

Required fields are shown with yellow backgrounds and asterisks.

Filing by Miami International Securities Exchange, LLC.  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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| Initial *<br><input checked="" type="checkbox"/> | Amendment *<br><input type="checkbox"/>                                      | Withdrawal<br><input type="checkbox"/> | Section 19(b)(2) *<br><input type="checkbox"/>  | Section 19(b)(3)(A) *<br><input checked="" type="checkbox"/> | Section 19(b)(3)(B) *<br><input type="checkbox"/> |
| Pilot<br><input type="checkbox"/>                | Extension of Time Period for Commission Action *<br><input type="checkbox"/> | Date Expires *<br><input type="text"/> | Rule  |  |   |
|  |  |  | <input type="checkbox"/> 19b-4(f)(1)            | <input type="checkbox"/> 19b-4(f)(4)                         |   |
|  |  |  | <input checked="" type="checkbox"/> 19b-4(f)(2) | <input type="checkbox"/> 19b-4(f)(5)                         |   |
|  |  |  | <input type="checkbox"/> 19b-4(f)(3)            | <input type="checkbox"/> 19b-4(f)(6)                         |   |

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| Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010<br>Section 806(e)(1) *<br><input type="checkbox"/> | Section 806(e)(2) *<br><input type="checkbox"/> | Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934<br>Section 3C(b)(2) *<br><input type="checkbox"/> |
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| Exhibit 2 Sent As Paper Document<br><input type="checkbox"/> | Exhibit 3 Sent As Paper Document<br><input type="checkbox"/> |
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**Description**  
Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

Proposal to Amend the Fee Schedule to adopt SPIKES Market Maker Incentive Program

**Contact Information**  
Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name \* Greg Last Name \* Ziegler  
Title \* Senior Counsel  
E-mail \* gziegler@miaxoptions.com  
Telephone \* (609) 897-1483 Fax

**Signature**  
Pursuant to the requirements of the Securities Exchange of 1934, Miami International Securities Exchange, I have caused this filing to be signed on its behalf by the undersigned thereunto duty authorized.

Date 10/12/2021 (Title \*)  
By Gregory P. Ziegler Senior Counsel  
(Name \*)

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Date: 2021.10.12 10:28:45 -04'00'

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SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

**Form 19b-4 Information \***

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SR-MIAX-2021-49 19b4 20211011.dc

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

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SR-MIAX-2021-49- Exhibit 1.docx

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

**Exhibit 3 - Form, Report, or Questionnaire**

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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SR-MIAX-2021-49 Exhibit 5 20211011

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

## 1. **Text of the Proposed Rule Change**

(a) Miami International Securities Exchange, LLC (“MIAX” or “Exchange”), pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> proposes to amend the MIAX Options Fee Schedule (the “Fee Schedule”) to adopt an incentive program for Market Makers<sup>3</sup> in SPIKES<sup>®</sup> options.

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 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 MIAX Board of Directors on January 28, 2021. 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 Gregory P. Ziegler, VP, Senior Counsel, at (609) 897-1483.

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

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

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

<sup>3</sup> The term “Market Makers” refers to “Lead Market Makers”, “Primary Lead Market Makers” and “Registered Market Makers” collectively. See Exchange Rule 100.

a. Purpose

The Exchange proposes to amend the Fee Schedule to implement a SPIKES Options Market Maker Incentive Program (the “Incentive Program”) for the period beginning October 1, 2021, and ending December 31, 2021.<sup>4</sup> The Incentive Program is designed to improve liquidity, volume, and quote width spreads in SPIKES options. Technical details regarding the Incentive Program were published in a Regulatory Circular on September 30, 2021.<sup>5</sup> The Exchange originally filed this proposal on September 30, 2021, (SR-MIAX-2021-45). On October 12, 2021, the Exchange withdrew SR-MIAX-2021-45 and refiled this proposal.

Background

On October 12, 2018, the Exchange received approval from the Commission to list and trade options on the SPIKES<sup>®</sup> Index, which measures expected 30-day volatility of the SPDR<sup>®</sup> S&P 500 ETF Trust (commonly known and referred to by its ticker symbol, “SPY”).<sup>6</sup> The Exchange adopted its initial SPIKES transaction fees on February 15, 2019.<sup>7</sup> Options on the SPIKES Index began trading on the Exchange on February 19, 2019.

