

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-75140; File No. SR-MIAX-2015-37)

June 10, 2015

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

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 May 29, 2015, 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](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

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

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

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 MIAX Options Fee Schedule (the "Fee Schedule") to modify the fees for MEI Ports to Market Makers. Specifically, the Exchange proposes to adopt the following fees for MEI Ports: (i) \$5,000 for MM Assignments in up to 5 option classes or up to 10% of option classes by volume; (ii) \$10,000 for MM Assignments in up to 10 option classes or up to 20% of option classes by volume; (iii) \$14,000 for MM Assignments in up to 40 option classes or up to 35% of option classes by volume; (iv) \$17,500 for MM Assignments in up to 100 option classes or up to 50% of option classes by volume; and (v) \$20,500.00 for MM Assignments in over 100 option classes or over 50% of option classes by volume up to all option classes listed on MIAX. In each of the proposed categories above, the stated fee applies if the lesser of the two applicable measurements is met.

Currently, MIAX assesses monthly MEI Port Fees on Market Makers based upon the number of MIAX matching engines<sup>3</sup> used by the Market Maker. MEI Port users are allocated two Full Service MEI Ports<sup>4</sup> and two Limited Service MEI Ports<sup>5</sup> per matching engine to which

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<sup>3</sup> A "matching engine" is a part of the MIAX electronic system that processes options quotes and trades on a symbol-by-symbol basis. Some matching engines will process option classes with multiple root symbols, and other matching engines will be dedicated to one single option root symbol (for example, options on SPY will 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.

<sup>4</sup> Full Service MEI Ports provide Market Makers with the ability to send Market Maker quotes, eQuotes, and quote purge messages to the MIAX System. Full Service MEI Ports

they connect. The Exchange currently assesses a fee of \$2,500 per month on Market Makers for the first matching engine they use; \$1,200 per month for each of matching engines 2 through 5; and \$700 per month for each of matching engines 6 and above. For example, a Market Maker that wishes to make markets in just one symbol would require the two MEI Ports in a single matching engine; a Market Maker wishing to make markets in all symbols traded on MIAX would require the two MEI Ports in each of the Exchange's matching engines. The Exchange also currently charges \$50 per month for each additional Limited Service MEI Port per matching engine for Market Makers in addition to the two Limited Service MEI Ports per matching engine that are allocated with the Full Service MEI Ports. The Full Service MEI Ports, Limited Service MEI Ports and the additional Limited Service MEI Ports all include access to MIAX's primary and secondary data centers and its disaster recovery center.

The Exchange notes that another competing exchange charges substantially more [sic] for the use of similar ports.<sup>6</sup> The Exchange established the current rates in an effort to increase the Exchange's revenues from non-transaction fee sources and also more closely align the fees with the rates charged by another competing options exchange.<sup>7</sup> The Exchange now proposes to modify its fees charged to Market Makers in order to provide objective criteria for MMs of different sizes and business models to be assessed a MEI Port fee that best matches their quoting

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are also capable of receiving administrative information. Market Makers are limited to two Full Service MEI Ports per matching engine.

<sup>5</sup> Limited Service MEI Ports provide Market Makers with the ability to send eQuotes and quote purge messages only, but not Market Maker Quotes, to the MIAX System. Limited Service MEI Ports are also capable of receiving administrative information. Market Makers initially receive two Limited Service MEI Ports per matching engine.

<sup>6</sup> See NASDAQ OMX PHLX LLC ("PHLX") Pricing Schedule, Section VII. PHLX assesses specialists and market makers Active SQF Port Fee of \$1,250 per port per month. Active SQF Port Fees are capped at \$42,000 per month.

<sup>7</sup> See Securities Exchange Act Release No. 74633 (April 2, 2015), 80 FR 18894 (April 8, 2015) (SR-MIAX-2015-25).

activity on the Exchange. Accordingly, the Exchange proposes to modify the fees charged to Market Makers for use of MEI Ports. Specifically, the Exchange proposes to adopt the following fees for MEI Ports: (i) \$5,000 for MM Assignments in up to 5 option classes or up to 10% of option classes by volume; (ii) \$10,000 for MM Assignments in up to 10 option classes or up to 20% of option classes by volume; (iii) \$14,000 for MM Assignments in up to 40 option classes or up to 35% of option classes by volume; (iv) \$17,500 for MM Assignments in up to 100 option classes or up to 50% of option classes by volume; and (v) \$20,500.00 for MM Assignments in over 100 option classes or over 50% of option classes by volume up to all option classes listed on MIAX. For the calculation of the monthly MEI Port fees that apply to MMs, the number of classes is defined as the greatest number of classes the MM was assigned to quote in on any given day within the calendar month and the class volume percentage is based on the total national average daily volume in classes listed on MIAX in the prior calendar quarter<sup>8</sup>. Newly listed option classes are excluded from the calculation of the monthly MEI Port fee until the calendar quarter following their listing, at which time the newly listed option classes will be included in both the per class count and the percentage of total national average daily volume. The Exchange will assess MMs the monthly MEI Port fee based on the greatest number of classes listed on MIAX that the MM was assigned to quote in on any given day within a calendar month and the applicable fee rate that is the lesser of either the per class basis or percentage of total national average daily volume measurement. For example, if MM1 elects to quote the top 40 option classes which consist of 58% of the total national average daily volume in the prior

