

Wednesday SPY Expirations in the same way it monitors trading in the current Short Term Option Series. The Exchange also represents that it has the necessary systems capacity to support the new options series. Also, the Exchange notes that BOX Options Exchange LLC ("BOX") recently received approval to list Wednesday expirations for SPY options.<sup>10</sup>

#### *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. The Exchange notes that having Wednesday expirations is not a novel proposal, BOX has received approval to list Wednesday expirations for SPY options.<sup>11</sup> The Exchange does not believe the proposal will impose any burden on intra-market competition, as all market participants will be treated in the same manner. Additionally, the Exchange does not believe the proposal will impose any burden on inter-market competition, as nothing prevents the other options exchanges from proposing similar rules.

#### *C. 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.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days from the date of filing. However, Rule 19b-

4(f)(6)(iii)<sup>14</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that it recently approved BOX's substantially similar proposal to list and trade Wednesday SPY Expirations.<sup>15</sup> The Exchange has stated that waiver of the operative delay will allow the Exchange to list and trade Wednesday SPY Expirations as soon as possible, and therefore, promote competition among the option exchanges. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest, and will allow the Exchange to remain competitive with other exchanges. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal effective upon filing.<sup>16</sup> 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**

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

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2016-122 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange

<sup>14</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>15</sup> See *supra* note 4.

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

Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2016-122. 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 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 Web site 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-NASDAQ-2016-122 and should be submitted on or before September 21, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Brent J. Fields,**  
*Secretary.*

[FR Doc. 2016-20962 Filed 8-30-16; 8:45 am]

**BILLING CODE 8011-01-P**

### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-78693; File No. SR-PHLX-2016-89]

#### **Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Expand the Short Term Option Series Program**

August 26, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

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

<sup>10</sup> See *supra*, note 4.

<sup>11</sup> See *supra*, note 4.

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intention to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

(“Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on August 25, 2016, NASDAQ PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to expand the Short Term Option Series Program to allow Wednesday expirations for SPY options.

The text of the proposed rule change is available on the Exchange’s Web site at <http://nasdaqphlx.cchwallstreet.com/>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

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

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

##### **1. Purpose**

The Exchange proposes to amend Phlx Rules 1000(44) and Rule 1012 at Commentary .11 to expand the Short Term Option Series Program to permit the listing and trading of options with Wednesday expirations.

Currently, under the Short Term Option Series Program, the Exchange may open for trading on any Thursday or Friday that is a business day series of options on that class that expire on each of the next five consecutive Fridays, provided that such Friday is not a Friday in which monthly options series or Quarterly Options Series expire (“Short Term Option Series”). The Exchange is now proposing to amend its

rule to permit the listing of options expiring on Wednesdays. Specifically, the Exchange is proposing that it may open for trading on any Tuesday or Wednesday that is a business day, series of options on the SPDR S&P 500 ETF Trust (SPY) to expire on any Wednesday of the month that is a business day and is not a Wednesday in which Quarterly Options Series expire (“Wednesday SPY Expirations”).<sup>3</sup> The proposed Wednesday SPY Expiration series will be similar to the current Short Term Option Series, with certain exceptions, as explained in greater detail below. The Exchange notes that having Wednesday expirations is not a novel proposal. Specifically, BOX Options Exchange LLC (“BOX”) recently received approval to list Wednesday expirations for SPY options.<sup>4</sup>

In regards to Wednesday SPY Expirations, the Exchange is proposing to remove the current restriction preventing the Exchange from listing Short Term Option Series that expire in the same week in which monthly option series in the same class expire. Specifically, the Exchange will be allowed to list Wednesday SPY Expirations in the same week in which monthly option series in SPY expire. The current restriction to prohibit the expiration of monthly and Short Term Option Series from expiring on the same trading day is reasonable to avoid investor confusion. This confusion will not apply with Wednesday SPY Expirations and standard monthly options because they will not expire on the same trading day, as standard monthly options do not expire on Wednesdays. Additionally, it would lead to investor confusion if Wednesday SPY Expirations were not listed for one week every month because there was a monthly SPY expiration on the Friday of that week.

Under the proposed Wednesday SPY Expirations, the Exchange may list up to five consecutive Wednesday SPY Expirations at one time. The Exchange may have no more than a total of five Wednesday SPY Expirations listed. This is the same listing procedure as Short Term Option Series that expire on Fridays. This means, under the proposal, the Exchange would be allowed to list five Short Term Option Series expirations for SPY expiring on Friday under the current rule and five Wednesday SPY Expirations. The interval between strike prices for the proposed Wednesday SPY Expirations

will be the same as those for the current Short Term Option Series. Specifically, the Wednesday SPY Expirations will have \$0.50 strike intervals.

