Opinion, and Order of the Commission).

²⁴ See Press Release, Miami International Holdings Announces Successful Launch of MIAX Sapphire Options Exchange (August 13, 2024), available at <https://www.miaxglobal.com/news/miami-international-holdings-announces-successful-launch-miax-sapphire>.

²⁵ The term “Membership” refers to the trading privileges held by a Member. See Exchange Rule 100.

²⁶ The term “Trading Permit” means a permit issued by the Exchange that confers the ability to transact on the Exchange. See Exchange Rule 100.

²⁷ See Exchange Rule 531(a)-(c) for the rule text for the Liquidity Taker Event Report – Simple Orders (“Simple Order Report”), Liquidity Taker Event Report – Complex Orders (“Complex Order Report”), and Liquidity Taker Event Report – Resting Simple Orders (“Resting Simple Order Report”).

²⁸ See Securities Exchange Act Release Nos. 100749 (August 16, 2024), 89 FR 67999 (August 22, 2024) (SR-SAPPHIRE-2024-08); 100751 (August 16, 2024), 89 FR 68010 (August 22, 2024) (SR-SAPPHIRE-2024-09); 100683 (August 9, 2024), 89 FR 66467 (August 15, 2024) (SR-SAPPHIRE-2024-13); 100752

As described above, the Initial Waiver Period meant, for each applicable fee, the period of time from the initial effective date of the MIAX Sapphire Fee Schedule plus an additional six (6) full calendar months after the completion of the partial month of the Exchange launch. The Exchange launched operations on August 13, 2024, with the initial Fee Schedule taking effect at that time (even though the initial version of the Fee Schedule was withdrawn and refiled several times, the fees remained in effect throughout that entire period). As such, the Initial Waiver Period for each applicable fee constituted the partial month of August 2024, and then six months thereafter, with the Initial Waiver Period set to expire at the end of February 2025 (the sixth full calendar month).

The Exchange now proposes to remove references to the Initial Waiver Period from the Fee Schedule as the defined period of time is set to expire and the fees for each applicable section will take effect automatically. In particular, the Exchange proposes to make the following changes:

- Amend the Definitions section of the Fee Schedule to delete the definition of “Initial Waiver Period.”
- Amend Section 3)a), Application for MIAX Sapphire Membership (One-Time Fee), of the Fee Schedule to delete the phrase “One-time Membership Application Fees will be waived during the Initial Waiver Period,” which is below the table of one-time membership application fees for Electronic Exchange Members (“EEMs”) and Market Makers.

(August 16, 2024), 89 FR 67986 (August 22, 2024) (SR-SAPPHIRE-2024-20); 101418 (October 23, 2024), 89 FR 86024 (October 29, 2024) (SR-SAPPHIRE-2024-32); 101460 (October 29, 2024), 89 FR 87708 (November 4, 2024) (SR-SAPPHIRE-2024-34); and 101922 (December 16, 2024), 89 FR 104254 (December 20, 2024) (SR-SAPPHIRE-2024-41).

- Amend Section 3)b), Monthly Trading Permit Fees, of the Fee Schedule to delete the phrase “Monthly Trading Permit Fees will be waived during the Initial Waiver Period” that appears at the beginning of that subsection.
- Amend Section 4)a), Member Application Programming Interface (“API”) Testing and Certification Fee, to delete the phrase “Member Application Programming Interface (‘API’) Testing and Certification Fees will be waived during the Initial Waiver Period,” which is below the table for API testing and certification fees for EEMs and Market Makers.
- Amend Section 4)b), Non-Member API Testing and Certification Fee, to delete the phrase “Non-Member API Testing and Certification Fees will be waived during the Initial Waiver Period,” which is below the table for API testing and certification fees for non-Members.
- Amend Section 4)c), Member Network Connectivity Testing and Certification Fee, to delete the phrase “Member Network Connectivity Testing and Certification Fees will be waived during the Initial Waiver Period,” which is below the table of fees for Market Maker and EEM network connectivity testing and certification for 1 gigabit (“Gb”) and 10Gb ULL connections.
- Amend Section 4)d), Non-Member Network Connectivity Testing and Certification Fee, to delete the phrase “Non-Member Network Connectivity Testing and Certification Fees will be waived during the Initial Waiver Period,” which is below the table of fees for non-Member network connectivity testing and certification for 1Gb and 10Gb ULL connections.

