

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * <input type="text" value="33"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - <input type="text" value="2019"/> - * <input type="text" value="25"/>	Amendment No. (req. for Amendments *) <input type="text"/>
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Filing by MIAX Emerald, LLC
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
Pilot <input type="checkbox"/> Extension of Time Period for Commission Action * <input type="checkbox"/> Date Expires * <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)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010 Section 806(e)(1) * <input type="checkbox"/> Section 806(e)(2) * <input type="checkbox"/>	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934 Section 3C(b)(2) * <input type="checkbox"/>
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Exhibit 2 Sent As Paper Document <input checked="" type="checkbox"/>	Exhibit 3 Sent As Paper Document <input checked="" 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 provide a higher simple maker rebate in SPY, QQQ and IWM in certain transactions.

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 * <input type="text" value="Michael"/>	Last Name * <input type="text" value="Slade"/>
Title * <input type="text" value="Counsel"/>	
E-mail * <input type="text" value="mslade@miami-holdings.com"/>	
Telephone * <input type="text" value="(609) 897-8499"/>	Fax <input type="text"/>

Signature
Pursuant to the requirements of the Securities Exchange Act of 1934,
has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title *)

Date <input type="text" value="06/28/2019"/>	Senior Vice President and Deputy General Counsel
By <input type="text" value="Joseph Ferraro"/> <small>(Name *)</small>	<input type="text" value="jferraro@miami-holdings.com"/>

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

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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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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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 Advance 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, security-based swap submission, or advance notice 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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Exhibit Sent As Paper Document

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 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

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 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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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) MIAX Emerald, LLC (“MIAX Emerald” or “Exchange”), pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² proposes to amend the MIAX Emerald Fee Schedule (“Fee Schedule”).

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on July 1, 2019.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1, and the text of the proposed rule change 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 pursuant to authority delegated by the MIAX Emerald Board of Directors on January 31, 2019. 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 Michael Slade, Counsel, at (609) 897-8499.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

a. Purpose

The Exchange proposes to amend the Exchange Rebates/Fees set forth in Section 1)a)i of the Fee Schedule to provide Members³ a higher Simple Maker rebate of \$0.50⁴ per contract executed in SPY, QQQ and IWM options for Priority Customer⁵ Origin in Tiers 1, 2 and 3, instead of the rebate amount otherwise set forth in such Tiers.

Background

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”⁶

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has exceeded approximately 17% of the market share of executed volume of multiply-listed equity

³ 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 the Definitions Section of the Fee Schedule and Exchange Rule 100.

⁴ The Exchange notes that rebates in the Fee Schedule are denoted using parentheses.

⁵ The term “Priority Customer” means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). The number of orders shall be counted in accordance with the following Interpretation and Policy .01 hereto. See the Definitions Section of the Fee Schedule and Exchange Rule 100.

⁶ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

and ETF options trades.⁷ Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, since the Exchange launched operations on March 1, 2019, the Exchange has had less than 1% market share in any month of executed volume of multiply-listed equity & ETF options trades.⁸ The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees.

Proposed Rule Change

The Exchange currently assesses transaction rebates and fees to all market participants which are based upon a threshold tier structure (“Tier”) that is applicable to transaction fees. Tiers are determined on a monthly basis and are based on three alternative calculation methods, as defined in Section 1)a)ii) of the Fee Schedule. The calculation method that results in the highest Tier achieved by the Member shall apply to all Origin types by the Member. The monthly volume thresholds for each method, associated with each Tier, are calculated as the total monthly volume executed by the Member in all options classes on MIAX Emerald in the relevant Origins and/or applicable liquidity, not including Excluded Contracts⁹, (as the numerator) expressed as a percentage of (divided by) Customer Total Consolidated Volume (“CTCV”) (as the denominator). CTCV means Customer Total Consolidated Volume calculated as the total national volume cleared at The Options Clearing Corporation (“OCC”) in the

⁷ The Options Clearing Corporation (“OCC”) publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: <https://www.theocc.com/market-data/volume/default.jsp>.

⁸ See id.

⁹ “Excluded Contracts” means any contracts routed to an away market for execution.

Customer range in those classes listed on MIAX Emerald for the month for which fees apply, excluding volume cleared at the OCC in the Customer range executed during the period of time in which the Exchange experiences an “Exchange System Disruption”¹⁰ (solely in the option classes of the affected Matching Engine)¹¹. In addition, the per contract transaction rebates and fees shall be applied retroactively to all eligible volume once the Tier has been reached by the Member. Members that place resting liquidity, i.e., orders on the MIAX Emerald System, will be assessed the specified “maker” rebate or fee (each a “Maker”) and Members that execute against resting liquidity will be assessed the specified “taker” fee or rebate (each a “Taker”).¹²

Currently, transaction rebates and fees for Penny and Non-Penny classes are assessed according to the following tables:

¹⁰ The term “Exchange System Disruption” means an outage of a Matching Engine or collective Matching Engines for a period of two consecutive hour or more, during trading hours. See the Definitions Section of the Fee Schedule.

