

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 57	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2018 - * 22 Amendment No. (req. for Amendments *)
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Filing by Miami International Securities Exchange, LLC.  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action * <input type="checkbox"/>		Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>
	Section 3C(b)(2) * <input type="checkbox"/>

Exhibit 2 Sent As Paper Document <input checked="" type="checkbox"/>	Exhibit 3 Sent As Paper Document <input checked="" type="checkbox"/>
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**Description**  
Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

**Contact Information**  
Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name \*  Last Name \*   
 Title \*   
 E-mail \*   
 Telephone \*  Fax

**Signature**  
Pursuant to the requirements of the Securities Exchange Act of 1934,  
  
 has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.  
 (Title \*)  
  
 Date   
 By    
 (Name \*)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

**Form 19b-4 Information \***

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

**1. Text of the Proposed Rule Change**

(a) Miami International Securities Exchange, LLC (“MIAX Options” or “Exchange”), 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> proposes to amend the MIAX Options Fee Schedule (the “Fee Schedule”). A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1, and a copy of the applicable section of the MIAX Options Fee Schedule is attached hereto as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

**2. Procedures of the Self-Regulatory Organization**

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the MIAX Options Board of Directors on December 7, 2017. Exchange staff will advise the Board of Directors of any action taken pursuant to delegated authority. No other action by the Exchange is necessary for the filing of the proposed rule change. Questions and comments on the proposed rule change may be directed to Joseph W. Ferraro, Senior Vice President and Deputy General Counsel, at 609-897-8492.

**3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change****a. Purpose**

The Exchange proposes to amend its Fee Schedule to (i) increase certain fees in certain Tiers for options transactions by MIAX Options Market Makers<sup>3</sup> in standard option classes in the Penny

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

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

<sup>3</sup> The term “Market Makers” refers to Lead Market Makers (“LMMs”), Primary Lead Market Makers (“PLMMs”), and Registered Market Makers (“RMMs”) collectively. See Exchange

Pilot Program<sup>4</sup> (“Penny classes”) and in standard option classes which are not in the Penny Pilot Program (“non-Penny classes”) executed in the complex order<sup>5</sup> book; (ii) increase the per contract surcharge assessed for transactions by all market participants, except for Priority Customers<sup>6</sup>, which remove liquidity against a resting Priority Customer complex order on the strategy book for options in Penny classes and for options in non-Penny classes (“Complex Taker Surcharge”) and to broaden the application of the Complex Taker Surcharge to other types of transactions (described below) and consequently to rename it as the “Complex Surcharge;” (iii) increase the per contract credit assessable to Agency Orders (defined below) in a cPRIME Auction (“cPRIME Agency Order Credit”) by Members<sup>7</sup> in Tier 4 of the Priority Customer Rebate Program (“PCRP”)<sup>8</sup> and establish a

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Rule 100. A Directed Order Lead Market Maker (“DLMM”) and Directed Primary Lead Market Maker (“DPLMM”) is a party to a transaction being allocated to the LMM or PLMM and is the result of an order that has been directed to the LMM or PLMM. See Fee Schedule note 2.

<sup>4</sup> See Securities Exchange Act Release No. 83515 (June 25, 2018), 83 FR 30786 (June 29, 2018)(SR-MIAX-2018-12).

<sup>5</sup> A “complex order” is any order involving the concurrent purchase and/or sale of two or more different options in the same underlying security (the “legs” or “components” of the complex order), for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purposes of executing a particular investment strategy. A complex order can also be a “stock-option” order, which is an order to buy or sell a stated number of units of an underlying security coupled with the purchase or sale of options contract(s) on the opposite side of the market, subject to certain contingencies set forth in the proposed rules governing complex orders. For a complete definition of a “complex order,” see Exchange Rule 518(a)(5). See also Securities Exchange Act Release No. 78620 (August 18, 2016), 81 FR 58770 (August 25, 2016)(SR-MIAX-2016-26).

<sup>6</sup> “Priority Customer” means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial accounts(s). A “Priority Customer Order” means an order for the account of a Priority Customer. See Exchange Rule 100.

<sup>7</sup> The term “Member” means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed “members” under the Exchange Act. See Exchange Rule 100.

limit as to how many contracts that the cPRIME Agency Order Credit shall apply; (iv) increase the per contract fee for Contra-side Orders (defined below) in non-Penny classes in a cPRIME Auction assessable to all market participants, except Priority Customers; (v) establish an enhanced cPRIME Break-up Credit (defined below) for options in Penny classes and non-Penny classes assessable to all market participants who experience a greater than sixty percent (60%) break-up of their order in a cPRIME Auction; and (vi) remove the discounted cPRIME Response Fee (defined below) for Members or its Affiliates that qualify for Priority Customer Rebate Program (defined below) volume tiers 3 or higher, for standard complex order options in Penny classes and non-Penny classes.

#### **Market Maker Complex Transaction Fees**

Section 1)a)i) of the Fee Schedule sets forth the Exchange's Market Maker Sliding Scale for Market Maker Transaction Fees (the "Sliding Scale"). The Sliding Scale assesses a per contract transaction fee on a Market Maker for the execution of simple orders and quotes (collectively, "simple orders") and complex orders and quotes (collectively, "complex orders"). The percentage threshold by tier is based on the Market Maker's percentage of total national market maker volume in all options classes that trade on the Exchange during a particular calendar month, or total aggregated volume ("TAV"), and the Exchange aggregates the volume executed by Market Makers

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<sup>8</sup> Under the PCRCP, MIAX Options credits each Member the per contract amount resulting from each Priority Customer order transmitted by that Member which is executed electronically on the Exchange in all multiply-listed option classes (excluding, in simple or complex as applicable, QCC and cQCC Orders, mini-options, Priority Customer-to-Priority Customer Orders, C2C and cC2C Orders, PRIME and cPRIME AOC Responses, PRIME and cPRIME Contra-side Orders, PRIME and cPRIME Orders for which both the Agency and Contra-side Order are Priority Customers, and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in Exchange Rule 1400), provided the Member meets certain percentage thresholds in a month as described in the Priority Customer Rebate Program table. See Fee Schedule, Section 1)a)iii.

in both simple orders and complex orders for purposes of determining the applicable tier and corresponding per contract transaction fee amount.<sup>9</sup> The Sliding Scale applies to all MIAX Options Market Makers for transactions in all products (except for mini-options, for which there are separate product fees), with fees for standard options in both Penny classes and non-Penny classes.