Currently, for each Short Term Option Expiration Date,<sup>5</sup> the Exchange is limited to opening thirty (30) series for each expiration date for the specific class. The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective short term option rules; the Exchange may list these additional series that are listed by other exchanges.<sup>6</sup> The thirty (30) series restriction shall apply to Wednesday SPY Expiration series as well. In addition, the Exchange will be able to list series that are listed by other exchanges, assuming they file similar rules with the Commission to list SPY options expiring on Wednesdays.

As is the case with current Short Term Option Series, the Wednesday SPY Expiration series will be P.M.-settled. The Exchange does not believe that any market disruptions will be encountered with the introduction of P.M.-settled Wednesday SPY Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire almost every Friday, which provide market participants a tool to hedge special events and to reduce the premium cost of buying protection. The Exchange seeks to introduce Wednesday SPY Expirations to, among other things, expand hedging tools available to market participants and to continue the reduction of the premium cost of buying protection. The Exchange believes that Wednesday expirations, similar to Friday expirations, would allow market participants to purchase an option based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

The Exchange is also amending the definition of Short Term Option Series to make clear that it includes Wednesday expirations.<sup>7</sup> Specifically, the Exchange is amending the definition to expand Short Term Option Series to those listed on any Tuesday or Wednesday and that expire on the Wednesday of the next business week. If a Tuesday or Wednesday is not a business day, the series may be opened

<sup>5</sup> Phlx may open for trading on any Thursday or Friday that is a business day series of options on that class that expire on each of the next five consecutive Fridays that are business days and are not Fridays in which monthly options series or Quarterly Options Series expire (“Short Term Option Expiration Dates”). See Phlx Rule 1012 at Commentary .11.

<sup>6</sup> See Phlx Rule 1012 at Commentary .11.

<sup>7</sup> See proposed Rule 1000(44).

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

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> See Phlx Rule 1012 at Commentary .11.

<sup>4</sup> See Securities Exchange Act Release No. 78668 (SR–BOX–2016–28) (pending publication in the Federal Register).

(or shall expire) on the first business day immediately prior to that Tuesday or Wednesday. The Exchange believes that the introduction of Wednesday SPY Expirations will provide investors with a flexible and valuable tool to manage risk exposure, minimize capital outlays, and be more responsive to the timing of events affecting the industry.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>9</sup> in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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.

In particular, the Exchange believes the Short Term Option Series Program has been successful to date and that Wednesday SPY Expirations simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Short Term Option Series Program has expanded the landscape of hedging. Similarly, the Exchange believes Wednesday SPY Expirations should create greater trading and hedging opportunities and flexibility, and provide customers with the ability to more closely tailor their investment objectives. The Exchange believes that allowing Wednesday SPY Expirations and monthly SPY expirations in the same week will benefit investors and minimize investor confusion by providing Wednesday SPY Expirations in a continuous and uniform manner. Finally, the Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in Wednesday SPY Expirations in the same way it monitors trading in the current Short Term Option Series. The Exchange also represents that it has the necessary systems capacity to support the new options series. Also, the Exchange notes that BOX Options Exchange LLC ("BOX") recently received approval to list Wednesday expirations for SPY options.<sup>10</sup>

## 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. The Exchange notes that having Wednesday expirations is not a novel proposal, BOX has received approval to list Wednesday expirations for SPY options.<sup>11</sup> The Exchange does not believe the proposal will impose any burden on intra-market competition, as all market participants will be treated in the same manner. Additionally, the Exchange does not believe the proposal will impose any burden on inter-market competition, as nothing prevents the other options exchanges from proposing similar rules.

## C. 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.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days from the date of filing. However, Rule 19b-4(f)(6)(iii)<sup>14</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that it recently approved BOX's substantially similar proposal to list and trade Wednesday

SPY Expirations.<sup>15</sup> The Exchange has stated that waiver of the operative delay will allow the Exchange to list and trade Wednesday SPY Expirations as soon as possible, and therefore, promote competition among the option exchanges. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest, and will allow the Exchange to remain competitive with other exchanges. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal effective upon filing.<sup>16</sup> 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

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

### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2016-89 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-Phlx-2016-89. 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 Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the

<sup>11</sup> See *supra*, note 4.

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intention to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>14</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>15</sup> See *supra* note 4.