¹¹ A “Matching Engine” is a part of the MIAX Emerald electronic system that processes options orders and trades on a symbol-by-symbol basis. Some Matching Engines will process option classes with multiple root symbols, and other Matching Engines may be dedicated to one single option root symbol (for example, options on SPY may be processed by one single Matching Engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated Matching Engine. A particular root symbol may not be assigned to multiple Matching Engines. See the Definitions Section of the Fee Schedule.

¹² For a Priority Customer complex order taking liquidity in both a Penny class and non-Penny class against Origins other than Priority Customer, the Priority Customer order will receive a rebate based on the Tier achieved.

Members and Their Affiliates In Penny Classes Simple/Complex/PRIME/cPRIME									
Origin	Tier	Simple		Complex [#]			PRIME/cPRIME ⁰		
		Maker	Taker [^]	Maker (Contra Origins ex Priority Customer)	Maker (Contra Priority Customer Origin)	Taker	Agency	Contra	Responder
Market Maker	1	(\$0.35)	\$0.50	\$0.10	\$0.47	\$0.50	\$0.05	\$0.05	\$0.05
	2	(\$0.35)	\$0.50	\$0.10	\$0.47	\$0.50	\$0.05	\$0.05	\$0.05
	3	(\$0.35)	\$0.50	\$0.10	\$0.47	\$0.50	\$0.05	\$0.05	\$0.05
	4	(\$0.45)	\$0.48	\$0.10	\$0.47	\$0.50	\$0.05	\$0.05	\$0.05
Non-MIAX Emerald Market Maker	1	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	2	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	3	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	4	(\$0.25)	\$0.48	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
Firm Proprietary/ Broker- Dealer	1	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	2	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	3	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	4	(\$0.25)	\$0.49	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
Non-Priority Customer	1	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	2	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	3	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	4	(\$0.25)	\$0.49	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
Priority Customer*	1	(\$0.48)	\$0.47	(\$0.25)	(\$0.25)	(\$0.25)	\$0.00	\$0.05	\$0.05
	2	(\$0.48)	\$0.47	(\$0.40)	(\$0.40)	(\$0.40)	\$0.00	\$0.05	\$0.05
	3	(\$0.48)	\$0.47	(\$0.45)	(\$0.45)	(\$0.45)	\$0.00	\$0.05	\$0.05
	4	(\$0.53)	\$0.45	(\$0.50)	(\$0.50)	(\$0.50)	\$0.00	\$0.05	\$0.05

Members and Their Affiliates In Non-Penny Classes Simple/Complex/PRIME/cPRIME									
Origin	Tier	Simple		Complex [#]			PRIME/cPRIME ⁰		
		Maker	Taker [^]	Maker (Contra Origins ex Priority Customer)	Maker (Contra Priority Customer Origin)	Taker [~]	Agency	Contra	Responder
Market Maker	1	(\$0.45)	\$0.99	\$0.20	\$0.86	\$0.88	\$0.05	\$0.05	\$0.05
	2	(\$0.45)	\$0.99	\$0.20	\$0.86	\$0.88	\$0.05	\$0.05	\$0.05
	3	(\$0.45)	\$0.99	\$0.20	\$0.86	\$0.86	\$0.05	\$0.05	\$0.05
	4	(\$0.75)	\$0.94	\$0.20	\$0.86	\$0.86	\$0.05	\$0.05	\$0.05
Non-MIAX Emerald Market Maker	1	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	2	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	3	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	4	(\$0.25)	\$0.94	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
Firm Proprietary/ Broker-Dealer	1	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	2	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	3	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	4	(\$0.25)	\$0.94	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
Non-Priority Customer	1	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	2	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	3	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	4	(\$0.25)	\$0.94	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
Priority Customer*	1	(\$0.85)	\$0.85	(\$0.40)	(\$0.40)	(\$0.40)	\$0.00	\$0.05	\$0.05
	2	(\$0.85)	\$0.85	(\$0.60)	(\$0.60)	(\$0.60)	\$0.00	\$0.05	\$0.05
	3	(\$0.85)	\$0.85	(\$0.70)	(\$0.70)	(\$0.75)	\$0.00	\$0.05	\$0.05
	4	(\$1.05)	\$0.82	(\$0.87)	(\$0.87)	(\$0.85)	\$0.00	\$0.05	\$0.05

[^] Contra to Priority Customer Simple Orders, Origins ex Priority Customer Simple Orders will be charged \$0.50 and Priority Customer Simple Orders will be charged \$0.49 in Penny classes, and Origins ex Priority Customer Simple Orders will be charged \$1.10 and Priority Customer Simple Orders will be charged \$0.85 in Non-Penny classes.