Additionally, the Exchange assesses one per contract fee for complex orders in each tier for Penny classes, and one per contract fee for complex orders in non-Penny classes, with a surcharge for removing liquidity in a specific scenario, as described below. For simple orders, the Sliding Scale assesses a per contract transaction fee, which is based upon whether the Market Maker is a “Maker” or a “Taker.”<sup>10</sup> Members that place resting liquidity, i.e., quotes or orders on the MIAX Options System,<sup>11</sup> are assessed the “maker” fee (each a “Maker”) and Members that execute against (remove) resting liquidity are assessed a higher “taker” fee (each a “Taker”). As an incentive for Market Makers to provide liquidity on the Exchange, the Exchange’s Maker fees are lower than the Taker fees.

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<sup>9</sup> The calculation of the volume thresholds does not include QCC and cQCC Orders, PRIME and cPRIME AOC Responses, and unrelated MIAX Market Maker quotes or unrelated MIAX Market Maker orders that are received during the Response Time Interval and executed against the PRIME Order (“PRIME Participating Quotes or Orders”) and unrelated MIAX Market Maker complex quotes or unrelated MIAX Market Maker complex orders that are received during the Response Time Interval and executed against a cPRIME Order (“cPRIME Participating Quote or Order”) (herein “Excluded Contracts”). See Fee Schedule, page 2.

<sup>10</sup> See Securities Exchange Act Release Nos. 78519 (August 9, 2016), 81 FR 54162 (August 15, 2016)(SR-MIAX-2016-21); 79157 (October 26, 2016), 81 FR 75885 (November 1, 2016 (SR-MIAX-2016-38).

<sup>11</sup> The term “System” means the automated trading system used by the Exchange for the trading of securities. See Exchange Rule 100.

Further, the Exchange provides certain discounted Market Maker transaction fees for Members and their qualified Affiliates<sup>12</sup> that achieve certain volume thresholds through the submission of Priority Customer orders under the Exchange's PCRCP, which is set forth on two tables: one setting forth the transaction fees applicable to Members and their Affiliates that are in PCRCP Volume Tier 3 or higher; and the other setting forth the transaction fees applicable to Members and their Affiliates that are not in PCRCP Volume Tier 3 or higher. The Sliding Scale also includes Maker and Taker fees in both tables in each Tier for simple orders in Penny classes and non-Penny classes where the fees are discounted/differentiated between the tables.

The Exchange proposes to make the following changes for both Members and their Affiliates in PCRCP Volume Tier 3 or higher and Members and their Affiliates not in PCRCP Volume Tier 3 or higher: (i) increase the fees in certain Sliding Scale Tiers for options transactions in Penny

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<sup>12</sup> For purposes of the MIAX Options Fee Schedule, the term "Affiliate" means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, ("Affiliate"), or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An "Appointed Market Maker" is a MIAX Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an "Appointed EEM" is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAX Market Maker) that has been appointed by a MIAX Market Maker, pursuant to the following process. A MIAX Market Maker appoints an EEM and an EEM appoints a MIAX Market Maker, for the purposes of the Fee Schedule, by each completing and sending an executed Volume Aggregation Request Form by email to [membership@miaxoptions.com](mailto:membership@miaxoptions.com) no later than 2 business days prior to the first business day of the month in which the designation is to become effective. Transmittal of a validly completed and executed form to the Exchange along with the Exchange's acknowledgement of the effective designation to each of the Market Maker and EEM will be viewed as acceptance of the appointment. The Exchange will only recognize one designation per Member. A Member may make a designation not more than once every 12 months (from the date of its most recent designation), which designation shall remain in effect unless or until the Exchange receives written notice submitted 2 business days prior to the first business day of the month from either Member indicating that the appointment has been terminated. Designations will become operative on the first business day of the effective month and may not be terminated prior to the end of the month. Execution data and reports will be provided to both parties.

classes executed in the complex order book; and (ii) increase the fees in all Sliding Scale Tiers for options transactions in non-Penny classes executed in the complex order book. Specifically, the Exchange proposes to increase the fees for complex orders in options in Penny classes in Tier 2 from \$0.19 to \$0.24, in Tier 3 from \$0.12 to \$0.21, in Tier 4 from \$0.07 to \$0.20, and in Tier 5 from \$0.05 to \$0.19. The Exchange also proposes to increase the fees for complex orders in options in non-Penny classes in Tier 1 from \$0.29 to \$0.32, in Tier 2 from \$0.23 to \$0.29, in Tier 3 from \$0.16 to \$0.25, in Tier 4 from \$0.11 to \$0.24, and in Tier 5 from \$0.09 to \$0.23.

### **Complex Surcharge**

The Exchange does not currently distinguish between a Maker and a Taker for complex order executions as it does in the traditional construct for simple orders and instead assesses the per contract transaction fee for all executions and a potential surcharge of \$0.10 per executed contract for executions in complex orders. The current surcharge is assessed to a Market Maker and all other market participants except Priority Customers, when they remove liquidity by trading against a Priority Customer order that is resting on the Strategy Book.<sup>13</sup> This surcharge is currently referred to as the “Complex Taker Surcharge”. This surcharge is similar in structure to Cboe Exchange, Inc. (“Cboe”) and NYSE American LLC (“NYSE American”) surcharges of the same type.<sup>14</sup>

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<sup>13</sup> The “Strategy Book” is the Exchange’s electronic book of complex orders and complex quotes. See Exchange Rule 518(a)(17).

<sup>14</sup> See Cboe Fees Schedule, p. 1, and footnote 35 (charging a Complex Surcharge of \$0.12 per contract per side for noncustomer complex order executions that remove liquidity from the COB and auction responses in the Complex Order Auction (“COA”) and the Automated Improvement Mechanism (“AIM”) in all classes except Sector Indexes and Underlying Symbol List A. The surcharge will not be assessed, however, on noncustomer complex order executions originating from a Floor Broker PAR, electronic executions against single leg markets, or for stock-option order executions. Auction responses in COA and AIM for noncustomer complex orders in Penny classes will be subject to a cap of \$0.50 per contract, which includes the applicable transaction fee, Complex Surcharge and Marketing Fee (if applicable); see also NYSE American Fee Schedule, p. 8, footnote 6 (charging \$0.12 per contract to any Electronic Non-Customer Complex Order that executes against a Customer



First, the Exchange proposes to increase the Complex Taker Surcharge on MIAX Market Makers in the Sliding Scale for both Members and their Affiliates in PCRP Volume Tier 3 or higher, and for Members and their Affiliates not in PCRP Volume Tier 3 or higher, in Section 1)a)i) of the Fee Schedule, from \$0.10 to \$0.12 in all Tiers. The Exchange also proposes to increase the Complex Taker Surcharge on other market participants (except for Priority Customers), including Public Customers<sup>15</sup> that are not Priority Customers, non-MIAX Market Makers<sup>16</sup>, non-Member Broker-Dealers<sup>17</sup>, and Firms<sup>18</sup> (collectively, the “Other Market Participants”) in Section 1)a)ii) of the Fee Schedule, from \$0.10 to \$0.12.