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

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> See *supra*, note 4.

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 Web site 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-Phlx-2016-89 and should be submitted on or before September 21, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Brent J. Fields,**  
Secretary.

[FR Doc. 2016-20960 Filed 8-30-16; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-78681; File No. SR-MIAX-2016-28]

### Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

August 25, 2016.

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 August 11, 2016, 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").

The text of the proposed rule change is available on the Exchange's Web site at [http://www.miaxoptions.com/filter/wotitle/rule\\_filing](http://www.miaxoptions.com/filter/wotitle/rule_filing), at MIAX's principal office, and at the Commission's Public Reference Room.

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

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

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

###### 1. Purpose

The Exchange proposes to amend Section 1(b) of the Fee Schedule, Marketing Fee, to add to the list of symbols for which the Exchange assesses a \$0.12 per contract Posted Liquidity Marketing Fee. In addition to the current symbols listed in Section 1(b), the Exchange is proposing to assess the Posted Liquidity Marketing Fee for contracts executed in DIA, FB, GDX, SLV, USO, UVXY, and VXX. The Exchange also proposes to assess the applicable per contract non-Market Maker transaction fees for executions in these new symbols, as described more fully below.

A Marketing Fee is assessed on certain transactions of all Market Makers.<sup>3</sup> Currently, Section 1(b) of the Fee Schedule provides that the Exchange will assess:

(i) A Marketing Fee to all Market Makers for contracts, including mini options, they execute in their assigned classes when the contra-party to the execution is a Priority Customer. MIAX will not assess a Marketing Fee to

Market Makers for contracts executed as a PRIME Agency Order, Contra-side Order, Qualified Contingent Cross Order, PRIME Participating Quote or Order, or a PRIME AOC Response in the PRIME Auction, unless it executes against an unrelated order.

(ii) an additional \$0.12 per contract Posted Liquidity Marketing Fee to all Market Makers for any standard options overlying EEM, GLD, IWM, QQQ, and SPY that Market Makers execute in their assigned class when the contra-party to the execution is a Priority Customer and the Priority Customer order was posted on the MIAX Book at the time of the execution. MIAX will not assess the additional Posted Liquidity Marketing Fee to Market Makers for contracts executed as a PRIME Agency Order, Contra-side Order, Qualified Contingent Cross Order, or a PRIME AOC Response or PRIME Participating Quote or Order in the PRIME Auction. MIAX will also not assess the additional Posted Liquidity Marketing Fee to Market Makers for contracts executed pursuant to a Liquidity Refresh Pause, route timer, or during the Opening Process. This Posted Liquidity Marketing Fee is in addition to the current Marketing Fee of \$0.25 per contract for standard options overlying these enumerated symbols that Market Makers execute in their assigned class when the contra-party to the execution is a Priority Customer.<sup>4</sup>

Funds collected via the Marketing Fee, including the additional \$0.12 per contract Posted Liquidity Marketing Fee, are put into "pools" controlled by Primary Lead Market Makers ("PLMMs")<sup>5</sup> and Lead Market Makers ("LMMs").<sup>6</sup> So for example, the \$0.12 per contract Posted Liquidity Marketing Fee goes into the broader Marketing Fee pool for the Directed LMM or the PLMM

<sup>4</sup> See Securities Exchange Act Release No. 73848 (December 16, 2014), 79 FR 76421 (December 22, 2014) (SR-MIAX-2014-62) (Notice of Filing and Immediate Effectiveness of MIAX Posted Liquidity Marketing Fee with respect to EEM, GLD, IWM, QQQ and SPY).

<sup>5</sup> The term "Primary Lead Market Maker" means a Lead Market Maker appointed by the Exchange to act as the Primary Lead Market Maker for the purpose of making markets in securities traded on the Exchange. The Primary Lead Market Maker is vested with the rights and responsibilities specified in Chapter VI of these Rules with respect to Primary Lead Market Makers. See Exchange Rule 100.

<sup>6</sup> The term "Lead Market Maker" means a Member registered with the Exchange for the purpose of making markets in securities traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter VI of these Rules with respect to Lead Market Makers. When a Lead Market Maker is appointed to act in the capacity of a Primary Lead Market Maker, the additional rights and responsibilities of a Primary Lead Market Maker specified in Chapter VI of these Rules will apply. See Exchange Rule 100.

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

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

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

<sup>3</sup> See MIAX Fee Schedule, Section 1(b), entitled "Marketing Fee" for more detail regarding the Marketing Fee.