^{*} Priority Customer Complex Orders contra to Priority Customer Complex Orders are neither charged nor rebated. Priority Customer Complex Orders that leg into the Simple book are neither charged nor rebated.

[~] A \$0.05 Complex surcharge for Origins ex Priority Customer for Complex Orders that take liquidity from the Complex Order Book in Non-Penny classes.

[#] For orders in a Complex Auction, Priority Customer Complex Orders will receive the Complex Taker rebate based on the tier achieved when contra to an Origin that is not a Priority Customer. Origins that are not a Priority Customer will be charged the applicable Maker fee depending on the contra, based on the tier achieved.

⁰ For PRIME and cPRIME, the per contract rebate or fee for the preexisting contra-side interest that trades with the Agency side will be waived. PRIME/cPRIME Responder side interest that trades with unrelated Agency side interest trades as Taker will be subject to Simple or Complex rates, as applicable.

Notes Accompanying Tables Above

During the Opening Rotation and the ABBO uncrossing, the per contract rebate or fee will be waived for all Origins.

The Exchange proposes to amend the Exchange Rebates/Fees set forth in Section 1)a)i of the Fee Schedule to provide Members a higher Simple Maker rebate in Penny classes of \$0.50 per contract executed in SPY, QQQ and IWM options for Priority Customer Origin in Tiers 1, 2 and 3, instead of the rebate amount otherwise set forth in such Tiers.

The Exchange proposes to insert the new symbol “∇” following the “(\$0.48)” rebate listed in Tiers 1, 2 and 3 for Simple Maker rebates in Penny classes in Section 1)a)i of the Fee Schedule to designate a new footnote representing the proposed higher rebate of \$0.50 for SPY, QQQ, and IWM. The Exchange proposes that, following the fee table for Non-Penny classes in Section 1)a)i of the Fee Schedule, the Exchange will insert text describing the proposed higher rebate with new footnote “∇” as follows: “Simple Maker rebate in SPY, QQQ and IWM is (\$0.50) for Priority Customer Origin in Tiers 1, 2 and 3.” The Exchange notes that Simple Maker rebates in Penny classes for Priority Customer Origin in all options classes other than SPY, QQQ, and IWM will remain at \$0.48 for Tiers 1 through 3. Further, Simple Maker rebates in Penny classes for all options classes, including options in SPY, QQQ and IWM, will remain at \$0.53 for Tier 4.

The purpose of the proposed change is to incentivize Members to send Priority Customer Origin orders to the Exchange in SPY, QQQ and IWM options. The Exchange believes that the proposal to increase the Simple Maker rebate in SPY, QQQ and IWM to \$0.50 for Priority Customer Origin in Tiers 1, 2 and 3 may increase the volume of Priority Customer order flow in those classes. The Exchange believes that the increased order flow will result in increased liquidity, which benefits all Exchange participants by providing more trading opportunities and

tighter spreads. The proposed rebates do not apply differently to different sizes of market participants based on Tier achieved.

b. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act¹³ in general, and furthers the objectives of Section 6(b)(4) of the Act¹⁴ 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 proposal to offer higher Simple Maker rebates in SPY, QQQ and IWM options for Priority Customer Origin in Tiers 1, 2 and 3 provides for the equitable allocation of reasonable dues and fees and is not unfairly discriminatory for the following reasons. First, the Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(4) and (5).

competition in its broader forms that are most important to investors and listed companies.”¹⁵

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has exceeded approximately 17% of the market share of executed volume of multiply-listed equity and ETF options trades.¹⁶ Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, since the Exchange launched operations on March 1, 2019, the Exchange has had less than 1% market share in any month of executed volume of multiply-listed equity & ETF options trades.¹⁷ The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees.

Second, the Exchange believes that the proposed higher Simple Maker rebate in SPY, QQQ and IWM options for Priority Customer Origin in Tiers 1, 2 and 3 is consistent with Section 6(b)(4) of the Act in that it is reasonable, equitable and not unfairly discriminatory because it applies equally to all Members for their Priority Customer Origin order flow in those options.

The Exchange operates in highly competitive market. In particular, since the Exchange launched trading on March 1, 2019, the Exchange has had less than a 1% market share in any month. Therefore, the Exchange does not possess significant pricing power in the execution of

¹⁵ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

¹⁶ See supra note 7.

¹⁷ See supra note 7.

options order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue to reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain exchange transaction fees. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

The Exchange believes the proposed change is reasonable because, as noted above, the Exchange operates in a highly competitive environment, particularly for attracting order flow that provides liquidity on the Exchange. The Exchange believes it is reasonable to provide a higher rebate for Members that trade in SPY, QQQ and IWM options in Priority Customer Origin for Tiers 1 through 3 because, to date, no Members have reached Tier 4 using the Priority Customer Maker method only (which may be different than their effective tier), and, additionally the Simple fees and rebates are essentially the same for the Priority Customer Tiers 1 through 3.. The Exchange believes the proposed higher rebate is reasonable as it would provide an additional incentive for Members to provide liquidity in SPY, QQQ and IWM options, and provide meaningful added levels of liquidity, thereby contributing to the depth and market quality on the Exchange.