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<sup>8</sup> The Exchange will use the following formula to calculate the percentage of total national average daily volume that the MM assignment is for purposes of the MEI Port fee for a given month. MM assignment percentage of national average daily volume = [total volume during the prior calendar quarter in a class in which the MM was assigned]/[total national volume in classes listed on MIAX in the prior calendar quarter]

quarter, the Exchange would assess \$14,000 to MM1 for the month which is the lesser of ‘up to 40 classes’ and ‘above 50% of classes by volume up to all classes listed on MIAX’. If the 40 option classes were located on 5 matching engines, MM1 would receive two Full Service MEI Ports and two Limited Service MEI Ports for each of the 5 matching engines for a total of ten Full Service MEI Ports and ten Limited Service MEI Ports for \$14,000 per month.<sup>9</sup> If MM2 elects to quote the bottom 1000 option classes which consist of 10% of the total national average daily volume in the prior quarter, the Exchange would assess \$5,000 to MM2 for the month which is the lesser of ‘above 100 classes’ and ‘up to 10% of classes by volume’. If the 1000 option classes were located on 15 matching engines, MM2 would receive two Full Service MEI Ports and two Limited Service MEI Ports for each of the 15 matching engines for a total of thirty Full Service MEI Ports and thirty Limited Service MEI Ports for \$5,000 per month.<sup>10</sup> The Exchange will continue to charge \$50 per month for each additional Limited Service MEI Port per matching engine for Market Makers in addition to the two Limited Service MEI Ports per matching engine that are allocated with the Full Service MEI Ports. As currently, the Full Service MEI Ports, Limited Service MEI Ports and the additional Limited Service MEI Ports all include access to MIAX’s primary and secondary data centers and its disaster recovery center.

The purpose of the proposed fees is to incentivize market participants to register as Market Makers on the Exchange, to provide liquidity, and to attract order flow. To the extent that this purpose is achieved, all the Exchange’s market participants should benefit from the improved market liquidity. The proposed fee levels and criteria are based upon a business determination of current MM assignments and trading volume. The Exchange notes that it

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<sup>9</sup> The Exchange notes that, as currently, the MEI Port fee would allow the MM to obtain access to MIAX’s primary and secondary data centers and its disaster recovery center.

<sup>10</sup> See id.

determines the number of options classes allocated to a matching engine, and as such chooses how many MEI Ports are necessary to support MM assignments. The Exchange notes that while MMs in general terms have control over the number of MM assignments that they are assigned and quote, MMs do not have control over the number of matching engines that those MM assignments may be spread across. The Exchange believes that the proposal gives MMs more freedom to focus on MM assignments in their determinations for fees versus the number of matching engines. The Exchange believes that the proposed fee rates and criteria provide an objective and flexible framework that will encourage MMs to be assigned and quote in option classes with lower total national average daily volume while also equitably allocating the fees in a reasonable manner amongst MM assignments to account for quoting and trading activity.

The Exchange proposes to implement the fee changes beginning June 1, 2015.

## 2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act<sup>11</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>12</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges.

The Exchange believes that the proposed fees are reasonable, equitable and not unfairly discriminatory. The proposed fees are reasonable in that they are within the range of comparable fees at other competing options exchanges.<sup>13</sup> As such, the proposal is reasonably designed to continue to compete with other options exchange by incentivizing market participants to register as Market Makers on the Exchange in a manner that enables the Exchange to improve its overall competitiveness and strengthen its market quality for all market participants. The proposed fees

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<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(4).

<sup>13</sup> See supra note 6.

are fair and equitable and not unreasonably discriminatory because they apply equally to all Market Makers regardless of type and access to the Exchange is offered on terms that are not unfairly discriminatory. The Exchange designed the fee rates in order to provide objective criteria for MMs of different sizes and business models to be assessed a MEI Port fee that best matches their quoting activity on the Exchange. The Exchange notes that trading volume and quoting activity in the options market tends to be concentrated in the top ranked options classes; with the vast majority of options classes being thinly quoted and traded. The Exchange believes that the proposed fee rates and criteria provide an objective and flexible framework that will encourage MMs to be assigned and quote in option classes with lower total national average daily volume while also equitably allocating the fees in a reasonable manner amongst MM assignments to account for quoting and trading activity.

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, as amended. The Exchange believes that the proposal increases both intermarket and intramarket competition by enabling MMs to qualify for lower MEI Port fees rates on the Exchange in a manner that is designed to provide objective criteria for MMs of different sizes and business models to be assessed a MEI Port fee that best matches their quoting activity on the Exchange yet still be in the range of comparable fees on other exchanges. The Exchange believes that the proposal will increase competition amongst MMs of different sizes and business models by encouraging MMs to be assigned and quote in option classes with lower total national average daily volume. 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 in order to attract market participants to use its services. The Exchange believes that the proposal reflects this competitive environment because it increases the Exchange's fees in a manner that continues to encourage market participants to register as Market Makers on the Exchange, to provide liquidity, and to attract order flow. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity.

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>14</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:

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<sup>14</sup> 15 U.S.C. 78s(b)(3)(A)(ii).



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:rule-comments@sec.gov). Please include File Number SR-MIAX-2015-37 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-MIAX-2015-37. 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 the filing will also 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-2015-37 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.<sup>15</sup>

Robert W. Errett  
Deputy Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).