- Amend Section 5)d), Port Fees, to delete the phrase “All Port Fees will be waived during the Initial Waiver Period,” which is below the heading “d) Port Fees.”
- Amend Section 6)c), Open-Close Report, to delete the phrase “Open-Close Report Fees will be waived during the Initial Waiver Period,” which is below the table of fees for the Open-Close Report.
- Amend Section 7), Reports, to delete the phrase “The monthly fees for the Simple Order Report, Complex Order Report and Resting Simple Order Report will be waived during the Initial Waiver Period,” which is below the table of fees for each Liquidity Taker Event Report.

The Exchange initially waived the aforementioned fees in order to attract new market participants to trade on the Exchange and subscribe to the data feeds and reports. Since the Initial Waiver Period is set to expire at the end of February 2025, the Exchange proposes to remove the definition of the Initial Waiver Period and all aforementioned references to the Initial Waiver Period throughout the Fee Schedule.

Proposal to Remove Text Regarding Fee Waivers and Discounts in Sections 5a)-b)

The Exchange proposes to remove the text regarding fee waivers and discounts in Sections 5)a)-b) since the fee waiver and discount periods are set to expire relating to connectivity fees.

Currently, Sections 5)a) – b) of the Fee Schedule provide that the monthly Member and non-Member network connectivity fees for the 1 Gb connections to the primary/secondary facility and disaster recovery facility, and 10 Gb ULL connections to the disaster recovery facility will be waived for the partial month in which the Exchange launches operations, plus an additional three full calendar months. The monthly Member and non-Member network

connectivity fees for the 1 Gb connections to the primary/secondary facility and disaster recovery facility, and 10 Gb ULL connections to the disaster recovery facility will be discounted by 50% for the three full calendar months thereafter. The monthly Member and non-Member network connectivity fees for the first two 10 Gb ULL connections on each switch to the primary/secondary facility will be waived for the partial month in which the Exchange launches operations, plus an additional three full calendar months. The monthly Member and non-Member network connectivity fees for the first two 10 Gb ULL connections on each switch to the primary/secondary facility will be discounted by 50% for the three full calendar months thereafter.

As described above, the Exchange launched operations on August 13, 2024, with the initial Fee Schedule taking effect at that time. As such, the fee waiver period for each applicable fee constituted the partial month of August 2024, and then three months thereafter, with the fee waiver expiring at the end of November 2024 (the third full calendar month). In addition, the discount period for each applicable fee was three months thereafter, with the discount period expiring at the end of February 2025 (the third full calendar month).

The Exchange initially established the fee waivers and discounts for the monthly Member and non-Member network connectivity fees in order to attract new market participants to trade on the Exchange. Since the fee waiver period expired and the discount period is set to expire at the end of February 2025, the Exchange proposes to remove the text regarding the fee waivers and discounts in Sections 5)a)-b) of the Fee Schedule.

Implementation Date

The Exchange intends to introduce the discount program for the Open-Close Report

beginning March 1, 2025, with the program remaining in effect through June 30, 2025.²⁹

The proposed to remove references to the Initial Waiver Period and text regarding fee waivers and discounts in Sections 5)a-b) will become effective beginning March 1, 2025.

b. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,³⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act,³¹ in particular, in that it is 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 to protect investors and the public interest, and that it is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes that its proposed changes to its Fee Schedule concerning fees for the Open-Close Report is consistent with Section 6(b) of the Act³² in general, and furthers the objectives of Section 6(b)(4) of the Act³³ in particular, in that it is an equitable allocation of dues, fees and other charges among its members and other persons using its facilities.

Proposal to Establish a Fee Discount Program for the Open-Close Report

In adopting Regulation NMS, the Commission granted self-regulatory organizations (“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.

²⁹ The Exchange notes that at the end of this period, the proposed discount program will expire unless the Exchange files another 19b-4 Rule Filing with the SEC to amend the terms or extend the discount program.

³⁰ 15 U.S.C. 78f(b).

