SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-95365; File No. SR-MIAX-2022-26)

July 26, 2022

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Exchange Rule 404, Series of Option Contracts Open for Trading

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on July 13, 2022, Miami International Securities Exchange, LLC ("MIAX Options" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 404, Series of Option Contracts Open for Trading.

The text of the proposed rule change is available on the Exchange's website at http://www.miaxoptions.com/rule-filings/ at MIAX Options' principal office, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified

---

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

2 17 CFR 240.19b-4.

in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to amend Exchange Rule 404, Series of Option Contracts Open for Trading. Specifically, the Exchange proposes to amend Interpretations and Polices .11 of Rule 404 to account for conflicts between different provisions within the Short Term Option Series Rules.

Background

In 2021, the Exchange amended Rule 404 to limit the intervals between strikes in equity options listed as part of the Short Term Option Series Program, excluding Exchange-Traded Fund Shares and ETNs, that have an expiration date more than twenty-one days from the listing date ("Strike Interval Proposal").[3] The Strike Interval Proposal adopted new Policy .11 to Interpretations and Policies of Rule 404, which included a table that intended to specify the applicable strike intervals that would supersede Policy .02(e)[4] of Rule 404 for Short Term Option Series in equity options, excluding Exchange-Traded Fund Shares and ETNs, which have an expiration date more than twenty-one days from the listing date. The Strike Interval Proposal was designed to reduce the density of strike intervals that would be listed in later weeks, within

3 See Securities Exchange Act Release No. 91776 (May 5, 2021), 86 FR 25923 (May 11, 2021) (SR-MIAX-2021-12).

4 The strike price interval for Short Term Option Series may be $0.50 or greater for option classes that trade in $1 strike price intervals and are in the Short Term Option Series Program. If the class does not trade in $1 strike price intervals, the strike price interval for Short Term Option Series may be $0.50 or greater where the strike price is less than $100 and $1.00 or greater where the strike price is between $100 and $150, and $2.50 or greater for strike prices greater than $150. See Policy .02(e) of Exchange Rule 404.

the Short Term Option Series Program, by utilizing limitations for intervals between strikes which have an expiration date more than twenty-one days from the listing date.

The Exchange now proposes to amend the rule text within Policy .11 of Interpretations and Policies of Rule 404 to clarify current rule text and amend the application of the table to account for potential conflicts within the Short Term Option Series Rules. Currently, the table within Policy .11 of Rule 404 is as follows:[5]

		Share Price				
Tier	**Average Daily Volume**	**Less than $25**	**$25 to less than $75**	**$75 to less than $150**	**$150 to less than $500**	**$500 or greater**
1	Greater than 5,000	$0.50	$1.00	$1.00	$5.00	$5.00
2	Greater than 1,000 to 5,000	$1.00	$1.00	$1.00	$5.00	$10.00
3	0 to 1,000	$2.50	$5.00	$5.00	$5.00	$10.00

The first sentence of Policy .11 of Rule 404 provides, "[w]ith respect to listing Short Term Option Series in equity options, excluding Exchange-Traded Fund Shares and ETNs, which have an expiration date more than twenty-one (21) days from the listing date, the following table will apply as noted within Policy .02(f)."

5 The Share Price is the closing price on the primary market on the last day of the calendar quarter. In the event of a corporate action, the Share Price of the surviving company is utilized. The Average Daily Volume is the total number of options contracts traded in a given security for the applicable calendar quarter divided by the number of trading days in the applicable calendar quarter. Beginning on the second trading day in the first month of each calendar quarter, the Average Daily Volume shall be calculated by utilizing data from the prior calendar quarter based on Customer-cleared volume at The Options Clearing Corporation. For options listed on the first trading day of a given calendar quarter, the Average Daily Volume shall be calculated using the quarter prior to the last trading calendar quarter. See Interpretations and Policies .11 of Exchange Rule 404.