The Exchange believes that defining the proposed increased rebate with the new symbol “∇” on the Fee Schedule promotes just and equitable principles of trade, removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general protects investors and the public interest by creating a clear understanding of the increased rebate.

The proposed increased rebate is reasonable, equitable, and not unfairly discriminatory because it will apply similarly to all market participants who provide liquidity on the Simple Order Book for their Priority Customer Origin in SPY, QQQ and IWM options in Tiers 1, 2 and 3. All similarly situated market participants are subject to the same transaction rebate schedule, and access to the Exchange is offered on terms that are not unfairly discriminatory.

The Exchange believes that the proposal is reasonable because it will incentivize providers of SPY, QQQ, and IWM Priority Customer order flow to send that Priority Customer order flow to the Exchange in order to obtain the highest volume threshold and receive a Simple Maker rebate in a manner that enables the Exchange to improve its overall competitiveness and strengthen its market quality for all market participants.

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. As described above, the Exchange believes that the proposed change would encourage the submission of additional orders in SPY, QQQ and IWM options, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for Members.

Intra-Market Competition

The Exchange does not believe that the proposed rule change would place other market participants at the Exchange at a relative disadvantage compared to providers of SPY, QQQ, and IWM Priority Customer order flow. The Exchange believes that establishing higher rebates for these select products for Priority Customers is reasonable, equitable, and not unfairly discriminatory because these select products are generally more liquid than other option classes and the Exchange believes that the proposed change is designed to attract additional order flow

to the Exchange. The Exchange believes that the proposed increased rebates would continue to incentivize market participants to provide order flow to the Exchange. Greater liquidity benefits all market participants on the Exchange by providing more trading opportunities and encourages Members to send orders thereby contributing to robust levels of liquidity, which benefits all market participants. The proposed higher rebates would be available to all similarly-situated market participants, and, as such, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Inter-Market Competition

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. The Exchange notes that since the Exchange launched operations on March 1, 2019, the Exchange's market share has been less than 1% in any month. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing, the Exchange does not believe its proposed increased rebate can impose any burden on competition. The Exchange believes that the proposed change could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution. The Exchange also believes that the proposed change is designed to provide the public and investors

with a Schedule of Fees and Rebates that is clear and consistent, thereby reducing burdens on the marketplace and facilitating investor protection.

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,¹⁸ and Rule 19b-4(f)(2) thereunder¹⁹ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

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

The proposed 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.

¹⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁹ 17 CFR 240.19b-4.

11. Exhibits

1. Notice of proposed rule for publication in the Federal Register.
5. Text of proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-EMERALD-2019-25)

June __, 2019

Self-Regulatory Organizations: Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by MIAX Emerald, LLC to Amend Its Fee Schedule

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 June 28, 2019, 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”).

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on July 1, 2019.

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Exchange Rebates/Fees set forth in Section 1)a)i of the Fee Schedule to provide Members³ a higher Simple Maker rebate of \$0.50⁴ per contract executed in SPY, QQQ and IWM options for Priority Customer⁵ Origin in Tiers 1, 2 and 3, instead of the rebate amount otherwise set forth in such Tiers.

Background

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been

³ 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 the Definitions Section of the Fee Schedule and Exchange Rule 100.

⁴ The Exchange notes that rebates in the Fee Schedule are denoted using parentheses.

⁵ The term “Priority Customer” means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). The number of orders shall be counted in accordance with the following Interpretation and Policy .01 hereto. See the Definitions Section of the Fee Schedule and Exchange Rule 100.

remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”⁶

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has exceeded approximately 17% of the market share of executed volume of multiply-listed equity and ETF options trades.⁷ Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, since the Exchange launched operations on March 1, 2019, the Exchange has had less than 1% market share in any month of executed volume of multiply-listed equity & ETF options trades.⁸ The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees.

Proposed Rule Change

The Exchange currently assesses transaction rebates and fees to all market participants which are based upon a threshold tier structure (“Tier”) that is applicable to transaction fees. Tiers are determined on a monthly basis and are based on three alternative calculation methods, as defined in Section 1)a)ii) of the Fee Schedule. The calculation method that results in the highest Tier achieved by the Member shall apply to all Origin types by the Member. The monthly volume thresholds for each method, associated with each Tier, are calculated as the total

⁶ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

⁷ The Options Clearing Corporation (“OCC”) publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: <https://www.theocc.com/market-data/volume/default.jsp>.