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<sup>4</sup> The Exchange notes that at the end of the period, the Program will expire unless the Exchange files another 19b-4 Filing to amend its fees.

<sup>5</sup> See MIAX Options Regulatory Circular 2021-56, SPIKES Options Market Maker Incentive Program (September 30, 2021) available at [https://www.miaxoptions.com/sites/default/files/circular-files/MIAX\\_Options\\_RC\\_2021\\_56.pdf](https://www.miaxoptions.com/sites/default/files/circular-files/MIAX_Options_RC_2021_56.pdf).

<sup>6</sup> See Securities Exchange Act Release No. 84417 (October 12, 2018), 83 FR 52865 (October 18, 2018) (SR-MIAX-2018-14) (Order Granting Approval of a Proposed Rule Change by Miami International Securities Exchange, LLC to List and Trade on the Exchange Options on the SPIKES<sup>®</sup> Index).

<sup>7</sup> See Securities Exchange Release No. 85283 (March 11, 2019), 84 FR 9567 (March 15, 2019) (SR-MIAX-2019-11). On September 30, 2020, the Exchange filed its proposal to, among other things, reorganize the Fee Schedule to adopt new Section 1)b), Proprietary Products Exchange Fees, and moved the fees and rebates for SPIKES options into new

### SPIKES Options Market Maker Incentive Program

The Exchange proposes to implement a SPIKES Options Market Maker Incentive Program for SPIKES options to incentivize Market Makers to improve liquidity, available volume, and the quote spread width of SPIKES options. To be eligible to participate in the Incentive Program, a Market Maker must meet certain minimum requirements related to quote spread width in certain in-the-money (ITM) and out-of-the-money (OTM) options as determined by the Exchange and communicated to Members via Regulatory Circular.<sup>8</sup> Market Makers must also satisfy a minimum time in the market in the front 2 expiry months of 70%, and have an average quote size of 25 contracts.

The Exchange proposes to establish two separate incentive compensation pools that will be used to compensate Market Makers that satisfy the criteria pursuant to the proposed Incentive Program.

#### Incentive 1 Pool

The first pool (Incentive 1) will be a total amount of \$40,000 per month, which will be allocated to Market Makers that meet the minimum requirements of the Incentive Program. Market Makers will be required to meet minimum spread width requirements in a select number of ITM and OTM SPIKES option contracts as determined by the Exchange and communicated to Members<sup>9</sup> via Regulatory Circular.<sup>10</sup> A complete description of how the Exchange calculates

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Section 1)b)i). See Securities Exchange Act Release No. 90146 (October 9, 2020), 85 FR 65443 (October 15, 2020) (SR-MIAX-2020-32).

<sup>8</sup> Supra note 5.

<sup>9</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.

<sup>10</sup> Supra note 5.

the minimum spread width requirements in ITM and OTM SPIKES options can be found in the published Regulatory Circular,<sup>11</sup> additionally an example is provided below. Market Makers will also be required to maintain the minimum spread width, described above, for at least 70% of the time in the front two (2) SPIKES options contract expiry months and maintain an average quote size of at least 25 SPIKES options contracts. The amount available to each individual Market Maker will be capped at \$10,000 per month for satisfying the minimum requirements of the Incentive Program. In the event that more than four Market Makers meet the requirements of the Incentive Program, each qualifying Market Maker will be entitled to receive a pro-rated share of the \$40,000 monthly compensation pool dependent upon the number of qualifying Market Makers in that particular month. For example, if five Market Makers qualify for compensation under Incentive 1 of the Incentive Program, each Market Maker would receive a rebate of \$8,000 for that particular month.

#### Incentive 2 Pool

The second pool (Incentive 2 Pool) will be capped at a total amount of \$100,000 per month which will be used during the Incentive Program to further incentivize Market Makers who meet or exceed the requirements of Incentive 1 (“qualifying Market Makers”) to provide tighter quote width spreads. The Exchange will rank each qualifying Market Maker’s quote width spread relative to each other qualifying Market Maker’s quote width spread. Market Makers with tighter spreads in certain strikes, as determined by the Exchange and communicated to Members via Regulatory Circular,<sup>12</sup> will be eligible to receive a pro-rated share of the compensation pool as calculated by the Exchange and communicated to Members via Regulatory

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<sup>11</sup> Id.

<sup>12</sup> Id.