Second, the Exchange proposes to broaden the application of the Complex Taker Surcharge so that it will now apply to a Market Maker and Other Market Participants (other than Priority Customers) when trading against a Priority Customer (i) on the Strategy Book; or (ii) as a Response or unrelated quote or order in a complex order auction other than a cPRIME Auction.

Exchange Rule 518(d) describes the process for determining if a complex order is eligible to begin a Complex Order Auction and to participate in a Complex Order Auction that is in progress, and provides that upon entry into the System or upon evaluation of a complex order resting at the

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Complex Order, regardless of whether the execution occurs in a Complex Order Auction (“COA”). The surcharge does not apply to executions in CUBE Auctions. NYSE American reduces this per contract surcharge to \$0.10 for ATP Holders that achieve at least 0.20% of TCADV of Electronic Non-Customer Complex Orders in a month).

<sup>15</sup> The term “Public Customer” means a person that is not a broker or dealer in securities. See Exchange Rule 100.

<sup>16</sup> A “non-MIAX Market Maker” is a market maker registered as such on another options exchange. See Fee Schedule, Section 1)a)ii.

<sup>17</sup> A “non-Member Broker-Dealer” is a broker-dealer that is not a member of the OCC, and that is not registered as a Member at MIAX or another options exchange. See Fee Schedule, Section 1)a)ii.

<sup>18</sup> A “Firm” fee is assessed on a MIAX Electronic Exchange Member “EEM” that enters an order that is executed for an account identified by the EEM for clearing in the Options Clearing Corporation (“OCC”) “Firm” range. See Fee Schedule, Section 1)a)ii.

top of the Strategy Book, complex auction-eligible orders may be subject to an automated request for responses (“RFR”).<sup>19</sup> Members may submit Responses to the RFR, which can be either a complex Auction or Cancel (“AOC”) order or a complex AOC eQuote.

Exchange Rule 518(b)(7) defines a cPRIME Order as a type of complex order that is submitted for participation in a cPRIME Auction and trading of cPRIME Orders is governed by Rule 515A, Interpretations and Policies .12.<sup>20</sup> cPRIME Orders are processed and executed in the Exchange’s PRIME mechanism, the same mechanism that the Exchange uses to process and execute simple PRIME orders, pursuant to Exchange Rule 515A.<sup>21</sup> PRIME is a process by which a Member may electronically submit for execution an order it represents as agent (an “Agency Order”) against principal interest and/or solicited interest. The Member that submits the Agency Order (“Initiating Member”) agrees to guarantee the execution of the Agency Order by submitting a contra-side order representing principal interest or solicited interest (“Contra-Side Order”). When the Exchange receives a properly designated Agency Order for Auction processing, an RFR detailing the option, side, size and initiating price is broadcasted to MIAX Options participants up to an optional designated limit price. Members may submit responses to the RFR, which can be either an AOC order or an AOC eQuote. A cPRIME Auction is the price-improvement mechanism of the Exchange’s System pursuant to which an Initiating Member electronically submits a complex Agency Order into a cPRIME Auction. The Initiating Member, in submitting an Agency Order, must be willing to either (i) cross the Agency Order at a single price against principal or solicited

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<sup>19</sup> See Securities Exchange Act Release No. 79072 (October 7, 2016), 81 FR 71131 (October 14, 2016) (SR-MIAX-2016-26).

<sup>20</sup> See Securities Exchange Act Release No. 81131 (July 12, 2017), 82 FR 32900 (July 18, 2017)(SR-MIAX-2017-19). (Order Granting Approval of a Proposed Rule Change to Amend MIAX Options Rules 515, Execution of Orders and Quotes; 515A, MIAX Price Improvement Mechanism (“PRIME”) and PRIME Solicitation Mechanism; and 518, Complex Orders).

<sup>21</sup> Id.

interest, or (ii) automatically match against principal or solicited interest, the price and size of a RFR that is broadcast to MIAX Options participants up to an optional designated limit price. Such responses are defined as cPRIME AOC Responses or cPRIME eQuotes.

Specifically, the Exchange proposes to broaden the application of the Complex Taker Surcharge so that it will apply to an Electronic Exchange Member (“EEM”),<sup>22</sup> for trading against a Priority Customer Complex Order for Penny and Non-Penny Classes, when trading against a Priority Customer: (i) on the Strategy Book; or (ii) as a Response or unrelated order in a complex order auction other than a cPRIME Auction. Consequently, the Exchange proposes to change the name of the surcharge from “Complex Taker Surcharge” to “Complex Surcharge” since the surcharge will apply to more complex transactions than just those transactions which remove liquidity from the Strategy Book. The Exchange notes that both Cboe and NYSE American apply their respective surcharges in a more expansive manner than the Exchange’s current application of its surcharge, and similar to how the Exchange is proposing to expand its surcharge. However, Cboe caps its fees at \$0.50 per contract in its complex order auction mechanisms. And NYSE American does not assess its surcharge in its paired complex auction mechanism. As proposed, the Exchange will apply its surcharge in its single-sided complex auction mechanism (COA), but it will not apply the surcharge in its paired complex auction mechanism (cPRIME). Accordingly, as proposed to be expanded, the Exchange’s surcharge will be more in line with Cboe’s and NYSE American’s surcharges, but it will be no more expansive than either such exchange.<sup>23</sup>

Additionally, the Exchange proposes to remove the Discounted cPRIME Response Fee of \$0.46 per contract for Members or its Affiliates that qualify for Priority Customer Rebate Program

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<sup>22</sup> The term “Electronic Exchange Member” means the holder of a Trading Permit who is not a Market Maker. Electronic Exchange Members are deemed “members” under the Exchange Act.

<sup>23</sup> See supra note 14.

volume tiers 3 or higher and submit a cPRIME AOC Response that is received during the Response Time Interval and executed against the cPRIME Order, or a cPRIME Participating Quote or Order that is received during the Response Time Interval and executed against the cPRIME Order for standard complex order options in Penny classes; and remove the Discounted cPRIME Response Fee of \$0.95 per contract in the same tiers, for standard complex order options in non-Penny classes. By removing these discounts, the Exchange will charge such Members and their Affiliates the standard cPRIME rates in the cPRIME tier that otherwise apply to such transactions. The Exchange notes that this is a business decision to discontinue offering the discount, and as a result, it will align its fees more closely to those of NYSE American.<sup>24</sup>

#### **cPRIME Agency Order Fees**

In the PCRCP, the Exchange assesses an Agency Order Credit for cPRIME Agency Orders. The Exchange currently credits each Member \$0.10 per contract per leg for each Priority Customer complex order submitted into the cPRIME Auction as a cPRIME Agency Order in each Tier. However, no credit is paid if the cPRIME Agency Order executes against a Contra-Side Order which is also a Priority Customer. The Exchange proposes to increase the Agency Order Credit for cPRIME Agency Orders submitted by Members who are in PCRCP Volume Tier 4 from \$0.10 to \$0.22. The purpose of such increase in Tier 4 is to encourage market participants to submit more Priority Customer cPRIME Agency Orders and therefore increase Priority Customer order flow. The Exchange additionally proposes to limit the cPRIME Agency Order Credit to be payable to the first 1,000 contracts per leg for each cPRIME Agency Order. Such limit will be applicable to all Tiers of the PCRCP.

