

purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

#### IV. Solicitation of Comments

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

##### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-PEARL-2020-34 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-PEARL-2020-34. 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-PEARL-2020-34, and should be submitted on or before January 4, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>28</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-90592; File No. SR-CBOE-2020-052]

### Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Rules 5.37, 5.38, and 5.73 Related to Auction Notification Messages and Index Combo Orders in SPX in the Automated Improvement Mechanism, Complex Automated Improvement Mechanism, and FLEX Automated Improvement Mechanism

December 8, 2020.

On June 3, 2020, Cboe Exchange, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend Rules 5.37, 5.38, and 5.73 to (1) allow the Exchange to determine to disseminate the stop price in auction notification messages for Automated Improvement Mechanism ("AIM"), Complex Automated Improvement Mechanism ("C-AIM"), and FLEX AIM auctions in S&P 500® Index options ("SPX"); and (2) modify the minimum increment for C-AIM and FLEX AIM auction responses for Index Combo Orders in SPX. The proposed rule change was published for comment in the **Federal Register** on June 18, 2020.<sup>3</sup> On July 22, 2020, the Exchange submitted Amendment No. 1 to the proposed rule change, which replaced and superseded the proposed rule change in its entirety.<sup>4</sup> On July 27, 2020,

<sup>28</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 89063 (June 12, 2020), 85 FR 36923. Comments received on the proposed rule change are available on the Commission's website at: <https://www.sec.gov/comments/sr-cboe-2020-052/sr-cboe2020052.htm>.

<sup>4</sup> In Amendment No. 1, the Exchange amended the proposal to: (1) To add that, when the proposed stop price dissemination in auction notification messages is enabled for AIM, C-AIM, or FLEX AIM auctions in SPX, it would apply to all such AIM, C-AIM, or FLEX AIM auctions; (2) specify that the

pursuant to Section 19(b)(2) of the Act,<sup>5</sup> the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.<sup>6</sup> On August 21, 2020, the Commission published notice of Amendment No. 1 and instituted proceedings under Section 19(b)(2)(B) of the Act<sup>7</sup> to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.<sup>8</sup>

Section 19(b)(2) of the Act<sup>9</sup> provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The date of publication of notice of filing of the proposed rule change was June 18, 2020. December 15, 2020, is 180 days from that date, and February 13, 2021, is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider this proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> designates February 13, 2021, as the date by which the Commission shall either approve or disapprove the proposed rule change, as modified by Amendment No. 1 (File No. SR-CBOE-2020-052).

proposed minimum increment modification would apply to Index Combo Orders in SPX, and to correct an internal cross-reference in the proposed rules; (3) provide additional detail to the description and examples of the proposed modification to the minimum increment for Index Combo Orders in SPX; and (4) provide additional justification and support for the proposed rule change. The full text of Amendment No. 1 is available on the Commission's website at: <https://www.sec.gov/comments/sr-cboe-2020-052/sr-cboe2020052-7464403-221166.pdf>.

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> See Securities Exchange Act Release No. 89400, 85 FR 46202 (July 31, 2020). The Commission designated September 16, 2020 as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

<sup>7</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>8</sup> See Securities Exchange Act Release No. 89638, 85 FR 53045 (August 27, 2020).

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> *Id.*

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**J. Matthew DeLesDernier,**  
Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-90601; File No. SR-EMERALD-2020-18]

### Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Its Fee Schedule To Adopt a Monthly Trading Permit Fees

December 8, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 27, 2020, MIAX Emerald, LLC (“MIAX Emerald” or “Exchange”), filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange is filing a proposal to amend the MIAX Emerald Fee Schedule (the “Fee Schedule”) to establish monthly Trading Permit<sup>3</sup> fees for Exchange Members.<sup>4</sup>

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

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

In its filing with the Commission, the Exchange included statements

concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

##### 1. Purpose

The Exchange proposes to amend the Fee Schedule to adopt monthly Trading Permit fees (the “Proposed Access Fees”) depending on the Member’s status as either an Electronic Exchange Member (“EEM”)<sup>5</sup> or as a Market Maker.<sup>6</sup> MIAX Emerald commenced operations as a national securities exchange registered under Section 6 of the Act<sup>7</sup> on March 1, 2019.<sup>8</sup> The Exchange adopted its transaction fees and certain of its non-transaction fees in its filing SR-EMERALD-2019-15.<sup>9</sup> In that filing, the Exchange expressly waived, among other fees, the Proposed Access Fees, to provide an incentive to prospective EEMs and Market Makers to become Members of the Exchange. Accordingly, since the launch of the Exchange, all such membership fees have been waived for the Waiver Period.<sup>10</sup> When the Exchange adopted the framework for its fees, it stated that it would provide notice to market

<sup>5</sup> “Electronic Exchange Member” or “EEM” means the holder of a Trading Permit who is not a Market Maker. Electronic Exchange Members are deemed “members” under the Exchange Act. See Exchange Rule 100 and the Definitions Section of the Fee Schedule.

