

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-97733; File No. SR-MIAX-2023-22)

June 15, 2023

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing of a Proposed Rule Change to Amend Exchange Rule 404, Series of Option Contracts Open for Trading, to Implement a Low Priced Stock Strike Price Interval Program

Pursuant to 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 June 5, 2023, 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 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’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

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 Rule 404, Series of Option Contracts Open for Trading. Specifically, the Exchange proposes to adopt new Interpretations and Policies .12 to Rule 404 to implement a new strike interval program for stocks that are priced less than \$2.50 and have open interest equal to or greater than 1,000 contracts.

Background

Currently, Exchange Rule 404, Series of Option Contracts Open for Trading, describes the process and procedures for listing and trading series of options³ on the Exchange. Rule 404 provides for a \$2.50 Strike Price Program, where the Exchange may select up to 60 option classes⁴ on individual stocks for which the interval of strike prices will be \$2.50 where the strike price is greater than \$25.00 but less than \$50.00.⁵ Rule 404 also provides for a \$1 Strike Price Interval Program, where the interval between strike prices of series of options⁶ on individual stocks may be \$1.00 or greater provided the strike price is \$50.00 or less, but not less than \$1.00.⁷ Additionally, Rule 404 provides for a \$0.50 Strike Program.⁸ The interval of strike

³ The term “option contract” means a put or a call issued, or subject to issuance, by the Clearing Corporation pursuant to the Rules of the Clearing Corporation. See Exchange Rule 100.

⁴ The terms “class of options” or “option class” means all option contracts covering the same underlying security. See Exchange Rule 100.

⁵ See Exchange Rule 404(f).

⁶ The term “series of options” means all option contracts of the same class having the same exercise price and expiration date. See Exchange Rule 100.

⁷ See Interpretations and Policies .01(a) of Rule 404.

⁸ See Interpretations and Policies .04 of Rule 404.

prices of series of options on individual stocks may be \$0.50 or greater beginning at \$0.50 where the strike price is \$5.50 or less, but only for options classes whose underlying security closed at or below \$5.00 in its primary market on the previous trading day and which have national average daily volume that equals or exceeds 1,000 contracts per day as determined by The Options Clearing Corporation during the preceding three calendar months. The listing of \$0.50 strike prices is limited to options classes overlying no more than 20 individual stocks (the “\$0.50 Strike Program”) as specifically designated by the Exchange. The Exchange may list \$0.50 strike prices on any other option classes if those classes are specifically designated by other securities exchanges that employ a similar \$0.50 Strike Program under their respective rules. A stock shall remain in the \$0.50 Strike Program until otherwise designated by the Exchange.⁹

Proposal

At this time, the Exchange proposes to adopt a new strike interval program for stocks that are not in the aforementioned \$0.50 Strike Program (or the Short Term Option Series Program)¹⁰ and that close below \$2.50 and have open interest equal to or greater than 1,000 contracts. The \$0.50 Strike Program considers stocks that have a closing price at or below \$5.00 whereas the Exchange’s proposal will consider stocks that have a closing price below \$2.50. Currently, there is a subset of stocks that are not included in the \$0.50 Strike Program as a result of the limitations of that program which provides that the listing of \$0.50 strike prices shall be limited to option classes overlying no more than 20 individual stocks as specifically designated by the Exchange and requires a national average daily volume that equals or exceeds 1,000 contracts per day as determined by The Options Clearing Corporation during the preceding three calendar

⁹ Id.

¹⁰ See Interpretations and Policies .02 of Rule 404.

months.¹¹ Therefore, the Exchange is proposing to implement a new strike interval program termed the “Low Priced Stock Strike Price Interval Program.”

To be eligible for the inclusion in the Low Priced Stock Strike Price Interval Program, an underlying stock must (i) close below \$2.50 in its primary market on the previous trading day; and (ii) have open interest equal to or greater than 1,000 contracts. The Exchange notes that there is no limit to the number of classes that will be eligible for inclusion in the proposed program, provided, of course, that the underlyings satisfy both the price and open interest requirements of the proposed program.

The Exchange also proposes that after a stock is added to the Low Priced Stock Strike Price Interval Program, the Exchange may list \$0.50 strike price intervals from \$0.50 up to \$2.00. For the purpose of adding strikes under the Low Priced Stock Strike Price Interval Program, the “price of the underlying stock” shall be measured in the same way as “the price of the underlying security” as set forth in Rule 404A(b)(1).¹² Further, no additional series in \$0.50 intervals may be listed if the underlying stock closes at or above \$2.50 in its primary market. Additional series in \$0.50 intervals may not be added until the underlying stock again closes below \$2.50.