Circular,<sup>13</sup> not to exceed \$25,000 per Member per month. Qualifying Market Makers will be ranked relative to each other based on the quality of their spread width (i.e., tighter spreads are ranked higher than wider spreads) and the Market Maker with the best quality spread width will receive the highest rebate, while other eligible qualifying Market Makers will receive a rebate relative to their quality spread width.

#### Incentive Pool 2 Example

Each qualifying Market Maker's ITM/OTM market width for eligible Incentive Program options will be calculated, weighted, and ranked. ITM market width will be given a 25% weighting and OTM market width will be given a 75% weighting. Eligible ITM options require a maximum quote width spread of 150 basis points ("bps") and each eligible OTM option requires a maximum quote width of 100 bps (as calculated below).

The formula employed by the Exchange to calculate the bps for an individual strike is:  $\{(Ask\ Quote - Bid\ Quote)/Futures\ price\} * 10,000$ , where the futures price is in the same expiry being measured. For example, a SPIKE 19 Put expiring on 10/20/2021 has a bid quote of \$0.25 and an ask quote of \$.45 and the October SPIKE Future is trading at 20.30. Using the aforementioned formula the Exchange can calculate the Member's bps on that strike as:  $\{(\$0.45 - \$0.25)/20.30\} * 10,000$ ; or  $\{(\$0.20/20.30)*10,000$ ; or  $.009852 * 10,000 = 98.52217$  bps. To establish the market quality baseline bps the Exchange combines target bps in ITM and OTM options (150 bps \* 25% = 37.5 bps and 100 bps \* 75% = 75 bps; 37.5 bps + 75 bps = 112.50 bps).

To determine the pool amount the Exchange will contribute \$5,000 for each basis point improvement from the Exchange established baseline of 112.50 bps. The Exchange will

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<sup>13</sup>

Id.

calculate a Member's Improvement Value ("MIV") by subtracting the Member's monthly average bps from the Exchange established baseline of 112.50 bps. If for the month "Market Maker A" has an average score of 109 and "Market Maker B" has an average score of 107 the Exchange will calculate the amount of Incentive Pool 2 based on the average total improvement of the qualifying Market Makers from the baseline and for every bps of improvement the Exchange will contribute \$5,000 to Incentive Pool 2. In this example, the average of "Market Maker A" (109) and "Market Maker B" (107) is 108. The Exchange would therefore contribute \$22,500 to Incentive Pool 2 ( $112.5 - 108 = 4.5 * \$5,000$ ).

The Exchange will calculate a pro-rata distribution for each Market Maker based upon their improvement value, which is the number of bps improvement from the Exchange established baseline of 112.5. "Market Maker A" has an MIV of 3.5 ( $112.5 - 109$ ) and "Market Maker B" has an MIV of 5.5 bps ( $112.5 - 107$ ). To determine each Market Makers' pro-rata share of the Incentive 2 Pool the Exchange sums the MIVs of each Market Maker ( $3.5 + 5.5 = 9$ ) and divides each Market Maker's MIV by that total to establish their weighted percentage: 38.89% and 61.11% for "Market Maker A" and "Market Maker B," respectively. "Market Maker A" would then be entitled to 38.89% of the \$22,500 Incentive 2 Pool or \$8,750. Whereas "Market Maker B" would be entitled to 61.11% of the \$22,500 Incentive 2 Pool or \$13,750.

The total amount in Incentive Pool 2 is capped at \$100,000 per month and the total amount allocated to any one Member is capped at \$25,000 per month.

The details of the Incentive Program are contained in a Regulatory Circular distributed to all Members.<sup>14</sup>

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<sup>14</sup>Id.

b. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act<sup>15</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>16</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among its members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to adopt an Incentive Program for Market Makers in SPIKES options. The Incentive Program is reasonably designed because it will incent Market Makers to provide quotes and increased liquidity in select SPIKES options contracts. The proposed Incentive Program is reasonable, equitably allocated and not unfairly discriminatory because all Market Makers in SPIKES options may qualify for Incentive 1 and Incentive 2, dependent upon each Market Maker's quoting in SPIKES options in a particular month. Additionally, if a SPIKES Market Maker does not satisfy the requirements of Incentive Pool 1 or 2, then it simply will not receive the rebate offered by the Incentive Program for that month.