⁸ See id.

monthly volume executed by the Member in all options classes on MIAX Emerald in the relevant Origins and/or applicable liquidity, not including Excluded Contracts⁹, (as the numerator) expressed as a percentage of (divided by) Customer Total Consolidated Volume (“CTCV”) (as the denominator). CTCV means Customer Total Consolidated Volume calculated as the total national volume cleared at The Options Clearing Corporation (“OCC”) in the Customer range in those classes listed on MIAX Emerald for the month for which fees apply, excluding volume cleared at the OCC in the Customer range executed during the period of time in which the Exchange experiences an “Exchange System Disruption”¹⁰ (solely in the option classes of the affected Matching Engine)¹¹. In addition, the per contract transaction rebates and fees shall be applied retroactively to all eligible volume once the Tier has been reached by the Member. Members that place resting liquidity, i.e., orders on the MIAX Emerald System, will be assessed the specified “maker” rebate or fee (each a “Maker”) and Members that execute against resting liquidity will be assessed the specified “taker” fee or rebate (each a “Taker”).¹²

Currently, transaction rebates and fees for Penny and Non-Penny classes are assessed according to the following tables:

⁹ “Excluded Contracts” means any contracts routed to an away market for execution.

¹⁰ The term “Exchange System Disruption” means an outage of a Matching Engine or collective Matching Engines for a period of two consecutive hour or more, during trading hours. See the Definitions Section of the Fee Schedule.

¹¹ A “Matching Engine” is a part of the MIAX Emerald electronic system that processes options orders and trades on a symbol-by-symbol basis. Some Matching Engines will process option classes with multiple root symbols, and other Matching Engines may be dedicated to one single option root symbol (for example, options on SPY may be processed by one single Matching Engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated Matching Engine. A particular root symbol may not be assigned to multiple Matching Engines. See the Definitions Section of the Fee Schedule.

¹² For a Priority Customer complex order taking liquidity in both a Penny class and non-Penny class against Origins other than Priority Customer, the Priority Customer order will receive a rebate based on the Tier achieved.

Members and Their Affiliates In Penny Classes Simple/Complex/PRIME/cPRIME									
Origin	Tier	Simple		Complex [#]			PRIME/cPRIME ⁰		
		Maker	Taker [^]	Maker (Contra Origins ex Priority Customer)	Maker (Contra Priority Customer Origin)	Taker	Agency	Contra	Responder
Market Maker	1	(\$0.35)	\$0.50	\$0.10	\$0.47	\$0.50	\$0.05	\$0.05	\$0.05
	2	(\$0.35)	\$0.50	\$0.10	\$0.47	\$0.50	\$0.05	\$0.05	\$0.05
	3	(\$0.35)	\$0.50	\$0.10	\$0.47	\$0.50	\$0.05	\$0.05	\$0.05
	4	(\$0.45)	\$0.48	\$0.10	\$0.47	\$0.50	\$0.05	\$0.05	\$0.05
Non-MIAX Emerald Market Maker	1	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	2	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	3	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	4	(\$0.25)	\$0.48	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
Firm Proprietary/ Broker- Dealer	1	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	2	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	3	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	4	(\$0.25)	\$0.49	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
Non-Priority Customer	1	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	2	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	3	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	4	(\$0.25)	\$0.49	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
Priority Customer*	1	(\$0.48)	\$0.47	(\$0.25)	(\$0.25)	(\$0.25)	\$0.00	\$0.05	\$0.05
	2	(\$0.48)	\$0.47	(\$0.40)	(\$0.40)	(\$0.40)	\$0.00	\$0.05	\$0.05
	3	(\$0.48)	\$0.47	(\$0.45)	(\$0.45)	(\$0.45)	\$0.00	\$0.05	\$0.05
	4	(\$0.53)	\$0.45	(\$0.50)	(\$0.50)	(\$0.50)	\$0.00	\$0.05	\$0.05

Members and Their Affiliates In Non-Penny Classes Simple/Complex/PRIME/cPRIME									
Origin	Tier	Simple		Complex [#]			PRIME/cPRIME ⁰		
		Maker	Taker [^]	Maker (Contra Origins ex Priority Customer)	Maker (Contra Priority Customer Origin)	Taker [~]	Agency	Contra	Responder
Market Maker	1	(\$0.45)	\$0.99	\$0.20	\$0.86	\$0.88	\$0.05	\$0.05	\$0.05
	2	(\$0.45)	\$0.99	\$0.20	\$0.86	\$0.88	\$0.05	\$0.05	\$0.05
	3	(\$0.45)	\$0.99	\$0.20	\$0.86	\$0.86	\$0.05	\$0.05	\$0.05
	4	(\$0.75)	\$0.94	\$0.20	\$0.86	\$0.86	\$0.05	\$0.05	\$0.05
Non-MIAX Emerald Market Maker	1	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	2	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	3	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	4	(\$0.25)	\$0.94	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
Firm Proprietary/ Broker- Dealer	1	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	2	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	3	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	4	(\$0.25)	\$0.94	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
Non-Priority Customer	1	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	2	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	3	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	4	(\$0.25)	\$0.94	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
Priority Customer*	1	(\$0.85)	\$0.85	(\$0.40)	(\$0.40)	(\$0.40)	\$0.00	\$0.05	\$0.05
	2	(\$0.85)	\$0.85	(\$0.60)	(\$0.60)	(\$0.60)	\$0.00	\$0.05	\$0.05
	3	(\$0.85)	\$0.85	(\$0.70)	(\$0.70)	(\$0.75)	\$0.00	\$0.05	\$0.05
	4	(\$1.05)	\$0.82	(\$0.87)	(\$0.87)	(\$0.85)	\$0.00	\$0.05	\$0.05