The Exchange’s proposal addresses a gap in strike coverage for low priced stocks. The \$0.50 Strike Program considers stocks that close below \$5.00 and limits the number of option classes listed to no more than 20 individual stocks (provided that the open interest criteria is also satisfied). Whereas, the Exchange’s proposal has a narrower focus, with respect to the underlying’s stock price, and is targeted on those stocks that close below \$2.50 and does not

¹¹ See Interpretations and Policies .04 of Rule 404.

¹² The Exchange notes this is the same methodology used in the \$1 Strike Price Interval Program. See Interpretations and Policies .01(c)(3) of Rule 404.

limit the number of stocks that may participate in the program (provided that the open interest criteria is also satisfied). The Exchange does not believe that any market disruptions will be encountered with the addition of these new strikes. The Exchange represents that it has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Low Priced Stock Strike Price Interval Program.

Impact of Proposal

The Exchange recognizes that its proposal will introduce new strikes in the marketplace and further acknowledges that there has been significant effort undertaken by the industry to curb strike proliferation. This initiative has been spearheaded by the Nasdaq BX who filed an initial proposal focused on the removal, and prevention of the listing, of strikes which are extraneous and do not add value to the marketplace (the “Strike Interval Proposal”).¹³ The Strike Interval Proposal was intended to remove repetitive and unnecessary strike listings across the weekly expiries. Specifically, the Strike Interval Proposal aimed to reduce the density of strike intervals that would be listed in the later weeks, by creating limitations for intervals between strikes which have an expiration date more than twenty-one days from the listing date.¹⁴ The Strike Interval Proposal took into account OCC customer-cleared volume, using it as an appropriate proxy for demand. The Strike Interval Proposal was designed to maintain strikes where there was customer demand and eliminate strikes where there wasn’t. At the time of its proposal Nasdaq BX estimated that the Strike Interval Proposal would reduce the number of strikes it listed by 81,000.¹⁵

¹³ See Securities Exchange Act No. 91225 (February 12, 2021), 86 FR 10375 (February 12, 2021) (SR-BX-2020-032) (BX Strike Approval Order); see also BX Options Strike Proliferation Proposal (February 25, 2021) available at: [https:// www.nasdaq.com/solutions/bx-options-strike-proliferation-proposal](https://www.nasdaq.com/solutions/bx-options-strike-proliferation-proposal)).

¹⁴ See Securities Exchange Act No. 91225 (February 12, 2021), 86 FR 10375 (February 12, 2021) (SR-BX-2020-032).

¹⁵ See id.

The Exchange recognizes that its proposal will moderately increase the total number of option series available on the Exchange. However, the Exchange's proposal is designed to only add strikes where there is investor demand¹⁶ which will improve market quality. Under the requirements for the Low Priced Stock Strike Price Interval Program as described herein, the Exchange determined that as of March 31, 2023, 413 symbols met the proposed criteria. Of those symbols 99 are currently in the \$1 Strike Price Interval Program with \$1.00 and \$2.00 strikes listed. Under the Exchange's proposal the Exchange would add the \$0.50 and \$1.50 strikes for these symbols for the current expiration terms. The remaining 314 symbols eligible under the Exchange's proposal would have \$0.50, \$1.00, \$1.50 and \$2.00 strikes added to their current expiration terms. Therefore, for the 413 symbols eligible for the Low Priced Stock Strike Price Interval Program a total of approximately 13,000 options would be added. As of March 31, 2023, the Exchange listed 1,090,896 options, therefore the additional options that would be listed under this proposal would represent a relatively minor increase of 1.19% in the number of options listed on the Exchange.

The Exchange does not believe that its proposal contravenes the industry's efforts to curtail unnecessary strikes. The Exchange's proposal is targeted to only underlying stocks that close at less than \$2.50 and that also meet the open interest requirement. Additionally, because the strike increment is \$0.50 there are only a total of four strikes that may be listed under the program (\$0.50, \$1.00, \$1.50, and \$2.00) for an eligible underlying. Finally, if an eligible underlying is in another program (e.g., the \$0.50 Strike Program or the \$1 Strike Price Interval Program) the number of strikes that may be added is further reduced if there are pre-existing

¹⁶ See proposed Interpretations and Policies .12(b) of Rule 404 which requires that an underlying stock have open interest equal to or greater than 1,000 contracts to be eligible for inclusion in the Low Priced Stock Strike Price Interval Program.

strikes as part of another strike listing program. Therefore, the Exchange does not believe that it will list any unnecessary or repetitive strikes as part of its program, and that the strikes that will be listed will improve market quality and satisfy investor demand.