First, the Exchange proposes to amend the first sentence of Policy .11 of Rule 404 to provide, "[w]ith respect to listing Short Term Option Series in equity options, excluding Exchange-Traded Fund Shares and ETNs, which have an expiration date more than twenty-one (21) days from the listing date, the following table*, which specifies the applicable interval for listing,* will apply as noted within Policy .02(f)." The table within Policy .11 provides for the listing of intervals based on certain parameters (average daily volume and share price). The Exchange proposes to add the phrase, "which specifies the applicable interval for listing" to make clear that the only permitted intervals are as specified in the table within Interpretations and Policies .11, except in the case where Policy .02(e) of Rule 404 provides for a greater interval as described in more detail below.

Second, the Exchange proposes to add a new sentence to Policy .11 of Rule 404 which states, "[t]o the extent there is a conflict between applying Policy .02(e) and the below table, the greater interval would apply." Today, there are instances where a conflict is presented as between the application of the table within Policy .11 and the rule text within Policy .02(e) with respect to the correct interval. Adding the proposed sentence would make clear to Members[6] the applicable intervals where there is a conflict between the rule text within Policy .11 and the rule text within Policy .02(e), thereby providing certainty as to the outcome. The Exchange proposes to insert the words "greater interval" because it proposes to permit Policy .02(e) of Rule 404 to govern only in the event that the interval would be greater. The same analysis would not be conducted where the result would be a lesser interval. By way of example:

---

6 The term "Member" means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed "members" under the Exchange Act. See Exchange Rule 100.

Example 1: Assume a Tier 1 stock that closed on the last day of Q1 with a quarterly share price higher than $75 but less than $150. Therefore, utilizing the table within Policy .11 of Rule 404, the interval would be $1.00 for strikes added during Q2 even for strikes above $150. Next, assume during Q2 the share price rises above $150. Utilizing only the table within Policy .11, the interval would be $1.00 even though the stock is now trading above $150 because the Share Price for purposes of Policy .11 was calculated utilizing data from the prior calendar quarter. However, a separate Policy, Policy .02(e) of Rule 404, provides that the Exchange may list a Short Term Option Series at $2.50 intervals where the strike price is above $150. In other words, there is a potential conflict between the permitted strike intervals above $150. In this example, Policy .11 of Rule 404 would specify a $1.00 interval whereas Policy .02(e) of Rule 404 would specify a $2.50 interval. As proposed, the Exchange proposes to apply the greater interval. The greater interval would then be $2.50 as per Policy .02(e) of Rule 404 in this scenario. Therefore, the following strikes would be eligible to list: $152.50 and $157.50. For strikes less than $150, the following strikes would be eligible to list: $149 and $148 because Short Term Option Series with expiration dates more than 21 days from the listing date as well as Short Term Option Series with expiration dates less than 21 days from the listing date would both be eligible to list $1 intervals pursuant to Policy .11 of Rule 404 and Policy .02(e) of Rule 404.

Example 2: Assume a Tier 2 stock that closed on the last day of Q1 with a quarterly share price less than $25. Therefore, utilizing the table within Policy.11 of Rule 404, the interval would be $1.00 for strikes added during Q2 even for strikes above $25. Next, assume during Q2 the share price rises above $100. Utilizing only the table within Policy .11 of Rule 404, the interval would be $1.00 even though the stock is now trading above $100 because the Share

Price for purposes of Policy .11 of Rule 404 was calculated utilizing data from the prior calendar quarter. However, Policy .02(e) of Rule 404 provides that the Exchange may list a Short Term Option Series at $1.00 intervals where the strike price is above $100. As proposed, the Exchange would apply the greater interval, however, the $1.00 interval is the same in both cases in this scenario and, therefore, there is no conflict. Now, assume during Q2 the share price rises above $150. Utilizing only the table within Policy .11 of Rule 404, the interval would continue to be $1.00 because the Share Price relied on data from the prior calendar quarter, however, pursuant to Policy .02(e) of Rule 404, the interval would be $2.50 for strike prices above $150. The greater interval would then be $2.50 as per Policy .02(e) of Rule 404 in this scenario.