[^] Contra to Priority Customer Simple Orders, Origins ex Priority Customer Simple Orders will be charged \$0.50 and Priority Customer Simple Orders will be charged \$0.49 in Penny classes, and Origins ex Priority Customer Simple Orders will be charged \$1.10 and Priority Customer Simple Orders will be charged \$0.85 in Non-Penny classes.

* Priority Customer Complex Orders contra to Priority Customer Complex Orders are neither charged nor rebated. Priority Customer Complex Orders that leg into the Simple book are neither charged nor rebated.

[~] A \$0.05 Complex surcharge for Origins ex Priority Customer for Complex Orders that take liquidity from the Complex Order Book in Non-Penny classes.

[#] For orders in a Complex Auction, Priority Customer Complex Orders will receive the Complex Taker rebate based on the tier achieved when contra to an Origin that is not a Priority Customer. Origins that are not a Priority Customer will be charged the applicable Maker fee depending on the contra, based on the tier achieved.

⁰ For PRIME and cPRIME, the per contract rebate or fee for the preexisting contra-side interest that trades with the Agency side will be waived. PRIME/cPRIME Responder side interest that trades with unrelated Agency side interest trades as Taker will be subject to Simple or Complex rates, as applicable.

Notes Accompanying Tables Above

During the Opening Rotation and the ABBO uncrossing, the per contract rebate or fee will be waived for all Origins.

The Exchange proposes to amend the Exchange Rebates/Fees set forth in Section 1)a)i) of the Fee Schedule to provide Members a higher Simple Maker rebate in Penny classes of \$0.50 per contract executed in SPY, QQQ and IWM options for Priority Customer Origin in Tiers 1, 2 and 3, instead of the rebate amount otherwise set forth in such Tiers.

The Exchange proposes to insert the new symbol “∇” following the “(\$0.48)” rebate listed in Tiers 1, 2 and 3 for Simple Maker rebates in Penny classes in Section 1)a)i) of the Fee Schedule to designate a new footnote representing the proposed higher rebate of \$0.50 for SPY, QQQ, and IWM. The Exchange proposes that, following the fee table for Non-Penny classes in Section 1)a)i) of the Fee Schedule, the Exchange will insert text describing the proposed higher rebate with new footnote “∇” as follows: “Simple Maker rebate in SPY, QQQ and IWM is (\$0.50) for Priority Customer Origin in Tiers 1, 2 and 3.” The Exchange notes that Simple Maker rebates in Penny classes for Priority Customer Origin in all options classes other than SPY, QQQ, and IWM will remain at \$0.48 for Tiers 1 through 3. Further, Simple Maker rebates in Penny classes for all options classes, including options in SPY, QQQ and IWM, will remain at \$0.53 for Tier 4.

The purpose of the proposed change is to incentivize Members to send Priority Customer Origin orders to the Exchange in SPY, QQQ and IWM options. The Exchange believes that the proposal to increase the Simple Maker rebate in SPY, QQQ and IWM to \$0.50 for Priority Customer Origin in Tiers 1, 2 and 3 may increase the volume of Priority Customer order flow in those classes. The Exchange believes that the increased order flow will result in increased liquidity, which benefits all Exchange participants by providing more trading opportunities and

tighter spreads. The proposed rebates do not apply differently to different sizes of market participants based on Tier achieved.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act¹³ in general, and furthers the objectives of Section 6(b)(4) of the Act¹⁴ 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 proposal to offer higher Simple Maker rebates in SPY, QQQ and IWM options for Priority Customer Origin in Tiers 1, 2 and 3 provides for the equitable allocation of reasonable dues and fees and is not unfairly discriminatory for the following reasons. First, the Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”¹⁵

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(4) and (5).

¹⁵ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has exceeded approximately 17% of the market share of executed volume of multiply-listed equity and ETF options trades.¹⁶ Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, since the Exchange launched operations on March 1, 2019, the Exchange has had less than 1% market share in any month of executed volume of multiply-listed equity & ETF options trades.¹⁷ The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees.

Second, the Exchange believes that the proposed higher Simple Maker rebate in SPY, QQQ and IWM options for Priority Customer Origin in Tiers 1, 2 and 3 is consistent with Section 6(b)(4) of the Act in that it is reasonable, equitable and not unfairly discriminatory because it applies equally to all Members for their Priority Customer Origin order flow in those options.