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<sup>24</sup> See NYSE American Fee Schedule, p. 17, Complex CUBE Auction (charging a RFR Response Fee Non-Customer in Penny Pilot issues of \$0.50 and an RFR Response Fee Non-Customer in Non-Penny Pilot issues of \$1.05).

**cPRIME Contra-Side Order Fees**

The Exchange assesses a per contract fee to all market participants except Priority Customers for Contra-Side Orders in cPRIME Auctions. Currently, the cPRIME Contra-Side Order Fee is \$0.05 for options in Penny classes and non-Penny classes. The Exchange proposes to increase the fee assessed to all market participants except Priority Customers for cPRIME Contra-Side Orders for options in non-Penny classes from \$0.05 to \$0.07. To implement this change on the Fee Schedule, the Exchange is proposing to bifurcate the fee for Penny classes and non-Penny classes by adding a new column to the table under Section 1)a)vi) of the Fee Schedule for the cPRIME Contra-Side Order fees assessable for orders in non-Penny classes setting forth the increased fee of \$0.07 for all market participants except Priority Customers. The purpose of increasing such fee for options in non-Penny classes is to more closely align the Exchange's fees for cPRIME Contra-Side Orders with similar fees of other exchanges.<sup>25</sup>

**cPRIME Break-up Credit**

The Exchange applies a break-up credit to an EEM that submitted a cPRIME Order for agency contracts that are submitted to the cPRIME Auction that trade with a cPRIME AOC Response or a cPRIME Participating Quote or Order that trades with the cPRIME Order ("cPRIME Break-up Credit"). Currently, the per contract cPRIME Break-up Credit payable to all market participants for options in Penny classes is \$0.25 and for options in non-Penny classes is \$0.60. The current cPRIME Break-up Credit does not take into account the degree to which the cPRIME Order was broken up.

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<sup>25</sup> See Securities Exchange Act Release No. 83532 (June 28, 2018), 83 FR 31205 (July 3, 2018) (SR-NYSEAMER-2018-32) (Notice of Filing and Immediate Effectiveness of Proposed Change to Modify the NYSE American Options Fee Schedule).

The Exchange now proposes to take into account the degree to which the cPRIME Order was broken up, through paying a higher credit amount if the cPRIME Order experienced a greater degree of break-up. In particular, the Exchange proposes to pay an enhanced cPRIME Break-up Credit to all market participants who experience a greater than sixty percent (60%) break-up of their cPRIME Order in a cPRIME Auction, instead of the regular cPRIME Break-up Credit specified in the Fee Schedule. If the market participant experiences a greater than sixty percent (60%) break-up of their cPRIME Order in a cPRIME Auction, then it shall be credited \$0.28, an additional \$0.03 per contract, for options in Penny classes, and \$0.72, an additional \$0.12 per contract, for options in non-Penny classes. For example, if the original cPRIME Agency Order in a Penny class was for 100 contracts and the Member received only 30 contracts of the original cPRIME Order as a result of the break-up, and the other 70 contracts traded with a cPRIME AOC response or a cPRIME Participating Quote or Order (which equals 70%), then they would be credited \$0.28 as a cPRIME Break-up Credit. As another example, if the original cPRIME Agency Order in a Penny class was for 100 contracts and the Member received 40 contracts of the original cPRIME Order as a result of the break-up and the other 60 contracts traded with a cPRIME AOC response or a cPRIME Participating Quote or Order (which equals 60%), then they would only be credited \$0.25 as a cPRIME Break-up Credit. The decision to offer an enhanced cPRIME Break-up Credit is based on an analysis of current revenue and volume levels and is intended to encourage market participants to continue participating in cPRIME Auctions. The Exchange believes that by offering Members this enhanced cPRIME Break-up Credit, it will be able to further incentivize Members to send cPRIME orders to the Exchange, and enable it to better compete with NYSE American. Although it is a business decision to bifurcate the Exchange's enhanced cPRIME Break-up Credit based on the degree to which the cPRIME Order is broken up, the Exchange notes that its credit still remains lower than those of NYSE American, which the Exchange believes will serve to enhance

competition. There are several approaches used by Exchanges to attract certain types of order flow, and many approaches often rely on the existence of certain conditions and thresholds being met.<sup>26</sup>

This proposed approach of offering an enhanced credit based on the degree of break-up of a cPRIME Order is another variation of one such type of condition.

The proposed rule changes are scheduled to become operative August 1, 2018.

b. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with Section 6(b) of the Act<sup>27</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act,<sup>28</sup> in that it is an equitable allocation of reasonable fees and other charges among Exchange members and issuers and other persons using its facilities, and 6(b)(5) of the Act,<sup>29</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 fee increases for the various Sliding Scale tiers in Penny and non-Penny classes for complex orders is equitable and not unfairly discriminatory because all MIAX Options

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<sup>26</sup> See for example NYSE American Fee Schedule, p. 18, Initiating Participant Credit. (NYSE American offers a “break-up” credit to Initiating Participants for each contract in a Complex Contra Order paired with a Complex CUBE Order that does not trade with the Complex CUBE Order because it is replaced at auction. Depending on the Tier for which the ATP holder qualifies, it may receive anywhere from a \$0.20 to a \$0.35 credit in Penny Pilot issues and anywhere from \$0.50 to \$0.75 in non-Penny Pilot issues, with those who qualify for ACE Tier 5, and execute more than 1% TCADV in monthly Initiating Complex CUBE Orders being eligible to receive an alternative enhance Initiating Participant Credit of \$0.45 per contract for Penny Pilot issues and \$0.90 per contract for non-Penny Pilot issues.

<sup>27</sup> 15 U.S.C. 78f(b).

<sup>28</sup> 15 U.S.C. 78f(b)(4).

<sup>29</sup> 15 U.S.C. 78f(b)(1) and (b)(5).