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to offer this financial incentive to SPIKES Market Makers because it benefits all market

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

<sup>16</sup> 15 U.S.C. 78f(b)(4) and (5).

participants trading in SPIKES. SPIKES Options is a Proprietary Product<sup>17</sup> on the Exchange and this Incentive Program encourages SPIKES Market Makers to satisfy a heightened quoting standard, average quote size, and time in market. An increase in quoting activity and tighter quotes may yield a corresponding increase in order flow from other market participants, which benefits all investors by deepening the Exchange's liquidity pool, potentially providing greater execution incentives and opportunities, while promoting market transparency and improving investor protection.

The Exchange believes that the Incentive Program is equitable and not unfairly discriminatory because it will promote an increase in SPIKES options liquidity, which may facilitate tighter spreads and an increase in trading opportunities to the benefit of all market participants. The Exchange believes it is reasonable to operate the Incentive Program for a limited period of time to strengthen market quality for all market participants. The resulting increased volume and liquidity will benefit those Members who are eligible to participate in the Incentive Program and will also benefit those Members who are not eligible to participate in the Incentive Program by providing more trading opportunities and tighter spreads.

#### **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 not necessary or appropriate in furtherance of the purposes of the Act.

##### Intra-Market Competition

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<sup>17</sup> The term "Proprietary Product" means a class of options that is listed exclusively on the Exchange. See Exchange Rule 100.

The Exchange believes that the proposal to adopt an Incentive Program does not impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the proposal would increase intra-market competition by incentivizing Market Makers to quote SPIKES options, which will enhance the quality of quoting and increase the volume of contracts available to trade in SPIKES options. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity for SPIKES options. Enhanced market quality and increased transaction volume in SPIKES options that results from the anticipated increase in Market Maker activity on the Exchange will benefit all market participants and improve competition on the Exchange.

#### Inter-Market Competition

The Exchange believes the proposed rule change does not impose any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes in connection with the Incentive Program are limited to SPIKES options which are a proprietary product of the Exchange and as such are listed and traded exclusively on the Exchange.

Additionally, as noted above, the Incentive Program is designed to improve volume and liquidity in SPIKES options. Greater volume and liquidity benefits all market participants by providing more trading opportunities, tighter spreads, and added market transparency and price discovery. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange

is only one of 16 options venues to which market participants may direct their order flow. Based on publicly available information, no single options exchange has more than 13% of the market share.<sup>18</sup> Thus, in such a low-concentrated and highly competitive market, no single options exchange possess significant pricing power in the execution of option order flow.

Accordingly, the Exchange does not believe its proposal to adopt an Incentive Program imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

**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**

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,<sup>19</sup> and Rule 19b-4(f)(2) thereunder<sup>20</sup> 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.

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<sup>18</sup> See MIAX's "The Market at a Glance", available at <https://www.miaxoptions.com/> (last visited September 28, 2021).

<sup>19</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>20</sup> 17 CFR 240.19b-4.

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

The proposed rule change is not based on the rules of another exchange or of the Commission.

**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. Notice of proposed rule for publication in the Federal Register.
5. Applicable Section of the MIAX Options Fee Schedule.

**EXHIBIT 1**SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-MIAX-2021-49)

October\_\_\_\_\_, 2021

Self-Regulatory Organizations: Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by Miami International Securities Exchange LLC to Amend Its Fee Schedule to Adopt an Incentive Program for Market Makers in SPIKES<sup>®</sup> options.

Pursuant to the provisions of 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 October 12, 2021, Miami International Securities Exchange LLC (“MIAX” 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 Options Fee Schedule (the “Fee Schedule”) to adopt an incentive program for Market Makers<sup>3</sup> in SPIKES<sup>®</sup> options.

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

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

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

<sup>3</sup> The term “Market Makers” refers to “Lead Market Makers”, “Primary Lead Market Makers” and “Registered Market Makers” collectively. See Exchange Rule 100.

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 implement a SPIKES Options Market Maker Incentive Program (the “Incentive Program”) for the period beginning October 1, 2021, and ending December 31, 2021.<sup>4</sup> The Incentive Program is designed to improve liquidity, volume, and quote width spreads in SPIKES options. Technical details regarding the Incentive Program were published in a Regulatory Circular on September 30, 2021.<sup>5</sup> The Exchange originally filed this proposal on September 30, 2021, (SR-MIAX-2021-45). On October 12, 2021, the Exchange withdrew SR-MIAX-2021-45 and refiled this proposal.