The Exchange operates in highly competitive market. In particular, since the Exchange launched trading on March 1, 2019, the Exchange has had less than a 1% market share in any month. Therefore, the Exchange does not possess significant pricing power in the execution of options order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue to reduce use of certain categories of products, in response to fee changes.

¹⁶ See supra note 7.

¹⁷ See supra note 7.

Accordingly, competitive forces constrain exchange transaction fees. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

The Exchange believes the proposed change is reasonable because, as noted above, the Exchange operates in a highly competitive environment, particularly for attracting order flow that provides liquidity on the Exchange. The Exchange believes it is reasonable to provide a higher rebate for Members that trade in SPY, QQQ and IWM options in Priority Customer Origin for Tiers 1 through 3 because, to date, no Members have reached Tier 4 using the Priority Customer Maker method only (which may be different than their effective tier), and, additionally the Simple fees and rebates are essentially the same for the Priority Customer Tiers 1 through 3.. The Exchange believes the proposed higher rebate is reasonable as it would provide an additional incentive for Members to provide liquidity in SPY, QQQ and IWM options, and provide meaningful added levels of liquidity, thereby contributing to the depth and market quality on the Exchange.

The Exchange believes that defining the proposed increased rebate with the new symbol “∇” on the Fee Schedule promotes just and equitable principles of trade, removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general protects investors and the public interest by creating a clear understanding of the increased rebate.

The proposed increased rebate is reasonable, equitable, and not unfairly discriminatory because it will apply similarly to all market participants who provide liquidity on the Simple Order Book for their Priority Customer Origin in SPY, QQQ and IWM options in Tiers 1, 2 and 3. All similarly situated market participants are subject to the same transaction rebate schedule, and access to the Exchange is offered on terms that are not unfairly discriminatory.

The Exchange believes that the proposal is reasonable because it will incentivize providers of SPY, QQQ, and IWM Priority Customer order flow to send that Priority Customer order flow to the Exchange in order to obtain the highest volume threshold and receive a Simple Maker rebate in a manner that enables the Exchange to improve its overall competitiveness and strengthen its market quality for all market participants.

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. As described above, the Exchange believes that the proposed change would encourage the submission of additional orders in SPY, QQQ and IWM options, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for Members.

Intra-Market Competition

The Exchange does not believe that the proposed rule change would place other market participants at the Exchange at a relative disadvantage compared to providers of SPY, QQQ, and IWM Priority Customer order flow. The Exchange believes that establishing higher rebates for these select products for Priority Customers is reasonable, equitable, and not unfairly discriminatory because these select products are generally more liquid than other option classes and the Exchange believes that the proposed change is designed to attract additional order flow to the Exchange. The Exchange believes that the proposed increased rebates would continue to incentivize market participants to provide order flow to the Exchange. Greater liquidity benefits all market participants on the Exchange by providing more trading opportunities and encourages Members to send orders thereby contributing to robust levels of liquidity, which benefits all market participants. The proposed higher rebates would be available to all similarly-situated

market participants, and, as such, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Inter-Market Competition

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. The Exchange notes that since the Exchange launched operations on March 1, 2019, the Exchange's market share has been less than 1% in any month. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing, the Exchange does not believe its proposed increased rebate can impose any burden on competition. The Exchange believes that the proposed change could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution. The Exchange also believes that the proposed change is designed to provide the public and investors with a Schedule of Fees and Rebates that is clear and consistent, thereby reducing burdens on the marketplace and facilitating investor protection.

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 e-mail [to rule-comments@sec.gov](mailto:to-rule-comments@sec.gov). Please include File Number SR-EMERALD-2019-25 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-EMERALD-2019-25. 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-EMERALD-2019-25 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.¹⁸

Brent J. Fields
Secretary

¹⁸ 17 CFR 200.30-3(a)(12).

Exhibit 5

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

MIAX Emerald Fee Schedule

1) Transaction Fees

a) Exchange Rebates/Fees

i) Transaction Fees

Tiers and their application are defined in Tier section 1)a)ii)