³¹ 15 U.S.C. 78f(b)(5).

³² 15 U.S.C. 78f(b).

³³ 15 U.S.C. 78f(b)(4).

Particularly, the Open-Close Report further broadens the availability of U.S. options market data to investors consistent with the principles of Regulation NMS. The data product also promotes increased transparency through the dissemination of the Open-Close Report. Particularly, information regarding opening and closing activity across different option series during the trading day may indicate investor sentiment, which may allow market participants to make better informed trading decisions throughout the day. Subscribers to the data may also be able to enhance their ability to analyze option trade and volume data and create and test trading models and analytical strategies. The Exchange believes the Open-Close Report provides a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading and completely optional. Moreover, the Exchange's affiliates and several other exchanges offer similar data products which offer the same type of data content through end-of-day or intra-day reports.³⁴

The Exchange operates in a highly competitive environment. Indeed, there are currently 18 registered options exchanges that trade options. Based on publicly available information, no single options exchange had more than approximately 13-14% of the equity options market share for the month of January 2025 and the Exchange represented only approximately 1.97% of the equity options market share for the month of January 2025.³⁵ The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, 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

³⁴ See supra notes 6 and 18.

³⁵ See the “Market Share” section of the Exchange’s website, available at <https://www.miaxglobal.com/>.

successful in promoting market competition in its broader forms that are most important to investors and listed companies.”³⁶ Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supra-competitive fees. In the event that a market participant views one exchange’s data product as more or less attractive than the competition they can, and do, switch between similar products. The proposed fee discount for historical Open-Close Report data is a result of this competitive environment, as the Exchange seeks to attract subscribers of historical Open-Close Report data and make such data more widely accessible.

The Exchange believes that the proposed incentive program for any Member or non-Member who purchases historical Open-Close Report data is reasonable because such purchasers would receive a 20% discount for purchasing historical Open-Close Report data. The Exchange believes that the proposed discount is reasonable as it will give purchasers the ability to use and test the historical Open-Close Report data at a discounted rate and will therefore encourage and promote users to purchase the historical Open-Close Report data. Specifically, the proposed discount is similar to discounts provided for a similar data product by the Exchanges’ affiliates³⁷, as well as other options exchanges.³⁸ Further, the proposed discount is intended to promote increased use of the Exchange’s historical Open-Close Report data by defraying some of the costs a purchaser would ordinarily have to expend. Further, providing the proposed discount to

³⁶ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

³⁷ See supra note 6.

³⁸ See supra note 7. Again, the Exchange notes that this differs from the Cboe family of exchanges’ discount program for their open-close data product, which discount applies to all market participants irrespective of whether the market participant is a new or current purchaser. See, e.g., Securities Exchange Act Release No. 101509 (November 4, 2024), 89 FR 88845 (November 8, 2024) (SR-CBOE-2024-049).

only existing subscribers of a monthly Intra-Day or an End-of-Day subscription is designed to encourage the purchase of monthly subscriptions to Open-Close Report data.

The Exchange believes that the proposed fee discount for historical Open-Close Report data is equitable and not unfairly discriminatory because it will apply equally to all Members and non-Members who are existing subscribers of Open-Close Report data and choose to also purchase historical Open-Close Report data. Providing the proposed discount to only existing subscribers of a monthly Intra-Day or an End-of-Day subscription is not unfairly discriminatory because it is a reasonable means to encourage the purchase of monthly subscriptions to Open-Close Report data. Lastly, the purchase of this data product is discretionary and not compulsory. Indeed, no market participant is required to purchase the historical Open-Close Report data, and the Exchange is not required to make the historical Open-Close Report data available to all investors. Potential purchasers may request the data at any time if they believe it to be valuable or may decline to purchase such data.

Proposal to Remove References to the Initial Waiver Period

The Exchange believes that the proposal to remove references to the Initial Waiver Period would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed changes would provide greater clarity to market participants regarding the Exchange's Fee Schedule by removing references to the Initial Waiver Period that will no longer apply, beginning March 1, 2025. It is in the public interest for the Exchange's Fee Schedule to be accurate so as to eliminate the potential for confusion.