Market Makers are subject to the same fees and access to the Exchange is offered on terms that are not unfairly discriminatory. The Exchange initially set its complex order fees at the various volume levels based upon business determinations and an analysis of current complex order fees and volume levels at other exchanges. When the Exchange initially adopted complex order fees, it set its complex order fees lower than other exchanges in order to encourage its Market Makers to reach for higher volume levels in order to achieve greater discounts. For competitive and business reasons, the Exchange believes that it is now appropriate to increase complex order fees to be more in line with competing exchanges. The Exchange notes that the increased complex order fees are comparable to those assessed by other exchanges.<sup>30</sup>

Furthermore, the proposed increases to the fees for complex orders in Penny and non-Penny classes in the specified tiers promotes just and equitable principles of trade, fosters cooperation and coordination with persons engaged in facilitating transactions in securities, and protects investors and the public interest, because even with the increases, the Exchange's proposed fees for Market Makers complex orders still remain competitive with certain other options exchanges offering comparable pricing models, and should enable the Exchange to continue to attract order flow and grow market share. The Exchange believes that the amount of such fees, as proposed to be increased, will continue to encourage MIAX Options Market Makers to send complex orders to the Exchange. To the extent that order flow is increased by the proposal, market participants will increasingly compete for the opportunity to trade on the Exchange, including sending more orders which will have the potential to be assessed lower fees and higher rebates than certain other competing options exchanges. The resulting increased volume and liquidity will benefit all Exchange participants by providing more trading opportunities and tighter spreads.

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<sup>30</sup> See supra notes 14, 24, 25 and 26.



The Exchange's proposal to increase the Complex Taker Surcharge and broaden its application and rename it as the "Complex Surcharge" is consistent with Section 6(b)(4) of the Act<sup>31</sup> because it applies equally to all market participants (both MIAX Market Makers and Other Market Participants, except Priority Customers) that would be charged such Complex Surcharge. Assessing the Complex Surcharge to MIAX Market Makers and Other Market Participants (except Priority Customers), in a broader application, similar to that of other exchanges, is reasonable and not unfairly discriminatory because it will provide MIAX Options Market Makers and Other Market Participants with equal surcharges when trading against a Priority Customer. As stated above, the Complex Surcharge is similar to surcharges assessed on Cboe and NYSE American.<sup>32</sup> The Exchange notes that, although the increase of the Complex Surcharge represents a slight fee increase, the Exchange believes that this increase is fair and equitable because it is in line with the amount of surcharges assessed on other options exchanges, when trading against Priority Customer Complex Orders, including trading in a complex order book, complex order auctions, and complex order price improvement mechanisms.<sup>33</sup>

The Exchange's proposal to broaden the application of the Complex Taker Surcharge and to rename it as the "Complex Surcharge" is also consistent with Section 6(b)(5) of the Act<sup>34</sup> because it perfects the mechanisms of a free and open market and a national market system and protect investors and the public interest by aligning the broader application of the Complex Surcharge and

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<sup>31</sup> 15 U.S.C. 78f(b)(4).

<sup>32</sup> See supra note 14.

<sup>33</sup> See Cboe Fees Schedule, footnote 35; see also NYSE American Fee Schedule, p. 11; see Securities Exchange Act Release No. 83532 (June 28, 2018), 83 FR 31206 (July 3, 2018) (SR-NYSEAMER-2018-32).

<sup>34</sup> 15 U.S.C. 78f(b)(1) and (b)(5).

the definition of Complex Surcharge to that of other options exchanges,<sup>35</sup> which will help to create consistency and uniformity in the marketplace. The proposed Complex Surcharge increase is similar to the surcharge increase effected by Cboe and NYSE American.<sup>36</sup> The Exchange believes for these reasons that the Complex Surcharge and the broadened application of it, is equitable, reasonable and not unfairly discriminatory, and thus consistent with the Act.

The Exchange's proposal to remove the Discounted cPRIME Response Fee of \$0.46 per contract for Members or its Affiliates that qualify for Priority Customer Rebate Program volume tiers 3 or higher and submit a cPRIME AOC Response that is received during the Response Time Interval and executed against the cPRIME Order, or a cPRIME Participating Quote or Order that is received during the Response Time Interval and executed against the cPRIME Order for standard complex order options in Penny classes; and remove the Discounted cPRIME Response Fee of \$0.95 per contract in the same tiers, for standard complex order options in non-Penny classes, is consistent with Section 6(b)(4) of the Act<sup>37</sup> because it applies equally to all market participants and although by removing this discount, the Exchange notes this would increase the cPRIME Response Fee for some market participants, it represents a slight increase, and the Exchange believes that this increase is fair and equitable because it is in line with the amount of surcharges assessed on other options exchanges.<sup>38</sup> Further, the proposal is also consistent with Section 6(b)(5) of the Act<sup>39</sup> because it perfects the mechanisms of a free and open market and a national market system and protects investors and the public interest because it will align the Exchange's rule to that of other

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<sup>35</sup> See supra note 14.

<sup>36</sup> Id.

<sup>37</sup> 15 U.S.C. 78f(b)(4).

<sup>38</sup> See supra note 26.

<sup>39</sup> 15 U.S.C. 78f(b)(1) and (b)(5).

options exchanges, which will help to create consistency and uniformity in the marketplace. In addition, the removal of the discounted for the cPRIME Response Fee would align the Exchange's fees closer to those of another options exchange.<sup>40</sup>

The Exchange's proposal to increase the cPRIME Agency Order Credit assessable to cPRIME Agency Orders by Members in Tier 4 of the PCRCP is consistent with Section 6(b)(4) of the Act<sup>41</sup> because it applies equally to all participants in that tier. The Exchange believes that the proposed PCRCP rebate increase in Tier 4 for Priority Customer orders submitted into cPRIME Auctions is fair, equitable, and not unreasonably discriminatory. The PCRCP is reasonably designed because it will incentivize providers of Priority Customer order flow to send that Priority Customer order flow to the Exchange in order to obtain the highest volume threshold and receive a credit in a manner that enables the Exchange to improve its overall competitiveness and strengthen its market quality for all market participants.

In addition, the proposal is also consistent with Section 6(b)(5) of the Act<sup>42</sup> because it perfects the mechanisms of a free and open market and a national market system and protects investors and the public interest because, while only Priority Customer order flow qualifies for the rebate program under the PCRCP and specifically only order flow by Members in Tier 4 of the PCRCP will receive the greater rebate, an increase in Priority Customer order flow will bring greater volume and liquidity, which benefit all market participants by providing more trading opportunities and tighter spreads. To the extent Priority Customer order flow is increased by the proposal, market participants will increasingly compete for the opportunity to trade on the Exchange including

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<sup>40</sup> See supra note 26.