Members and Their Affiliates In Penny Classes Simple/Complex/PRIME/cPRIME									
Origin	Tier	Simple		Complex [#]			PRIME/cPRIME ⁰		
		Maker	Taker [^]	Maker (Contra Origins ex Priority Customer)	Maker (Contra Priority Customer Origin)	Taker	Agency	Contra	Responder
Market Maker	1	(\$0.35)	\$0.50	\$0.10	\$0.47	\$0.50	\$0.05	\$0.05	\$0.05
	2	(\$0.35)	\$0.50	\$0.10	\$0.47	\$0.50	\$0.05	\$0.05	\$0.05
	3	(\$0.35)	\$0.50	\$0.10	\$0.47	\$0.50	\$0.05	\$0.05	\$0.05
	4	(\$0.45)	\$0.48	\$0.10	\$0.47	\$0.50	\$0.05	\$0.05	\$0.05
Non-MIAX Emerald Market Maker	1	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	2	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	3	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	4	(\$0.25)	\$0.48	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
Firm Proprietary/ Broker- Dealer	1	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	2	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	3	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	4	(\$0.25)	\$0.49	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
Non-Priority Customer	1	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	2	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	3	(\$0.25)	\$0.50	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
	4	(\$0.25)	\$0.49	\$0.20	\$0.50	\$0.50	\$0.05	\$0.05	\$0.05
Priority Customer*	1	(\$0.48) [∇]	\$0.47	(\$0.25)	(\$0.25)	(\$0.25)	\$0.00	\$0.05	\$0.05
	2	(\$0.48) [∇]	\$0.47	(\$0.40)	(\$0.40)	(\$0.40)	\$0.00	\$0.05	\$0.05
	3	(\$0.48) [∇]	\$0.47	(\$0.45)	(\$0.45)	(\$0.45)	\$0.00	\$0.05	\$0.05
	4	(\$0.53)	\$0.45	(\$0.50)	(\$0.50)	(\$0.50)	\$0.00	\$0.05	\$0.05

Members and Their Affiliates In Non-Penny Classes Simple/Complex/PRIME/cPRIME									
Origin	Tier	Simple		Complex [#]			PRIME/cPRIME ⁰		
		Maker	Taker [^]	Maker (Contra Origins ex Priority Customer)	Maker (Contra Priority Customer Origin)	Taker [~]	Agency	Contra	Responder
Market Maker	1	(\$0.45)	\$0.99	\$0.20	\$0.86	\$0.88	\$0.05	\$0.05	\$0.05
	2	(\$0.45)	\$0.99	\$0.20	\$0.86	\$0.88	\$0.05	\$0.05	\$0.05
	3	(\$0.45)	\$0.99	\$0.20	\$0.86	\$0.86	\$0.05	\$0.05	\$0.05
	4	(\$0.75)	\$0.94	\$0.20	\$0.86	\$0.86	\$0.05	\$0.05	\$0.05
Non-MIAX Emerald Market Maker	1	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	2	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	3	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	4	(\$0.25)	\$0.94	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
Firm Proprietary/ Broker- Dealer	1	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	2	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	3	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	4	(\$0.25)	\$0.94	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
Non-Priority Customer	1	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	2	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	3	(\$0.25)	\$0.99	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
	4	(\$0.25)	\$0.94	\$0.20	\$0.88	\$0.88	\$0.05	\$0.05	\$0.05
Priority Customer*	1	(\$0.85)	\$0.85	(\$0.40)	(\$0.40)	(\$0.40)	\$0.00	\$0.05	\$0.05
	2	(\$0.85)	\$0.85	(\$0.60)	(\$0.60)	(\$0.60)	\$0.00	\$0.05	\$0.05
	3	(\$0.85)	\$0.85	(\$0.70)	(\$0.70)	(\$0.75)	\$0.00	\$0.05	\$0.05
	4	(\$1.05)	\$0.82	(\$0.87)	(\$0.87)	(\$0.85)	\$0.00	\$0.05	\$0.05

[^] Contra to Priority Customer Simple Orders, Origins ex Priority Customer Simple Orders will be charged \$0.50 and Priority Customer Simple Orders will be charged \$0.49 in Penny classes, and Origins ex Priority Customer Simple Orders will be charged \$1.10 and Priority Customer Simple Orders will be charged \$0.85 in Non-Penny classes.

* Priority Customer Complex Orders contra to Priority Customer Complex Orders are neither charged nor rebated. Priority Customer Complex Orders that leg into the Simple book are neither charged nor rebated.

[~] A \$0.05 Complex surcharge for Origins ex Priority Customer for Complex Orders that take liquidity from the Complex Order Book in Non-Penny classes.

[#] For orders in a Complex Auction, Priority Customer Complex Orders will receive the Complex Taker rebate based on the tier achieved when contra to an Origin that is not a Priority Customer. Origins that are not a Priority Customer will be charged the applicable Maker fee depending on the contra, based on the tier achieved.

⁰ For PRIME and cPRIME, the per contract rebate or fee for the preexisting contra-side interest that trades with the Agency side will be waived. PRIME/cPRIME Responder side interest that trades with unrelated Agency side interest trades as Taker will be subject to Simple or Complex rates, as applicable.

∇ Simple Maker rebate in SPY, QQQ and IWM is (\$0.50) for Priority Customer Origin in Tiers 1, 2 and 3.

Notes Accompanying Tables Above

During the Opening Rotation and the ABBO uncrossing, the per contract rebate or fee will be waived for all Origins.

ii) – vi) **No Change.**

b) No change.