The Exchange further believes that the Options Price Reporting Authority (“OPRA”), has the necessary systems capacity to handle any additional messaging traffic associated with this proposed rule change. The Exchange also believes that Members¹⁷ will not have a capacity issue as a result of the proposed rule change. Finally, the Exchange believes that the additional options will serve to increase liquidity, provide additional trading and hedging opportunities for all market participants, and improve market quality.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act,¹⁸ in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities, to remove impediments to 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section (6)(b)(5)¹⁹ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

¹⁷ 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.

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78(f)(b)(5).

The Exchange believes its proposal promotes just and equitable principles of trade and removes impediments to and perfects the mechanisms of a free and open market and a national market system as the Exchange has identified a subset of stocks that are trading under \$2.50 and do not have meaningful strikes available. For example, on March 20, 2023, symbol SOND closed at \$0.82 and had open interest of 34,566 contracts.²⁰ Currently the lowest strike listed is for \$2.50, making the lowest strike 200% away from the closing stock price. Another symbol, POL, closed at \$0.56 on March 20, 2023, and had open interest of 22,780 contracts.²¹ Similarly, the lowest strike listed is for \$2.50, making the lowest strike more than 300% away from the closing stock price. Currently, such products have no at-the-money options, as well as no in-the-money calls or out-of-the-money puts. The Exchange's proposal will provide additional strikes in \$0.50 increments from \$0.50 up to \$2.00 to provide more meaningful trading and hedging opportunities for this subset of stocks. Given the increased granularity of strikes as proposed under the Exchange's proposal out-of-the-money puts and in-the-money calls will be created. The Exchange believes this will allow market participants to tailor their investment and hedging needs more effectively.

The Exchange believes its proposal promotes just and equitable principles of trade and removes impediments to and perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest by adding strikes that improves market quality and satisfies investor demand. The Exchange does not believe that the number of strikes that will be added under the program will negatively impact the market. Additionally, the proposal does not run counter to the efforts undertaken by the industry to curb strike proliferation as that effort focused on the removal and prevention of extraneous strikes

²⁰ See Yahoo! Finance, <https://finance.yahoo.com/quote/SOND/history?p=SOND> (last visited June 1, 2023).

²¹ See Yahoo! Finance, <https://finance.yahoo.com/quote/POL/history?p=POL> (last visited June 1, 2023).

where there was no investor demand. The Exchange's proposal requires the satisfaction of an open interest threshold in addition to the underlying closing at a price below \$2.50 to be eligible for the program. The Exchange believes that the open interest requirement threshold of the program ensures that only strikes with investor demand will be listed. Further, being that the strike interval is \$0.50, there are only a maximum of four strikes that may be added (\$0.50, \$1.00, \$1.50, and \$2.00). Therefore, the Exchange does not believe that its proposal will undermine the industry's efforts to eliminate repetitive and unnecessary strikes in any fashion.

The Exchange believes that the proposed rule change is consistent with Section 6(b)(1) of the Act, which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and the rules and regulations thereunder, and the rules of the Exchange. The proposed rule change allows the Exchange to respond to customer demand to provide meaningful strikes for low priced stocks. The Exchange does not believe that the proposed rule would create any capacity issue or negatively affect market functionality. Additionally, the Exchange represents that it has the necessary systems capacity to support the new options series and handle additional messaging traffic associated with this proposed rule change. The Exchange also believes that its Members will not experience any capacity issues as a result of this proposal. In addition, the Exchange represents that it believes that additional strikes for low priced stocks will serve to increase liquidity available as well and improve price efficiency by providing more trading opportunities for all market participants. The Exchange believes that the proposed rule change will benefit investors by giving them increased opportunities to execute their investment and hedging decisions.

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 Exchange does not believe that its proposed rule change will impose any burden on intra-market competition as the Rules of the Exchange apply equally to all Members of the Exchange and all Members may trade the new proposed strikes if they so choose. Specifically, the Exchange believes that investors and market participants will significantly benefit from the availability of finer strike price intervals for stocks priced below \$2.50, which will allow them to tailor their investment and hedging needs more effectively.

The Exchange does not believe that its proposed rule change will impose any burden on inter-market competition, as nothing prevents other options exchanges from proposing similar rules to list and trade options on low priced stocks. Rather the Exchange believes that its proposal will promote inter-market competition, as the Exchange's proposal will result in additional opportunities for investors to achieve their investment and trading objectives, to the benefit of investors, market participants, and the marketplace in general.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be 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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-MIAX-2023-22 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-2023-22. 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 (<https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or

withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-MIAX-2023-22 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

J. Matthew DeLesDernier,

Deputy Secretary.

²² 17 CFR 200.30-3(a)(12).