

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-77034; File No. SR-MIAX-2016-03)

February 2, 2015

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Exchange Rules 503 and 515

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 January 20, 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 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 is filing a proposal to amend Exchange Rules 503, Openings on the Exchange, and 515, Execution of Orders and Quotes.

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 proposed rule change. The text of these statements may be examined at the places specified

¹ 15 U.S.C. 78s(b)(1).

² 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 purpose of the proposal is to adopt new rule text and provide additional clarity to MIAX participants regarding the manner in which non-routable, or Do Not Route (“DNR”),³ orders that are not executed during the opening on the Exchange are handled.

First, the Exchange proposes to amend Rule 503(f), Opening Process, to clarify the process that occurs when (i) the MIAX System⁴ has completed the opening imbalance process and there are unexecuted contracts remaining following an opening transaction, or (ii) if there is no opening transaction and the Exchange opens by disseminating the Exchange’s best bid and offer among quotes and orders that exist in the System at that time as described in current Rule 503(f)(1).⁵ In the latter situation, non-routable orders then in the System that cross the Away Best Bid or Offer (“ABBO”) will be cancelled and are not included in the Managed Interest Process, as described in proposed Rule 515(c)(1)(ii)(B).

³ A Do Not Route or “DNR” order is an order that will never be routed outside of the Exchange regardless of the prices displayed by away markets. A DNR order may execute on the Exchange at a price equal to or better than, but not inferior to, the best away market price but, if that best away market remains, the DNR order will be handled in accordance with the managed interest process described in Rule 515(c)(1)(ii). See Exchange Rule 516(g).

⁴ The term “System” means the automated trading system used by the Exchange for the trading of securities. See Exchange Rule 100.

⁵ If there are no quotes or orders that lock or cross each other, the System will open by disseminating the Exchange’s best bid and offer among quotes and orders that exist in the System at that time. See Exchange Rule 503(f)(1).

Additionally, the Exchange proposes to amend current Exchange Rule 515(c)(1)(ii) to explicitly state that, when the MIAX System opens without an opening transaction, and instead opens by disseminating the Exchange's best bid and offer among quotes and orders that exist in the System at that time as described in Rule 503(f)(1), non-routable orders then in the System that cross the ABBO will be cancelled and are not included in the Managed Interest Process described below.

DNR Orders at the Opening

Exchange Rule 503(f) describes the Opening Process on the Exchange, in which the System goes through a number of processes seeking an opening price at which the greatest number of contracts will trade. The Opening Process also includes the routing of orders to away markets in situations where the Exchange cannot execute all contracts at its opening price.⁶ If the System opens with an opening transaction after conducting the Imbalance Process as set forth in Exchange Rule 503(f)(2)(vii), any unexecuted contracts from the imbalance not traded or routed will be cancelled back to the entering Member if the price for those contracts crosses the opening price, unless the Member that submitted the original order has instructed the Exchange in writing to re-enter the remaining size, in which case the remaining size will be automatically submitted as a new order.⁷

If, however, there is no opening transaction and instead the Exchange opens by disseminating the Exchange's best bid and offer among quotes and orders that exist in the System at that time,⁸ non-routable orders then in the System that cross the ABBO will be

⁶ See Exchange Rule 503(f)(2)(vii)(B).

⁷ Id.

⁸ See supra note 5.

cancelled and therefore, because they are cancelled, are not included in the Managed Interest Process.

Currently, the System executes orders at the opening that have contingencies, including non-routable orders (DNR Orders) to the extent possible. Non-routable orders are handled after the opening in accordance with Rule 515.⁹ Specifically, such orders are submitted into the Managed Interest Process, as described below, except when the Exchange opens by disseminating quotations rather than executing contracts. In this limited circumstance, non-routable orders (DNR Orders) that cross the ABBO are not submitted to the Managed Interest Process, and instead are cancelled.

Managed Interest Process

The proposed amendment to Exchange Rule 515(c)(1)(ii) is intended to codify existing functionality concerning the Exchange's Managed Interest Process. The Managed Interest Process is a process for non-routable orders during which, if the limit price locks or crosses the current opposite side National Best Bid or Offer ("NBBO"), the System will display the order one Minimum Price Variation ("MPV") away from the current opposite side NBBO, and book the order at an undisplayed price that locks the current opposite side NBBO. Should the NBBO price change to an inferior price level, the order's undisplayed price will re-price to lock the new NBBO and the managed order's displayed price will continue to re-price one MPV away from the new NBBO until (i) the order has traded to and including its limit price, (ii) the order has

⁹ The System will execute orders at the opening that have contingencies and nonroutable orders, such as a "Do Not Route" or "DNR" Orders to the extent possible. DNR orders together with other nonroutable orders will be handled after the opening in accordance with Rule 515. See Exchange Rule 503(f)(2)(vii)(B)(6).

traded to and including its price protection limit at which any remaining contracts are cancelled, (iii) the order is fully executed or (iv) the order is cancelled.¹⁰

The Proposal

The proposed rule change to Exchange Rule 503 concerning the Opening Process is related to the Managed Interest Process in Exchange Rule 515 because non-routable orders that are not executed at the opening under certain circumstances are not included in the Managed Interest Process and are instead cancelled by the System. Specifically, the proposed rule change to Exchange Rule 503(f)(1) is intended to clarify that, when the Exchange opens by disseminating quotations rather than executing contracts after the Opening Process, non-routable orders then in the System that cross the ABBO will be cancelled and are not included in the Managed Interest Process, as described in Rule 515(c)(1)(ii)(B).