<sup>41</sup> 15 U.S.C. 78f(b)(4).

<sup>42</sup> 15 U.S.C. 78f(b)(1) and (b)(5).

sending more orders and providing narrower and larger-sized quotations in the effort to trade with such Priority Customer order flow.

The Exchange's proposal to establish a limit as to how many contracts the cPRIME Agency Order Credit shall apply to is consistent with Section 6(b)(4) of the Act<sup>43</sup> because it applies equally to all market participants who submit cPRIME Agency Orders. Further, the proposal is also consistent with Section 6(b)(5) of the Act<sup>44</sup> because it perfects the mechanisms of a free and open market and a national market system and protects investors and the public interest because it will align the Exchange's rule to that of other options exchanges, which will help to create consistency and uniformity in the marketplace. It is also not novel since other exchanges similarly limit a similar rebate to the first 1,000 contracts.<sup>45</sup>

The Exchange's proposal to increase the cPRIME Contra-Side Orders fees assessable to all market participants except for Priority Customers in non-Penny classes is consistent with Section 6(b)(4) of the Act<sup>46</sup> because the Exchange believes that it is reasonable to assess lower transaction and credit rates to options in Penny classes than non-Penny classes. The Exchange believes that options which trade at these wider spreads merit offering greater inducement for market participants.

The Exchange believes that is equitable and not unfairly discriminatory that Priority Customers be charged lower fees in cPRIME Auctions than other market participants. The exchanges, in general, have historically aimed to improve markets for investors and develop various features within their market structure for customer benefit. The Exchange assesses Priority

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<sup>43</sup> 15 U.S.C. 78f(b)(4).

<sup>44</sup> 15 U.S.C. 78f(b)(1) and (b)(5).

<sup>45</sup> See Cboe Fees Schedule, p. 3; see also NYSE American Fee Schedule, p. 18, footnote 2 under Section I.G.

<sup>46</sup> 15 U.S.C. 78f(b)(4).

Customers lower or no transactions fees because Priority Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Moreover, the Exchange believes that assessing all other market participants that are not Priority Customers a higher transaction fee than Priority Customers for cPRIME Order transactions is reasonable, equitable, and not unfairly discriminatory because these types of market participants are more sophisticated and have higher levels of order flow activity and system usage. This level of trading activity draws on a greater amount of system resources than that of Priority Customers, and thus, generates greater ongoing operational costs. Further, the Exchange believes that charging all market participants that are not Priority Customers the same fee for all cPRIME transactions is not unfairly discriminatory as the fees will apply to all these market participants equally.

In addition, the proposal is also consistent with Section 6(b)(5) of the Act<sup>47</sup> because it perfects the mechanisms of a free and open market and a national market system and protects investors and the public interest because, within the cPRIME Auction, the fee difference between Penny and non-Penny classes provides greater opportunity for market participants to offer price improvement. As such, the Exchange believes that the opportunity for additional price improvement provided by these wider spreads again merits offering greater incentive for market participants to increase the potential price improvement for customer orders in these transactions.

The Exchange's proposal to pay an enhanced cPRIME Break-up Credit for options in Penny classes and non-Penny classes to all market participants who experience a greater than sixty percent

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<sup>47</sup> 15 U.S.C. 78f(b)(1) and (b)(5).

(60%) break-up of their cPRIME Order in a cPRIME Auction is consistent with Section 6(b)(4) of the Act<sup>48</sup> because it will encourage market participants to continue participating in cPRIME Auctions. The Exchange believes that the enhanced cPRIME Break-up Credit should improve market quality for all market participants. Additionally, the Exchange believes that by offering this enhanced cPRIME Break-up Credit, it will be able to incentivize initiating orders in order to compete with NYSE American. Although it is a business decision to bifurcate the Exchange's enhanced cPRIME Break-up Credit, the Exchange notes that its credit still remains lower than those of NYSE American, which the Exchange believes will serve to enhance competition.<sup>49</sup>

In addition, the proposal is also consistent with Section 6(b)(5) of the Act<sup>50</sup> because it perfects the mechanisms of a free and open market and a national market system and protects investors and the public interest because it applies equally to all cPRIME orders which are subject to a break-up and access to the Exchange is offered on terms that are not unfairly discriminatory.

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

MIAX Options 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 Exchange believes that the proposed increase in the Complex Surcharge for complex transactions is intended to promote narrower spreads and greater liquidity at the best prices. The fee-based incentives for market participants to provide liquidity by submitting complex orders to the Exchange, and thereby improve liquidity on the Exchange, should enable the Exchange to attract order flow and compete with other exchanges which also provide such incentives to their market participants for similar transactions.

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<sup>48</sup> 15 U.S.C. 78f(b)(4).

<sup>49</sup> See supra note 26.

<sup>50</sup> 15 U.S.C. 78f(b)(1) and (b)(5).

The Exchange believes that increased complex order flow will bring greater volume and liquidity which in turn benefits all market participants by providing more trading opportunities and tighter spreads. Therefore, any potential effects that the increased Complex Surcharge for complex transactions may have on intra-market competition are justifiable due to the reasons stated above.

The Exchange believes that the proposed changes to the rebates and fees for participation in a cPRIME Auction are not going to have an impact on intra-market competition based on the total cost for participants to transact in such order types versus the cost for participants to transact in the other order types available for trading on the Exchange. As noted above, the Exchange believes that the proposed changes in the rebates and fees for the cPRIME Auction are comparable to that of other exchanges offering similar electronic price improvement mechanisms for complex orders and the Exchange believes that, based on experience with electronic price improvement crossing mechanisms on other markets, market participants understand that the price-improving benefits offered by the cPRIME Auction justify the transaction costs associated with the cPRIME Auction. To the extent that there is a difference between non-cPRIME Auction transactions and cPRIME Auction transactions, the Exchange does not believe this difference will cause participants to refrain from responding to cPRIME Auctions.

With respect to cPRIME Auctions, the Exchange notes that Cboe caps its fees at \$0.50 per contract in its complex order auction mechanisms. And NYSE American does not assess its surcharge in its paired complex auction mechanism. As proposed, the Exchange will apply its surcharge in its single-sided complex auction mechanism (COA), but it will not apply the surcharge in its paired complex auction mechanism (cPRIME). Accordingly, as proposed to be expanded, the Exchange's surcharge will be more in line with Cboe's and NYSE American's surcharges, but it

will be no more expansive than either such exchange.<sup>51</sup> Because the Complex Surcharge will not be applied in its cPRIME Auction, the Exchange believes that the proposed rule change will not impose any burden on competition 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. The Exchange believes that the proposed rule change reflects this competitive environment because they modify the Exchange's fees in a manner that encourages market participants to provide liquidity and to send order flow to the Exchange.