Background

On October 12, 2018, the Exchange received approval from the Commission to list and trade options on the SPIKES<sup>®</sup> Index, which measures expected 30-day volatility of the SPDR<sup>®</sup>

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<sup>4</sup> The Exchange notes that at the end of the period, the Program will expire unless the Exchange files another 19b-4 Filing to amend its fees.

<sup>5</sup> See MIAX Options Regulatory Circular 2021-56, SPIKES Options Market Maker Incentive Program (September 30, 2021) available at [https://www.miaxoptions.com/sites/default/files/circular-files/MIAX\\_Options\\_RC\\_2021\\_56.pdf](https://www.miaxoptions.com/sites/default/files/circular-files/MIAX_Options_RC_2021_56.pdf).

S&P 500 ETF Trust (commonly known and referred to by its ticker symbol, “SPY”).<sup>6</sup> The Exchange adopted its initial SPIKES transaction fees on February 15, 2019.<sup>7</sup> Options on the SPIKES Index began trading on the Exchange on February 19, 2019.

#### SPIKES Options Market Maker Incentive Program

The Exchange proposes to implement a SPIKES Options Market Maker Incentive Program for SPIKES options to incentivize Market Makers to improve liquidity, available volume, and the quote spread width of SPIKES options. To be eligible to participate in the Incentive Program, a Market Maker must meet certain minimum requirements related to quote spread width in certain in-the-money (ITM) and out-of-the-money (OTM) options as determined by the Exchange and communicated to Members via Regulatory Circular.<sup>8</sup> Market Makers must also satisfy a minimum time in the market in the front 2 expiry months of 70%, and have an average quote size of 25 contracts.

The Exchange proposes to establish two separate incentive compensation pools that will be used to compensate Market Makers that satisfy the criteria pursuant to the proposed Incentive Program.

#### Incentive 1 Pool

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<sup>6</sup> See Securities Exchange Act Release No. 84417 (October 12, 2018), 83 FR 52865 (October 18, 2018) (SR-MIAX-2018-14) (Order Granting Approval of a Proposed Rule Change by Miami International Securities Exchange, LLC to List and Trade on the Exchange Options on the SPIKES<sup>®</sup> Index).

<sup>7</sup> See Securities Exchange Release No. 85283 (March 11, 2019), 84 FR 9567 (March 15, 2019) (SR-MIAX-2019-11). On September 30, 2020, the Exchange filed its proposal to, among other things, reorganize the Fee Schedule to adopt new Section 1)b), Proprietary Products Exchange Fees, and moved the fees and rebates for SPIKES options into new Section 1)b)i). See Securities Exchange Act Release No. 90146 (October 9, 2020), 85 FR 65443 (October 15, 2020) (SR-MIAX-2020-32).

<sup>8</sup> Supra note 5.

The first pool (Incentive 1) will be a total amount of \$40,000 per month, which will be allocated to Market Makers that meet the minimum requirements of the Incentive Program. Market Makers will be required to meet minimum spread width requirements in a select number of ITM and OTM SPIKES option contracts as determined by the Exchange and communicated to Members<sup>9</sup> via Regulatory Circular.<sup>10</sup> A complete description of how the Exchange calculates the minimum spread width requirements in ITM and OTM SPIKES options can be found in the published Regulatory Circular,<sup>11</sup> additionally an example is provided below. Market Makers will also be required to maintain the minimum spread width, described above, for at least 70% of the time in the front two (2) SPIKES options contract expiry months and maintain an average quote size of at least 25 SPIKES options contracts. The amount available to each individual Market Maker will be capped at \$10,000 per month for satisfying the minimum requirements of the Incentive Program. In the event that more than four Market Makers meet the requirements of the Incentive Program, each qualifying Market Maker will be entitled to receive a pro-rated share of the \$40,000 monthly compensation pool dependent upon the number of qualifying Market Makers in that particular month. For example, if five Market Makers qualify for compensation under Incentive 1 of the Incentive Program, each Market Maker would receive a rebate of \$8,000 for that particular month.

#### Incentive 2 Pool

The second pool (Incentive 2 Pool) will be capped at a total amount of \$100,000 per month which will be used during the Incentive Program to further incentivize Market Makers

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<sup>9</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.

<sup>10</sup> Supra note 5.