<sup>6</sup> The term “Market Makers” refers to “Lead Market Makers”, “Primary Lead Market Makers” and “Registered Market Makers” collectively. See Exchange Rule 100 and the Definitions Section of the Fee Schedule.

<sup>7</sup> 15 U.S.C. 78f.

<sup>8</sup> See Securities Exchange Act Release No. 84891 (December 20, 2018), 83 FR 67421 (December 28, 2018) (File No. 10-233) (order approving application of MIAX Emerald, LLC for registration as a national securities exchange).

<sup>9</sup> See Securities Exchange Act Release No. 85393 (March 21, 2019), 84 FR 11599 (March 27, 2019) (SR-EMERALD-2019-15) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish the MIAX Emerald Fee Schedule).

<sup>10</sup> “Waiver Period” means, for each applicable fee, the period of time from the initial effective date of the MIAX Emerald Fee Schedule until such time that the Exchange has an effective fee filing establishing the applicable fee. The Exchange will issue a Regulatory Circular announcing the establishment of an applicable fee that was subject to a Waiver Period at least fifteen (15) days prior to the termination of the Waiver Period and effective date of any such applicable fee. See the Definitions Section of the Fee Schedule.

participants when the Exchange intended to terminate the Waiver Period for the Proposed Access Fees.

Accordingly, on September 15, 2020, the Exchange issued a Regulatory Circular which announced that the Exchange would be ending the Waiver Period for the Proposed Access Fees, among other non-transaction fees, beginning October 1, 2020.<sup>11</sup>

The Exchange initially filed its proposal to establish the Proposed Access Fees on October 1, 2020.<sup>12</sup> The First Proposed Rule Change was published for comment in the **Federal Register** on October 21, 2020.<sup>13</sup> On November 25, 2020, the Exchange withdrew the First Proposed Rule Change and refiled its proposal to establish monthly Trading Permit fees.<sup>14</sup>

Trading Permits are issued to Members who are either EEMs or Market Makers. The Exchange proposes to assess the Proposed Access Fees depending upon the category of Member that is issued a Trading Permit. Members issued Trading Permits during a calendar month will be assessed monthly Trading Permit Fees. The Exchange notes that the Exchange’s affiliate, Miami International Securities Exchange, LLC (“MIAX”), charges a similar, fixed trading permit fee to its EEMs, and a similar, varying trading permit fee to its Market Makers, based upon the number of assignments of option classes or the percentage of volume in option classes.<sup>15</sup>

The Exchange proposes that monthly Trading Permit fees will be assessed, with respect to the calculation of such fee to EEMs (other than clearing firms), in any month the EEM is certified in the membership system and is credentialed to use one or more Financial Information Exchange (“FIX”)<sup>16</sup> ports

<sup>11</sup> See MIAX Emerald Regulatory Circular 2020-41 available at [https://www.miaxoptions.com/sites/default/files/circular-files/MIAX\\_Emerald\\_RC\\_2020\\_41.pdf](https://www.miaxoptions.com/sites/default/files/circular-files/MIAX_Emerald_RC_2020_41.pdf).

<sup>12</sup> See Securities Exchange Act Release Nos. 90196 (October 15, 2020), 85 FR 67064 (October 21, 2020) (SR-EMERALD-2020-11) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Adopt One-Time Membership Application Fees and Monthly Trading Permit Fees) (the “First Proposed Rule Change”). The Exchange notes that it will refile its proposal to establish the one-time membership application fee in a separate filing.

<sup>13</sup> See *id.*

<sup>14</sup> See Comment Letter from Joseph W. Ferraro III, SVP, Deputy General Counsel, the Exchange, dated November 20, 2020, notifying the Commission that the Exchange will withdraw the First Proposed Rule Change.

<sup>15</sup> See the MIAX Fee Schedule, Section 3(b).

<sup>16</sup> “FIX Port” means an interface with MIAX Emerald systems that enables the Port user to submit simple and complex orders electronically to MIAX Emerald. See the Definitions Section of the Fee Schedule.

<sup>11</sup> 17 CFR 200.30-3(a)(57).

<sup>12</sup> 15 U.S.C. 78s(b)(1).

<sup>13</sup> 17 CFR 240.19b-4.

<sup>14</sup> The term “Trading Permit” means a permit issued by the Exchange that confers the ability to transact on the Exchange. See Exchange Rule 100.

<sup>15</sup> 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 and the Definitions Section of the Fee Schedule.