Example 3: Assume a Tier 3 stock that closed on the last day of Q1 with a quarterly share price less than $25. Therefore, utilizing the table within Policy .11 of Rule 404, the interval would be $2.50 for strikes added during Q2 even for strikes above $25. Next, assume during Q2 the share price rises above $100. Utilizing only the table within Policy .11 of Rule 404, the interval would be $2.50 even though the stock was trading above $100 because the Share Price for purposes of Policy .11 of Rule 404 was calculated utilizing data from the prior calendar quarter. However, Policy .02(e) of Rule 404 provides that the Exchange may list a Short Term Option Series at $1.00 intervals where the strike price is above $100. The greater interval would then be $2.50 as per the table in Policy .11 of Rule 404 in this scenario.

Third, the Exchange proposes to delete the last sentence of the first paragraph of Policy .11 of Rule 404 which states, "[t]he below table indicates the applicable strike intervals and supersedes Policy .02(d) which permits additional series to be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the exercise price or prices of the series already opened." The table within Policy .11 impacts strike intervals, while Policy .02(d) describes adding series of options. The table within Policy .11 supersedes other rules pertaining to strike intervals, but the table does not supersede rules governing the addition of options series. Therefore, the table within Policy .11 of Rule 404 and the rule text of Policy .02(d) do not conflict with each other. Deleting the reference to Policy .02(d) will avoid confusion.

Fourth, and finally, the Exchange provides within the last sentence of Policy .11 of Rule 404 that, "[n]otwithstanding the limitations imposed by this Policy .11, this proposal does not amend the range of strikes that may be listed pursuant to Policy .02 above, regarding the Short Term Option Series Program." The Exchange proposes to remove this rule text. While the range limitations continue to be applicable to the table within Policy .11, the strike ranges do not conflict with strike intervals and therefore the sentence is not necessary. Removing the last sentence of Policy .11 of Rule 404 will avoid confusion. Also, the rule text within Policy .02(f) of Rule 404 otherwise indicates when Policy .11 would apply.

Implementation

The Exchange proposes to implement this rule change on August 1, 2022. The Exchange will issue a Trader Alert to notify Members of the implementation date.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act[7] in general, and furthers the objectives of Section 6(b)(5) of the Act[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable

---

7 15 U.S.C. 78f(b).

8 15 U.S.C. 78f(b)(5).

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 and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange's proposal to add clarifying language to the first sentence of Policy .11 of Rule 404, is consistent with the Act because it will make clear that the only permitted intervals are as specified in the table within Policy .11, except in the case where Policy .02(e) provides for a greater interval. This amendment will bring greater transparency to the rule.

Adopting a new sentence within Policy .11 of Rule 404 to address a potential conflict between the Short Term Option Series Program rules, specifically as between the application of the table within Policy .11 of Rule 404, and the rule text within Policy .02(e), with respect to the correct interval is consistent with the Act. The table within Policy .11 of Rule 404 supersedes other strike interval rules, but does not supersede the addition of option series. Therefore, these rules do not conflict with the table in Policy .11 of Rule 404. Deleting the reference to Policy .02(d) will avoid confusion. This new rule text will make clear to Members the applicable intervals when there is a conflict between the rule text within Policy .11 of Rule 404 and the rule text within Policy .02(e), thereby providing certainty as to the outcome. The proposed new rule text promotes just and equitable principles of trade by adding transparency to the manner in which the Exchange implements its listing rules, and protects investors and the general public by removing uncertainty.

Removing the last sentence of the first paragraph of Policy .11 of Rule 404, is consistent with the Act because the table within Policy .11 impacts strike intervals, while Policy .02(d) of Rule 404, describes the addition of options series. Therefore, the tables within Policy .11 and

Policy .02(d) do not conflict with each other. Deleting the reference to Policy .02(d) will avoid confusion.

Removing the last sentence of Policy .11 is consistent with the Act because while the range limitations continue to be applicable, the strike ranges do not conflict with strike intervals, rendering the sentence unnecessary. Removing the last sentence of Policy .11 of Rule 404 will avoid confusion. Also, the rule text within Policy .02(f) of Rule 404 otherwise indicates when Policy .11 would apply.

