

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-74034; File No. SR-MIAX-2014-71)

January 12, 2015

Self-Regulatory Organizations: The Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Exchange Rule 807

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 December 30, 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 Rule 807 to correspond with Section 17(f)(2) of the Act.³

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78q(f)(2).

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 Rule 807 (Fingerprint-Based Background Checks of Exchange Employees and Independent Contractors) in order to mirror the language of Section 17(f)(2) of the Act.⁴ Section 17(f)(2) of the Act explicitly directs the Attorney General of the United States (i.e., the Federal Bureau of Investigation) to provide SROs designated by the Commission with access to criminal history record information. Access to the Federal Bureau of Investigation's ("FBI") (the fingerprint processing arm of the Office of the Attorney General of the United States) database of fingerprint-based records is permitted only when authorized by law. The Exchange recently changed its procedure with regard to Rule 807, replacing manual fingerprinting via fingerprinting cards with a Live-Scan electronic fingerprinting system.⁵ As part of this transition and at the specific request of the FBI, the Exchange now seeks to amend the language of Rule 807 to mirror Section 17(f)(2) of the Act.⁶

The Exchange proposes to amend Rule 807 to apply to all partners, directors, officers, and employees of the Exchange in order to more closely align with the requirements for national

⁴ 15 U.S.C. 78q(f)(2).

⁵ See Securities Exchange Act Release No. 72600 (July 11, 2014) 79 FR 41717 (July 17, 2014) (SR-MIAX-2014-38).

⁶ 15 U.S.C. 78q(f)(2).

securities exchanges as provided in Section 17(f)(2) of the Act.⁷ Currently, Rule 807(a) applies to (1) all prospective and current Exchange employees, (2) all prospective and current independent contractors who have or are anticipated to have access to the facilities of the Exchange for ten (10) business days or longer, and (3) all prospective and current temporary employees who have or are anticipated to have access to facilities of the Exchange for ten (10) business days or longer.⁸ Section 17(f)(2) of the Act does not specifically apply to independent contractors nor temporary employees, but instead references “partners, directors, officers, and employees” of the Exchange. Thus, the Exchange proposes to amend Rule 807 to delete references to independent contractors and temporary employees in order to mirror the requirements of Section 17(f)(2) of the Act.⁹ In addition, in order to enhance the physical security of the facilities, systems, data, and information of the Exchange, it shall be the policy of the Exchange, outside of Rule 807, to conduct a non-fingerprint-based background check of all prospective and current independent contractors and all prospective and current temporary employees who have or are anticipated to have access to the facilities of the Exchange for ten (10) business days or longer. The Exchange further proposes related technical changes to Rule 807(c) and 807(d).

2. Statutory Basis

The Exchange believes that its proposal is consistent with the Securities Exchange Act of 1934 (the "Act")¹⁰ and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act. Specifically, the Exchange believes the

⁷ 15 U.S.C. 78q(f)(2).

⁸ See Rule 807(a).

⁹ See 15 U.S.C. 78q(f)(2).

¹⁰ 15 U.S.C. 78f(b).

proposed change to Rule 807 is consistent with the Section 6(b)(5)¹¹ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, 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.

In particular, the Exchange believes the proposed change to Rule 807 is consistent with the foregoing requirements of Section 6(b)(5) in that it will allow MIAX to remain compliant with applicable federal law – specifically, Section 17(f)(2) of the Act.¹² Running fingerprint-based background checks is imperative for the Exchange as they help MIAX identify and exclude persons with felony or misdemeanor conviction records that may pose a threat to the safety of Exchange personnel or the security of facilities and records, thereby enhancing business continuity, workplace safety and the security of the Exchange's operations and helping to protect investors and the public interest.

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

MIAX does not believe that the proposed change to Rule 807 will impose any burden on competition that is not necessary or appropriate in the furtherance of the purposes of the Act. The proposed change under the rule would maintain the security of the Exchange's facilities and records without adding any burden on market participants and allow the Exchange continued compliance with its fingerprinting rules and with Section 17(f)(2) of the Act as amended by the Dodd-Frank Act.¹³

¹¹ 15 U.S.C. 78f(b)(5).

¹² 15 U.S.C. 78q(f)(2).

¹³ See Section 929S of the Dodd-Frank Act.

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

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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act¹⁴ and Rule 19b-4(f)(6)¹⁵ 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:

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 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 intent 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.

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-2014-71 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-2014-71. 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-2014-71 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.¹⁶

Brent J. Fields
Secretary

¹⁶ 17 CFR 200.30-3(a)(12).