

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-73425; File No. SR-MIAX-2014-55)

October 24, 2014

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the MIAX Options 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 October 16, 2014, 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 website at 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 its marketing fee.³ The marketing fee is assessed on certain transactions of all Market Makers.⁴ The funds collected via this marketing fee are then put into pools controlled by Primary Lead Market Makers (“PLMMs”) and LMMs. The PLMM or LMM controlling a certain pool of funds can then determine the Electronic Exchange Member(s) (“EEM”) to which the funds should be directed in order to encourage such EEM(s) to send orders to the Exchange. In accordance with Exchange Rule 514, an EEM can designate an order (“Directed Order”) to a specific LMM.

Currently, Section (1)(b) of the Fee Schedule, provides that to qualify for a marketing fee allocation for an applicable month, an LMM must either: (i) have an appointment in the relevant option class at the time of being directed the order; or (ii) for the month preceding the applicable month (the “qualifying month”) have an appointment as an LMM for at least ten (10) trading days in a minimum of fifty percent (50%) of the option classes listed on the Exchange for the entire qualifying month. For non-directed orders and orders directed to non-qualifying LMMs, applicable Marketing Fees are allocated to the PLMM’s Marketing Fee “pool.” All Market

³ The proposal is based on a substantially similar filing by the Chicago Board Options Exchange, Incorporated. See Securities Exchange Act Release No. 68131 (November 1, 2012), 77 FR 67032 (November 8, 2012) (SR-CBOE-2012-101).

⁴ See MIAX Options Fee Schedule, Section (1)(b), entitled Marketing Fee for more detail regarding the marketing fee.

Makers that participated in such transactions will pay the applicable Marketing Fee to the Exchange, which will allocate such funds to the Member that controls the distribution of the Marketing Fee “pool.” Each month the Member will submit written instructions to MIAX describing how MIAX is to distribute the Marketing Fees in the “pool” to Electronic Exchange Members identified by the Member.

However, other options exchanges allow an LMM (or similar position) to have access to the marketing fee funds generated from a Directed Order (or similar order type) regardless of whether the LMM has an appointment in a class in which the Directed Order is received and executed without the additional requirement for an LMM to have at least ten (10) trading days in a minimum of fifty percent (50%) of the option classes listed on the Exchange for the entire qualifying month.⁵ The Exchange now proposes to remove this additional requirement so that its marketing fee program operates in a manner more similar to that of competing options exchanges that offer similar programs.

The Exchange proposes amending the Fee Schedule to allow LMMs to receive an allocation of marketing fees generated by Directed Orders sent to the LMM without any additional requirements. Specifically, the Exchange proposes to remove the requirements that provide that an LLM, in order to qualify to be allocated Marketing Fees for Directed Orders for an applicable month, must either: (i) have an appointment in the relevant option class at the time of being directed the order; or (ii) for the month preceding the applicable month (the “qualifying

⁵ See CBOE Fees Schedule, fn. 6; NASDAQ OMX Phlx, LLC (“Phlx”) Pricing Schedule, section on Payment for Order Flow Fee; NYSE Amex Options Fee Schedule, fn. 10; International Securities Exchange, LLC (“ISE”) Schedule of Fees, Section IV(D)[sic]. None of which contain requirements that a PLMM or LMM (or similar position) have an appointment in the class in which a Directed Order (or similar order type) is received and executed nor the additional requirement of a minimum number of options class

month”) have an appointment as an LMM for at least ten (10) trading days in a minimum of fifty percent (50%) of the option classes listed on the Exchange for the entire qualifying month. The proposed changes will more closely align the Exchange’s marketing fee program with the requirements of other competing exchanges that offer similar programs.⁶

Permitting LMMs to be allocated marketing fees generated from a Directed Order without these additional requirements would allow LMMs to encourage greater order flow to be sent to the Exchange. This increased order flow would benefit all market participants on the Exchange, such as customers with resting orders on the Exchange and LMMs that have an appointment and quote in the relevant option. Allowing LMMs to be allocated marketing fees generated from a Directed Order in the manner that is proposed would provide LMMs with an incentive to encourage the routing of order flow into classes in which the LMM otherwise would not. Further, the proposal will also provide LMMs with more flexibility to determine which classes that they choose to be appointed in and still receive payment for order flow without the restrictive criteria; as they will not have to be concerned with whether or not they have met the minimum class appointment threshold prior to making arrangements to paying for order flow in a specific class.

The proposed fee changes are to take effect on November 1, 2014.

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act⁷ in

appointments in order to have access to the marketing fee funds generated from that Preferred order.

⁶ See id.

⁷ 15 U.S.C. 78f(b).

general, and furthers the objectives of Section 6(b)(5) of the Act⁸ in particular, 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 Exchange believes that this proposal to remove a requirement that other exchanges do not share, perfects the mechanism for a free and open market and a national market system by allowing the Exchange's marketing fee program to operate in a manner similar to competing options exchanges. In addition, the proposal promotes just and equitable principles of trade by encouraging greater order flow to be sent to the Exchange through Directed Orders in a manner that will benefit all market participants on the Exchange.

The Exchange also believes that the proposed changes to the marketing fee is consistent with Section 6(b)(4) of the Act⁹ which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The proposed change is reasonable because it will allow LMMs greater access to marketing fee funds. The proposed change is equitable and not unfairly discriminatory because it is designed to allow LMMs to encourage greater order flow to be sent to the Exchange. A LMM could be able to amass a greater pool of funds with which to use to incent order flow providers to send order flow to the Exchange. This increased order flow would benefit all market participants on the Exchange. Further, allowing additional LMMs to access marketing fee funds generated from a

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78f(b)(4).

Directed Order would provide LMMs with an incentive to encourage the routing of order flow into classes in which the LMM otherwise would not.

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 proposed rule change would place the Exchange on equal footing as other exchanges that allow their LMM equivalents to be allocated marketing fees generated by Directed Orders. The Exchange believes that such an even playing field will promote competition among options exchanges. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues who offer similar fee structures. Many competing venues offer similar fee structures to market participants. To this end, the Exchange is proposing a market enhancement to encourage market participants to trade on the Exchange. The Exchange believes the proposed rule change is procompetitive because it would enable the Exchange to provide member organizations with a fee structure that is similar to that of other exchanges.

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.¹⁰ 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

¹⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

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 e-mail to rule-comments@sec.gov. Please include File Number SR-MIAX-2014-55 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.

All submissions should refer to File Number SR-MIAX-2014-55. 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 website (<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 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-2014-55 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.¹¹

Kevin M. O'Neill
Deputy Secretary

¹¹ 17 CFR 200.30-3(a)(12).