5. **Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others**

No written comments were either solicited or received.

6. **Extension of Time Period for Commission Action**

Not applicable.

7. **Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)**

Pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>52</sup> and Rule 19b-4(f)(2) thereunder<sup>53</sup> the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

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<sup>51</sup> See *supra* note 14.

<sup>52</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>53</sup> 17 CFR 240.19b-4.



**8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**

Not applicable.

**9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act**

Not applicable.

**10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act**

Not applicable.

**11. Exhibits**

1. Notice of proposed rule for publication in the Federal Register.

5. Applicable Section of the MIAX Options Fee Schedule

**EXHIBIT 1**SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-MIAX-2018-22)

August \_\_, 2018

Self-Regulatory Organizations: Notice of Filing and Immediate Effectiveness of a  
Proposed Rule Change by Miami International Securities Exchange LLC to Amend Its 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 August 1, 2018, Miami International Securities Exchange LLC (“MIAX Options” 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/rule-filings>, 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

a. Purpose

The Exchange proposes to amend its Fee Schedule to (i) increase certain fees in certain Tiers for options transactions by MIAX Options Market Makers<sup>3</sup> in standard option classes in the Penny Pilot Program<sup>4</sup> (“Penny classes”) and in standard option classes which are not in the Penny Pilot Program (“non-Penny classes”) executed in the complex order<sup>5</sup> book; (ii) increase the per contract surcharge assessed for transactions by all market participants, except for Priority Customers<sup>6</sup>, which remove liquidity against a resting Priority Customer complex order on the

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<sup>3</sup> The term “Market Makers” refers to Lead Market Makers (“LMMs”), Primary Lead Market Makers (“PLMMs”), and Registered Market Makers (“RMMs”) collectively. See Exchange Rule 100. A Directed Order Lead Market Maker (“DLMM”) and Directed Primary Lead Market Maker (“DPLMM”) is a party to a transaction being allocated to the LMM or PLMM and is the result of an order that has been directed to the LMM or PLMM. See Fee Schedule note 2.

<sup>4</sup> See Securities Exchange Act Release No. 83515 (June 25, 2018), 83 FR 30786 (June 29, 2018)(SR-MIAX-2018-12).

<sup>5</sup> A “complex order” is any order involving the concurrent purchase and/or sale of two or more different options in the same underlying security (the “legs” or “components” of the complex order), for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purposes of executing a particular investment strategy. A complex order can also be a “stock-option” order, which is an order to buy or sell a stated number of units of an underlying security coupled with the purchase or sale of options contract(s) on the opposite side of the market, subject to certain contingencies set forth in the proposed rules governing complex orders. For a complete definition of a “complex order,” see Exchange Rule 518(a)(5). See also Securities Exchange Act Release No. 78620 (August 18, 2016), 81 FR 58770 (August 25, 2016)(SR-MIAX-2016-26).

<sup>6</sup> “Priority Customer” means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial accounts(s). A “Priority

strategy book for options in Penny classes and for options in non-Penny classes (“Complex Taker Surcharge”) and to broaden the application of the Complex Taker Surcharge to other types of transactions (described below) and consequently to rename it as the “Complex Surcharge;” (iii) increase the per contract credit assessable to Agency Orders (defined below) in a cPRIME Auction (“cPRIME Agency Order Credit”) by Members<sup>7</sup> in Tier 4 of the Priority Customer Rebate Program (“PCRP”)<sup>8</sup> and establish a limit as to how many contracts that the cPRIME Agency Order Credit shall apply; (iv) increase the per contract fee for Contra-side Orders (defined below) in non-Penny classes in a cPRIME Auction assessable to all market participants, except Priority Customers; (v) establish an enhanced cPRIME Break-up Credit (defined below) for options in Penny classes and non-Penny classes assessable to all market participants who experience a greater than sixty percent (60%) break-up of their order in a cPRIME Auction; and (vi) remove the discounted cPRIME Response Fee (defined below) for Members or its Affiliates that qualify for Priority Customer Rebate Program (defined below) volume tiers 3 or higher, for standard complex order options in Penny classes and non-Penny classes.

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Customer Order” means an order for the account of a Priority Customer. See Exchange Rule 100.

<sup>7</sup> The term “Member” means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed “members” under the Exchange Act. See Exchange Rule 100.

<sup>8</sup> Under the PCRP, MIAX Options credits each Member the per contract amount resulting from each Priority Customer order transmitted by that Member which is executed electronically on the Exchange in all multiply-listed option classes (excluding, in simple or complex as applicable, QCC and cQCC Orders, mini-options, Priority Customer-to-Priority Customer Orders, C2C and cC2C Orders, PRIME and cPRIME AOC Responses, PRIME and cPRIME Contra-side Orders, PRIME and cPRIME Orders for which both the Agency and Contra-side Order are Priority Customers, and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in Exchange Rule 1400), provided the Member meets certain percentage thresholds in a month as described in the Priority Customer Rebate Program table. See Fee Schedule, Section 1)a)iii.

### **Market Maker Complex Transaction Fees**

Section 1)a)i) of the Fee Schedule sets forth the Exchange's Market Maker Sliding Scale for Market Maker Transaction Fees (the "Sliding Scale"). The Sliding Scale assesses a per contract transaction fee on a Market Maker for the execution of simple orders and quotes (collectively, "simple orders") and complex orders and quotes (collectively, "complex orders"). The percentage threshold by tier is based on the Market Maker's percentage of total national market maker volume in all options classes that trade on the Exchange during a particular calendar month, or total aggregated volume ("TAV"), and the Exchange aggregates the volume executed by Market Makers in both simple orders and complex orders for purposes of determining the applicable tier and corresponding per contract transaction fee amount.<sup>9</sup> The Sliding Scale applies to all MIAX Options Market Makers for transactions in all products (except for mini-options, for which there are separate product fees), with fees for standard options in both Penny classes and non-Penny classes.

Additionally, the Exchange assesses one per contract fee for complex orders in each tier for Penny classes, and one per contract fee for complex orders in non-Penny classes, with a surcharge for removing liquidity in a specific scenario, as described below. For simple orders, the Sliding Scale assesses a per contract transaction fee, which is based upon whether the Market

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<sup>9</sup> The calculation of the volume thresholds does not include QCC and cQCC Orders, PRIME and cPRIME AOC Responses, and unrelated MIAX Market Maker quotes or unrelated MIAX Market Maker orders that are received during the Response Time Interval and executed against the PRIME Order ("PRIME Participating Quotes or Orders") and unrelated MIAX Market Maker complex quotes or unrelated MIAX Market Maker complex orders that are received during the Response Time Interval and executed against a cPRIME Order ("cPRIME Participating Quote or Order") (herein "Excluded Contracts"). See Fee Schedule, page 2.