<sup>11</sup> Id.

who meet or exceed the requirements of Incentive 1 (“qualifying Market Makers”) to provide tighter quote width spreads. The Exchange will rank each qualifying Market Maker’s quote width spread relative to each other qualifying Market Maker’s quote width spread. Market Makers with tighter spreads in certain strikes, as determined by the Exchange and communicated to Members via Regulatory Circular,<sup>12</sup> will be eligible to receive a pro-rated share of the compensation pool as calculated by the Exchange and communicated to Members via Regulatory Circular,<sup>13</sup> not to exceed \$25,000 per Member per month. Qualifying Market Makers will be ranked relative to each other based on the quality of their spread width (i.e., tighter spreads are ranked higher than wider spreads) and the Market Maker with the best quality spread width will receive the highest rebate, while other eligible qualifying Market Makers will receive a rebate relative to their quality spread width.

#### Incentive Pool 2 Example

Each qualifying Market Maker’s ITM/OTM market width for eligible Incentive Program options will be calculated, weighted, and ranked. ITM market width will be given a 25% weighting and OTM market width will be given a 75% weighting. Eligible ITM options require a maximum quote width spread of 150 basis points (“bps”) and each eligible OTM option requires a maximum quote width of 100 bps (as calculated below).

The formula employed by the Exchange to calculate the bps for an individual strike is:  $\{(Ask\ Quote - Bid\ Quote)/Futures\ price\} * 10,000$ , where the futures price is in the same expiry being measured. For example, a SPIKE 19 Put expiring on 10/20/2021 has a bid quote of \$0.25 and an ask quote of \$.45 and the October SPIKE Future is trading at 20.30. Using the aforementioned formula the Exchange can calculate the Member’s bps on that strike as:  $\{(\$0.45 -$

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<sup>12</sup> Id.

<sup>13</sup> Id.

$\$0.25/20.30\} * 10,000$ ; or  $(\$0.20/20.30)*10,000$ ; or  $.009852 * 10,000 = 98.52217$  bps. To establish the market quality baseline bps the Exchange combines target bps in ITM and OTM options ( $150 \text{ bps} * 25\% = 37.5 \text{ bps}$  and  $100 \text{ bps} * 75\% = 75 \text{ bps}$ ;  $37.5 \text{ bps} + 75 \text{ bps} = 112.50$  bps).

To determine the pool amount the Exchange will contribute \$5,000 for each basis point improvement from the Exchange established baseline of 112.50 bps. The Exchange will calculate a Member's Improvement Value ("MIV") by subtracting the Member's monthly average bps from the Exchange established baseline of 112.50 bps. If for the month "Market Maker A" has an average score of 109 and "Market Maker B" has an average score of 107 the Exchange will calculate the amount of Incentive Pool 2 based on the average total improvement of the qualifying Market Makers from the baseline and for every bps of improvement the Exchange will contribute \$5,000 to Incentive Pool 2. In this example, the average of "Market Maker A" (109) and "Market Maker B" (107) is 108. The Exchange would therefore contribute \$22,500 to Incentive Pool 2 ( $112.5 - 108 = 4.5 * \$5,000$ ).

The Exchange will calculate a pro-rata distribution for each Market Maker based upon their improvement value, which is the number of bps improvement from the Exchange established baseline of 112.5. "Market Maker A" has an MIV of 3.5 ( $112.5 - 109$ ) and "Market Maker B" has an MIV of 5.5 bps ( $112.5 - 107$ ). To determine each Market Makers' pro-rata share of the Incentive 2 Pool the Exchange sums the MIVs of each Market Maker ( $3.5 + 5.5 = 9$ ) and divides each Market Maker's MIV by that total to establish their weighted percentage: 38.89% and 61.11% for "Market Maker A" and "Market Maker B," respectively. "Market Maker A" would then be entitled to 38.89% of the \$22,500 Incentive 2 Pool or \$8,750. Whereas "Market Maker B" would be entitled to 61.11% of the \$22,500 Incentive 2 Pool or \$13,750.

The total amount in Incentive Pool 2 is capped at \$100,000 per month and the total amount allocated to any one Member is capped at \$25,000 per month.