Proposed Rule 503(f)(2)(vii)(B)5 [sic] would add language to existing rule text to state clearly in the Exchange's rules that the rule applies when there is an opening transaction. Specifically, if there is an opening transaction, any unexecuted contracts from the imbalance not traded or routed will be cancelled back to the entering Member if the price for those contracts crosses the opening price, unless the Member that submitted the original order has instructed the Exchange in writing to re-enter the remaining size, in which case the remaining size will be automatically submitted as a new order.

Consistent with the proposed change to Exchange Rule 503(f)(1), proposed Rule 515(c)(1)(ii)(B) would state specifically that, when the System opens without an opening transaction, and instead opens by disseminating the Exchange's best bid and offer among quotes and orders that exist in the System at that time as described in Rule 503(f)(1), non-routable

¹⁰ See Exchange Rule 515(c)(1)(ii).

orders then in the System that cross the ABBO will be cancelled and are not included in the Managed Interest Process. This proposed amendment addresses any perceived discrepancy between the rule text description of how this process works and how it is actually working in production, and provides consistency in the Exchange's rules concerning the Opening Process and how that relates to the Managed Interest Process.

The Exchange believes that the codification of the cancellation of non-routable orders that cross the ABBO when the System opens without an opening transaction and instead opens by disseminating the Exchange's best bid and offer among quotes and orders that exist in the System at that time, reflects the Exchange's intention to further protect investors that elect to submit non-routable orders. This existing functionality is intended to enable participants that submit non-routable orders that have been handled during the opening but not executed to make informed decisions about such orders based upon transparent market conditions (i.e., the ability to ascertain the current prices on all markets) following the opening. Such participants are able then to determine whether to re-submit their orders (with or without a DNR designation) and whether to establish a different limit price based on then-current market conditions. The Exchange believes that the precise description of this existing functionality should be included in the Exchange's rules in order to inform participants that submit non-routable orders that there are additional opportunities to re-determine and possibly modify the routing status and limit price of their orders. The proposed rule change should assist participants in making decisions concerning such opportunities by clarifying the relationship between the Exchange's Opening Process and when non-routable orders not executed when the Exchange opens by disseminating its best bid and offer are not included in the Managed Interest Process.

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act¹¹ in general, and furthers the objectives of Section 6(b)(5) of the Act¹² 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 existing functionality concerning the Opening Process and the description of the circumstances where non-routable orders that are handled during the Opening Process are not included in the Managed Interest Process because they are cancelled. This functionality and proposed codification of it as described herein removes impediments to and perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest, by giving participants that submit non-routable orders that are not executed at the opening an opportunity to make decisions concerning their orders based upon then-current market conditions, which were unknown at the time they submitted their orders. Routable orders that cross away markets are sent to such away markets for execution when the Exchange cannot execute at the opening; non-routable orders that cross away markets are not. Absent an execution, the Exchange believes that participants that submitted non-routable orders that are handled but not executed during the opening process should have the opportunity to make further decisions regarding such orders based upon current market conditions, and thus the

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

System cancels such orders and reports this to the affected participants. This benefits not only MIAX participants but benefits the marketplace as a whole.

The inclusion of the functionality of the System in the rules promotes transparency and clarity in the Exchange's rules. The transparency and accuracy resulting from the codification of this functionality is consistent with the Act because it removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest, by accurately describing the steps taken by the System in the limited scenario when the Exchange opens by disseminating quotations rather than executing contracts after the Opening Process, and non-routable orders cross the NBBO.

MIAX participants should have a better understanding of the Exchange's Managed Interest Process in this limited circumstance. The codification and clarification of the System's functionality is designed to promote just and equitable principles of trade by providing a clear and objective description to all participants of how opening non-routable orders will be handled, and should assist investors in making decisions concerning their non-routable orders.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes the proposed changes will not impose any burden on intra-market competition because it applies to all MIAX participants equally. In addition, the Exchange does not believe the proposal will impose any burden on inter-market competition as the proposal is intended to protect investors by providing further transparency regarding the Exchange's Managed Interest Process in the limited scenario described above.

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 Section 19(b)(3)(A) of the Act¹³ and Rule 19b-4(f)(6)¹⁴ thereunder.

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act¹⁵ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹⁶ 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. The Exchange states that waiver of the operative delay would enable market participants to benefit from the clarifying language regarding how the Managed Interest Process operates without undue delay. For this reason, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of 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.

¹⁵ 17 CFR 240.19b-4(f)(6).

¹⁶ 17 CFR 240.19b-4(f)(6)(iii).

interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.¹⁷

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 e-mail to rule-comments@sec.gov. Please include File Number SR-MIAX-2016-03 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.

¹⁷ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

All submissions should refer to File Number SR-MIAX-2016-03. 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 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-2016-03 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.¹⁸

Robert W. Errett
Deputy Secretary

¹⁸ 17 CFR 200.30-3(a)(12).