The Exchange also believes that the proposal to remove references to the Initial Waiver Period is reasonable. The Exchange initially waived certain fees in order to attract new market

participants to trade on the Exchange and subscribe to the data feeds and reports. Since the Initial Waiver Period is set to automatically expire at the end of February 2025, the Exchange believes it is reasonable to remove such references from the Fee Schedule. The Exchange believes that the proposal to remove references to the Initial Waiver Period is fair and not unreasonably discriminatory because it applies to all current and future market participants on the Exchange.

Proposal to Remove Text Regarding Fee Waivers and Discounts in Sections 5a)-b)

The Exchange believes that the proposal to remove text regarding fee waivers and discounts in Sections 5a)-b) of the Fee Schedule would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed changes would provide greater clarity to market participants regarding the Exchange's Fee Schedule by removing text regarding fee waivers that have expired and discounts that will no longer apply. It is in the public interest for the Exchange's Fee Schedule to be accurate so as to eliminate the potential for confusion.

The Exchange also believes that the proposal to remove the text regarding the fee waivers and discounts in Sections 5a)-b) is reasonable. The Exchange initially established the fee waivers and discounts for the monthly Member and non-Member network connectivity fees in order to attract new market participants to trade on the Exchange. Since the fee waiver period expired and the discount period is set to automatically expire at the end of February 2025, the Exchange proposes to remove such fee waivers and discounts from the Fee Schedule. The Exchange believes that the proposal to remove the text regarding the fee waivers and discounts in Sections 5a)-b) of the Fee Schedule is fair and not unreasonably discriminatory because it applies to all current and future market participants on the Exchange.

4. **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.

Intra-Market Competition

The Exchange believes that the proposed discount will not cause any unnecessary or inappropriate burden on intra-market competition, as the proposed incentive program applies uniformly to any purchaser of historical Open-Close Report data. The purchase of this data product is discretionary and not compulsory. Indeed, no market participant is required to purchase the historical Open-Close Report data, and the Exchange is not required to make the historical Open-Close Report data available to all investors. Potential purchasers may request the data at any time if they believe it to be valuable or may decline to purchase such data.

The Exchange believes that the proposal to remove references to the Initial Waiver Period and text regarding fee waivers and discounts in Sections 5)a) – b) will have no impact on intra-competition as they are not designed to address any competitive issue but rather are designed to remove outdated text from the Fee Schedule. The Initial Waiver Period is set to automatically expire at the end of February 2025. The fee waiver period in Sections 5)a) – b) expired and the discount period in Sections 5)a) – b) is set to automatically expire at the end of February 2025. The proposal to remove references to the Initial Waiver Period and text regarding fee waivers and discounts in Sections 5)a) – b) is to remove outdated text from the Fee Schedule once they expire.

Inter-Market Competition

The Exchange operates in a highly competitive environment in which the Exchange must continually adjust its fees to remain competitive. Because competitors are free to modify their

own fees in response, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As discussed above, Open-Close Report data is subject to direct competition from several other options exchanges that offer substantively similar substitutes to the Exchange's Open-Close Report, albeit for trading data on those exchanges.³⁹ Moreover, purchase of historical Open-Close Report data is entirely optional. It is designed to help investors understand underlying market trends to improve the quality of investment decisions, but is not necessary to execute a trade.

The proposed discount for Open-Close Report is grounded in the Exchange's efforts to compete more effectively. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for market information. As a result, the Exchange believes this proposed discount will not impose any burden on inter-market competition, on the contrary, it permits fair competition among national securities exchanges. Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supra-competitive fees.

The Exchange believes that the proposal to remove all references to the Initial Waiver Period and text regarding fee waivers and discounts in Sections 5)a) – b) will have no impact on inter-competition as they are not designed to address any competitive issue but rather are designed to remove obsolete text from the Fee Schedule.

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

³⁹ See supra note 18.

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,⁴⁰ and Rule 19b-4(f)(2) thereunder⁴¹ 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 self-regulatory organization, 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**

The proposed discount program is based on substantively similar discount programs in place at other exchanges for their open-close data products.⁴²

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

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.

⁴⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴¹ 17 CFR 240.19b-4.

⁴² See supra note 7.