The details of the Incentive Program are contained in a Regulatory Circular distributed to all Members.<sup>14</sup>

## 2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act<sup>15</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>16</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among its members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to adopt an Incentive Program for Market Makers in SPIKES options. The Incentive Program is reasonably designed because it will incent Market Makers to provide quotes and increased liquidity in select SPIKES options contracts. The proposed Incentive Program is reasonable, equitably allocated and not unfairly discriminatory because all Market Makers in SPIKES options may qualify for Incentive 1 and Incentive 2, dependent upon each Market Maker's quoting in SPIKES options in a particular month. Additionally, if a SPIKES Market Maker does

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<sup>14</sup> Id.

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

<sup>16</sup> 15 U.S.C. 78f(b)(4) and (5).

not satisfy the requirements of Incentive Pool 1 or 2, then it simply will not receive the rebate offered by the Incentive Program for that month.

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to offer this financial incentive to SPIKES Market Makers because it benefits all market participants trading in SPIKES. SPIKES Options is a Proprietary Product<sup>17</sup> on the Exchange and this Incentive Program encourages SPIKES Market Makers to satisfy a heightened quoting standard, average quote size, and time in market. An increase in quoting activity and tighter quotes may yield a corresponding increase in order flow from other market participants, which benefits all investors by deepening the Exchange's liquidity pool, potentially providing greater execution incentives and opportunities, while promoting market transparency and improving investor protection.

The Exchange believes that the Incentive Program is equitable and not unfairly discriminatory because it will promote an increase in SPIKES options liquidity, which may facilitate tighter spreads and an increase in trading opportunities to the benefit of all market participants. The Exchange believes it is reasonable to operate the Incentive Program for a limited period of time to strengthen market quality for all market participants. The resulting increased volume and liquidity will benefit those Members who are eligible to participate in the Incentive Program and will also benefit those Members who are not eligible to participate in the Incentive Program by providing more trading opportunities and tighter spreads.

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 not necessary or appropriate in furtherance of the purposes of the Act.

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<sup>17</sup> The term "Proprietary Product" means a class of options that is listed exclusively on the Exchange. See Exchange Rule 100.

### Intra-Market Competition

The Exchange believes that the proposal to adopt an Incentive Program does not impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the proposal would increase intra-market competition by incentivizing Market Makers to quote SPIKES options, which will enhance the quality of quoting and increase the volume of contracts available to trade in SPIKES options. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity for SPIKES options. Enhanced market quality and increased transaction volume in SPIKES options that results from the anticipated increase in Market Maker activity on the Exchange will benefit all market participants and improve competition on the Exchange.

### Inter-Market Competition

The Exchange believes the proposed rule change does not impose any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes in connection with the Incentive Program are limited to SPIKES options which are a proprietary product of the Exchange and as such are listed and traded exclusively on the Exchange.

Additionally, as noted above, the Incentive Program is designed to improve volume and liquidity in SPIKES options. Greater volume and liquidity benefits all market participants by providing more trading opportunities, tighter spreads, and added market transparency and price discovery. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange

is only one of 16 options venues to which market participants may direct their order flow. Based on publicly available information, no single options exchange has more than 13% of the market share.<sup>18</sup> Thus, in such a low-concentrated and highly competitive market, no single options exchange possess significant pricing power in the execution of option order flow.

Accordingly, the Exchange does not believe its proposal to adopt an Incentive Program imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>19</sup> and Rule 19b-4(f)(2)<sup>20</sup> thereunder. 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

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<sup>18</sup> See MIAX's "The Market at a Glance", available at <https://www.miaxoptions.com/> (last visited September 28, 2021).

<sup>19</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>20</sup> 17 CFR 240.19b-4(f)(2).

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 e-mail [to rule-comments@sec.gov](mailto:to-rule-comments@sec.gov). Please include File Number SR-MIAX-2021-49 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-MIAX-2021-49. This file number should be included on the subject line if e-mail 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 Web site (<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; the

Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-MIAX-2021-49 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.<sup>21</sup>

Vanessa Countryman  
Secretary

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<sup>21</sup> 17 CFR 200.30-3(a)(12).

