

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79246; File No. SR-MIAX-2016-41]

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

November 4, 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 October 27, 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”) to delete rule text concerning certain transaction fees of limited duration that expire on October 31, 2016.

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 is proposing to delete rule text concerning certain transaction fees of limited duration that expire on October 31, 2016. Since the Exchange is not proposing to extend the duration of such fees, the fees automatically expire and the associated rule text becomes obsolete after October 31, 2016. There are three (3) limited duration transaction fees that are expiring on October 31, 2016. The first such fee is the \$0.12 per contract Posted Liquidity Marketing Fee (described below) applicable to options overlying EEM, GLD, IWM, QQQ and SPY (the “designated symbols”), as listed in the Fee Schedule. The second such fee is the \$0.50 per contract transaction fee applicable to orders executed for the account of non-MIAX market makers in options overlying the designated symbols. The third such fee is the discounted \$0.48 per contract transaction fee applicable to orders executed for the account of non-MIAX market makers in options overlying the designated symbols applicable to any Member or its Affiliate that qualifies for the Priority Customer Rebate Program (“PCRP”) Volume Tier 3 or Higher, as discussed below.

First, Marketing Fees are currently assessed on certain transactions of all MIAX Market Makers.<sup>3</sup> Currently, Section (1)(b) of the Fee Schedule provides that the Exchange will assess a Marketing Fee to all Market Makers for contracts, including mini options, they execute in their assigned classes in simple or complex order executions when the contra-party to the execution is a Priority Customer. The Marketing Fee in complex order executions will be assessed per contract (whether the transaction executes in a strategy match, complex auction, or by legging into the Book). MIAX does 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.

The Exchange also currently assesses, for a limited duration (for transactions that occur on or after September 1, 2016 and extending through October 31,

2016), in simple order executions, an additional \$0.12 per contract Posted Liquidity Marketing Fee to all Market Makers for any standard options overlying the designated symbols 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.<sup>4</sup> Since the Exchange is not proposing to extend the duration of the additional \$0.12 per contract fee, such fee automatically expires and the associated rule text becomes obsolete after October 31, 2016. Accordingly, the Exchange is deleting the associated rule text regarding the Posted Liquidity Marketing Fee in Section (1)(b) and footnote 15. As a result of the deletion of footnote 15, all subsequent footnotes in Fee Schedule have been renumbered.

Second, the Exchange currently assesses transaction fees on Members for orders that are executed for the account of non-MIAX market makers.<sup>5</sup> Currently, Section (1)(a)(ii) of the Fee Schedule provides that the Exchange will assess a \$0.47 per contract transaction fee for simple and complex order executions for the account of non-MIAX market makers in standard options that are in the Penny Pilot Program.<sup>6</sup> However, for a limited duration (for transactions that occur on or after September 1, 2016 and extending through October 31, 2016), for any standard options overlying the designated symbols, the Exchange assesses a \$0.50 per contract transaction fee (in lieu of the \$0.47 per contract transaction fee) for simple order executions for the account of non-MIAX market makers in standard options that are in the Penny Pilot Program. Since the Exchange is not proposing to extend the duration of the \$0.50 per contract transaction fee, such fee automatically expires and the associated rule text becomes obsolete after October 31, 2016. Accordingly, the Exchange is deleting the associated rule text in footnote 8 to the Fee Schedule. If, however, a Member or its Affiliate qualifies for the PCRP Volume Tier 3 or Higher, such Member is currently assessed a

<sup>4</sup> For a complete description of the Posted Liquidity Marketing Fee, see Securities Exchange Act Release No. 73848 (December 16, 2014), 79 FR 76421 (December 22, 2014) (SR-MIAX-2014-62); see also Securities Exchange Act Release No. 78781 (September 7, 2016), 81 FR 62942 (September 13, 2016) (SR-MIAX-2016-30).

<sup>5</sup> A non-MIAX market maker is a market maker registered as such on another options exchange. See the table under Section (1)(a)(ii) of the Fee Schedule.

<sup>6</sup> See Securities Exchange Act Release No. 72988 (September 4, 2014), 79 FR 53808 (September 10, 2014) (SR-MIAX-2014-46).

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

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

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

discounted transaction fee. Pursuant to footnote 8 of the Fee Schedule, for a Member in the PCRP, the Exchange will assess a \$0.45 per contract transaction fee for simple and complex order executions for the account of non-MIAX market makers in standard options that are in the Penny Pilot Program. However, for a limited duration (for transactions that occur on or after September 1, 2016 and extending through October 31, 2016), for any standard options overlying the designated symbols, the Exchange assesses a \$0.48 per contract transaction fee (in lieu of the \$0.45 per contract transaction fee) for simple order executions for the account of non-MIAX market makers in standard options that are in the Penny Pilot Program. Since the Exchange is not proposing to extend the duration of the \$0.48 per contract transaction fee, such fee automatically expires and the associated rule text becomes obsolete after October 31, 2016. Accordingly, the Exchange is deleting the associated rule text in footnote 8 to the Fee Schedule.

The Exchange is proposing that this rule change become operative November 1, 2016.

## 2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act<sup>7</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>8</sup> in that it is an equitable allocation of reasonable dues, fees, and other charges among its Members and issuers and other persons using its facilities, and 6(b)(5) of the Act,<sup>9</sup> in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed deletions of all rule text regarding the three (3) limited duration transaction fees that are expiring on October 31, 2016 (the \$0.12 per contract Posted Liquidity Marketing Fee in the designated symbols; the \$0.50 per contract transaction fee applicable to orders executed for the account of non-MIAX market makers in the designated symbols; and the discounted \$0.48 per contract transaction fee applicable to orders executed for the account of non-

MIAX market makers in options overlying in the designated symbols applicable to any Member or its Affiliate that qualifies for the PCRP Volume Tier 3 or Higher) are fair, equitable, and not unreasonably discriminatory because such fees are no longer in effect after October 31, 2016, and the corresponding rule text is therefore obsolete and unnecessary to remain in the Fee Schedule.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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 believes that the proposed rule change reflects this competitive environment because it applies equally to all similarly situated MIAX participants.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>10</sup> and Rule 19b-4(f)(2)<sup>11</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

## IV. Solicitation of Comments

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-MIAX-2016-41 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-MIAX-2016-41. 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 such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MIAX-2016-41, and should be submitted on or before December 1, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Brent J. Fields,**  
Secretary.

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

<sup>8</sup> 15 U.S.C. 78f(b)(4).

<sup>9</sup> 15 U.S.C. 78f(b)(1) and (b)(5).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

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