The Strike Interval Proposal was designed to reduce the density of strike intervals that would be listed in later weeks, within the Short Term Option Series Program, by utilizing limitations for intervals between strikes which have an expiration date more than twenty-one days from the listing date. The Exchange's proposal intends to continue to remove certain strike intervals where there exist clusters of strikes whose characteristics closely resemble one another and, therefore, do not serve different trading needs,[9] rendering these strikes less useful. Also, the Strike Interval Proposal continues to reduce the number of strikes listed on the Exchange, allowing Market Makers[10] to expend their capital in the options market in a more efficient manner, thereby improving overall market quality on the Exchange.

Additionally, by making clear that the greater interval would control as between the rule text with Policy .11 of Rule 404 and the rule text within Policy .02(e), the Exchange is reducing the number of strikes listed in a manner consistent with the intent of the Strike Interval Proposal, which was to reduce strikes which were farther out in time. The result of this clarification is to

---

9 For example, two strikes that are densely clustered may have the same risk properties and may also be the same percentage out-of-the-money.

10 The Term Market Makers refers to "Lead Market Makers", "Primary Lead Market Makers" and "Registered Market Makers" collectively. See Exchange Rule 100.

select wider strike intervals for Short Term Option Series in equity options which have an expiration date more than twenty-one days from the listing date. This rule change would harmonize strike intervals as between inner weeklies (those having less than twenty-one days from the listing date) and outer weeklies (those having more than twenty-one days from the listing date) so that strike intervals are not widening as the listing date approaches.

B. 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. The Strike Interval Proposal continues to limit the number of Short Term Option Series strike intervals available for quoting and trading on the Exchange for all Members.

Adopting a new sentence to address potential conflicts between the rule text within Policy .11 of Rule 404 and Policy .02(e) of Rule 404, within the Short Term Option Series Program, will bring greater transparency to the manner in which the Exchange implements its listing rules. Adding clarifying language to the first sentence of Policy .11 of Rule 404 to make clear which parameter the table within Policy .11 amends within the Short Term Option Series Program will bring greater transparency to the rules.

The table within Policy .11 of Rule 404 impacts strike intervals, while Policy .02(d) describes adding series of options. The table within Policy .11 supersedes other strike interval rules, but does not supersede the addition of series. Removing the last sentence of the first paragraph of Policy .11 of Rule 404, does not impose an undue burden on competition because the table within Policy .11 of Rule 404 supersedes other rules pertaining to strike intervals, but the table does not supersede rules governing the addition of options series. Also, deleting the reference to Policy .02(d) of Rule 404 will avoid confusion. Finally, removing the last sentence of Policy .11 of Rule 404 will remove any potential confusion. While the range limitations continue to be applicable, the strike ranges do not conflict with strike intervals and are not necessary.

While this proposal continues to limit the intervals of strikes listed on the Exchange, the Exchange continues to balance the needs of market participants by continuing to offer a number of strikes to meet a market participant's investment objective. The Exchange's Strike Interval Proposal does not impose an undue burden on inter-market competition as this Strike Interval Proposal does not impact the listings available at another self-regulatory organization.

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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act[11] and Rule 19b-4(f)(6)[12] thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)[13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-

11 15 U.S.C. 78s(b)(3)(A).

12 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

13 17 CFR 240.19b-4(f)(6).

4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the Exchange may implement the proposed rule change on August 1, 2022—the same time other exchanges are implementing an identical change.[15] The Exchange states that implementing the proposal simultaneously with other option exchanges will promote the protection of investors by harmonizing the strike listing methodology across exchanges. For this reason, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

---

14 17 CFR 240.19b-4(f)(6)(iii).

15 See Securities Exchange Act Release No. 95085 (June 10, 2022), 87 FR 36353 (June 16, 2022) (SR-ISE-2022-10) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, to Amend ISE Options 4, Section 5, Series of Options Contracts Open for Trading).

16 For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (http://www.sec.gov/rules/sro.shtml); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-MIAX-2022-26 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-MIAX-2022-26. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (http://www.sec.gov/rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MIAX-2022-26 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,
Deputy Secretary.

[17] 17 CFR 200.30-3(a)(12), (59).