**Exhibit 5**

New text is underlined;  
 Deleted text is in [brackets]

**MIAX Options Fee Schedule**

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- 1) **Transaction Fees**
  - a) **No change**
  - b) **Proprietary Products Exchange Fees**
    - i) **SPIKES<sup>△</sup>**

| <b>Simple and Complex Fees<sup>#</sup></b>                         |  |  |                           |  |   |  |
|--|--|--|---------------------------|--|---|--|
| <b>Origin</b>  | <b>Simple/<br/>Complex<sup>¥</sup><br/>Maker</b> | <b>Simple/<br/>Complex<sup>¥</sup><br/>Taker</b> | <b>Simple<br/>Opening</b> | <b>Comb-<br/>ination<sup>- !</sup></b> | <b>Simple Large<br/>Trade<br/>Discount<br/>Threshold+</b> | <b>Complex<br/>Large Trade<br/>Discount<br/>Threshold+</b> |
| <i>Priority<br/>Customer</i>                                       | \$0.00   | \$0.00   | \$0.00                    | \$0.00                                 | 0   | 0  |
| <i>Market Maker</i>  | \$0.00   | \$0.20*  | \$0.15                    | \$0.01                                 | First 10,000<br>contracts                                 | First 25,000<br>contracts                                  |
| <i>Non-MIAX<br/>Market Maker</i>                                   | \$0.10   | \$0.25   | \$0.15                    | \$0.01                                 | First 10,000<br>contracts                                 | First 25,000<br>contracts                                  |
| <i>Broker-Dealer</i>   | \$0.10   | \$0.25   | \$0.15                    | \$0.01                                 | First 10,000<br>contracts                                 | First 25,000<br>contracts                                  |
| <i>Firm<br/>Proprietary</i>  | \$0.00   | \$0.20*  | \$0.15                    | \$0.01                                 | First 10,000<br>contracts                                 | First 25,000<br>contracts                                  |
| <i>Public<br/>Customer that is<br/>Not a Priority<br/>Customer</i> | \$0.10   | \$0.25   | \$0.15                    | \$0.01                                 | First 10,000<br>contracts                                 | First 25,000<br>contracts                                  |

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| <b><u>SPIKES Options Market Maker Incentive Program</u></b>  |   |   |   |  |
|--|---|---|---|--|
| <b><u>Width Requirement</u></b>  | <b><u>Minimum<br/>Time in<br/>Market</u></b>      | <b><u>Average<br/>Quote Size<br/>(both sides)</u></b> | <b><u>Incentive 1</u></b>                   | <b><u>Incentive 2</u></b>                            |
| <u>Maximum baseline averages for ITM and OTM SPIKES options as determined by the Exchange and published in Regulatory Circular 2021-56</u> | <u>70%</u><br><u>(in front 2 contract months)</u> | <u>25</u>   | <u>\$10,000 per Market Maker per month*</u> | <u>Quality Width Spread Rebate described below**</u> |

|  |  |  |  |  |
|--|--|--|--|--|
|  |  |  |  |  |
|--|--|--|--|--|

**\*Incentive 1**

Each Market Maker that satisfies the quote width requirement, 70% time in market requirement, and average quote size of 25 contracts as stated above will be entitled to receive Incentive 1 for that particular month. The compensation pool for Incentive 1 is capped at a total of \$40,000 per month. If more than four (4) Market Makers satisfy the requirements for Incentive 1, set forth above, each Market Maker will receive a pro-rata share of the compensation pool based on the total number of Market Makers that qualify in that particular month. For example, if two Market Makers satisfy the requirements for Incentive 1 for a month, each will receive \$10,000. If five Market Makers satisfy the requirements for Incentive 1 in a month, each Market Maker would receive \$8,000 (\$40,000 total compensation pool divided by five Market Makers = \$8,000 per Market Maker).

**\*\*Incentive 2**

Each Market Maker that meets or exceeds all the requirements of Incentive 1, set forth above (“qualifying Market Maker”), may earn an additional rebate each month. Each qualifying Market Maker’s spread width for eligible ITM and OTM SPIKES options will be calculated and ranked relative to each other qualifying Market Maker. Market Makers with the highest quality width spread (i.e., the tightest spread) will be eligible for compensation under Incentive 2. Each qualifying Market Maker will receive a rebate, capped at \$25,000 per Member per month, based on their relative ranking to each other qualifying Market Maker, with the top performer receiving the largest rebate amount and the bottom performer receiving the smallest rebate amount. The compensation pool size for Incentive 2 will be generated by the market quality that is created by qualifying Market Makers, where \$5,000 per basis point improvement over the market quality baseline, as established by the Exchange, will be contributed to fund Incentive Pool 2, which is capped at \$100,000 per month. Specific details regarding the calculations performed by the Exchange to establish the performance rankings for Incentive 2 were provided to all Members via Regulatory Circular 2021-56.

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