Maker is a “Maker” or a “Taker.”<sup>10</sup> Members that place resting liquidity, i.e., quotes or orders on the MIAX Options System,<sup>11</sup> are assessed the “maker” fee (each a “Maker”) and Members that execute against (remove) resting liquidity are assessed a higher “taker” fee (each a “Taker”). As an incentive for Market Makers to provide liquidity on the Exchange, the Exchange’s Maker fees are lower than the Taker fees.

Further, the Exchange provides certain discounted Market Maker transaction fees for Members and their qualified Affiliates<sup>12</sup> that achieve certain volume thresholds through the submission of Priority Customer orders under the Exchange’s PCRCP, which is set forth on two

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<sup>10</sup> See Securities Exchange Act Release Nos. 78519 (August 9, 2016), 81 FR 54162 (August 15, 2016)(SR-MIAX-2016-21); 79157 (October 26, 2016), 81 FR 75885 (November 1, 2016 (SR-MIAX-2016-38).

<sup>11</sup> The term “System” means the automated trading system used by the Exchange for the trading of securities. See Exchange Rule 100.

<sup>12</sup> For purposes of the MIAX Options Fee Schedule, the term “Affiliate” means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm’s Form BD, Schedule A, (“Affiliate”), or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An “Appointed Market Maker” is a MIAX Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an “Appointed EEM” is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAX Market Maker) that has been appointed by a MIAX Market Maker, pursuant to the following process. A MIAX Market Maker appoints an EEM and an EEM appoints a MIAX Market Maker, for the purposes of the Fee Schedule, by each completing and sending an executed Volume Aggregation Request Form by email to membership@miaxoptions.com no later than 2 business days prior to the first business day of the month in which the designation is to become effective. Transmittal of a validly completed and executed form to the Exchange along with the Exchange’s acknowledgement of the effective designation to each of the Market Maker and EEM will be viewed as acceptance of the appointment. The Exchange will only recognize one designation per Member. A Member may make a designation not more than once every 12 months (from the date of its most recent designation), which designation shall remain in effect unless or until the Exchange receives written notice submitted 2 business days prior to the first business day of the month from either Member indicating that the appointment has been terminated. Designations will become operative on the first business day of the effective month and may not be terminated prior to the end of the month. Execution data and reports will be provided to both parties.

tables: one setting forth the transaction fees applicable to Members and their Affiliates that are in PCRP Volume Tier 3 or higher; and the other setting forth the transaction fees applicable to Members and their Affiliates that are not in PCRP Volume Tier 3 or higher. The Sliding Scale also includes Maker and Taker fees in both tables in each Tier for simple orders in Penny classes and non-Penny classes where the fees are discounted/differentiated between the tables.

The Exchange proposes to make the following changes for both Members and their Affiliates in PCRP Volume Tier 3 or higher and Members and their Affiliates not in PCRP Volume Tier 3 or higher: (i) increase the fees in certain Sliding Scale Tiers for options transactions in Penny classes executed in the complex order book; and (ii) increase the fees in all Sliding Scale Tiers for options transactions in non-Penny classes executed in the complex order book. Specifically, the Exchange proposes to increase the fees for complex orders in options in Penny classes in Tier 2 from \$0.19 to \$0.24, in Tier 3 from \$0.12 to \$0.21, in Tier 4 from \$0.07 to \$0.20, and in Tier 5 from \$0.05 to \$0.19. The Exchange also proposes to increase the fees for complex orders in options in non-Penny classes in Tier 1 from \$0.29 to \$0.32, in Tier 2 from \$0.23 to \$0.29, in Tier 3 from \$0.16 to \$0.25, in Tier 4 from \$0.11 to \$0.24, and in Tier 5 from \$0.09 to \$0.23.

### **Complex Surcharge**

The Exchange does not currently distinguish between a Maker and a Taker for complex order executions as it does in the traditional construct for simple orders and instead assesses the per contract transaction fee for all executions and a potential surcharge of \$0.10 per executed contract for executions in complex orders. The current surcharge is assessed to a Market Maker and all other market participants except Priority Customers, when they remove liquidity by

trading against a Priority Customer order that is resting on the Strategy Book.<sup>13</sup> This surcharge is currently referred to as the “Complex Taker Surcharge”. This surcharge is similar in structure to Cboe Exchange, Inc. (“Cboe”) and NYSE American LLC (“NYSE American”) surcharges of the same type.<sup>14</sup>

First, the Exchange proposes to increase the Complex Taker Surcharge on MIAX Market Makers in the Sliding Scale for both Members and their Affiliates in PCR Volume Tier 3 or higher, and for Members and their Affiliates not in PCR Volume Tier 3 or higher, in Section 1)a)i) of the Fee Schedule, from \$0.10 to \$0.12 in all Tiers. The Exchange also proposes to increase the Complex Taker Surcharge on other market participants (except for Priority Customers), including Public Customers<sup>15</sup> that are not Priority Customers, non-MIAX Market

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<sup>13</sup> The “Strategy Book” is the Exchange’s electronic book of complex orders and complex quotes. See Exchange Rule 518(a)(17).

<sup>14</sup> See Cboe Fees Schedule, p. 1, and footnote 35 (charging a Complex Surcharge of \$0.12 per contract per side for noncustomer complex order executions that remove liquidity from the COB and auction responses in the Complex Order Auction (“COA”) and the Automated Improvement Mechanism (“AIM”) in all classes except Sector Indexes and Underlying Symbol List A. The surcharge will not be assessed, however, on noncustomer complex order executions originating from a Floor Broker PAR, electronic executions against single leg markets, or for stock-option order executions. Auction responses in COA and AIM for noncustomer complex orders in Penny classes will be subject to a cap of \$0.50 per contract, which includes the applicable transaction fee, Complex Surcharge and Marketing Fee (if applicable); see also NYSE American Fee Schedule, p. 8, footnote 6 (charging \$0.12 per contract to any Electronic Non-Customer Complex Order that executes against a Customer Complex Order, regardless of whether the execution occurs in a Complex Order Auction (“COA”). The surcharge does not apply to executions in CUBE Auctions. NYSE American reduces this per contract surcharge to \$0.10 for ATP Holders that achieve at least 0.20% of TCADV of Electronic Non-Customer Complex Orders in a month).

<sup>15</sup> The term “Public Customer” means a person that is not a broker or dealer in securities. See Exchange Rule 100.



Makers<sup>16</sup>, non-Member Broker-Dealers<sup>17</sup>, and Firms<sup>18</sup> (collectively, the “Other Market Participants”) in Section 1)a)ii) of the Fee Schedule, from \$0.10 to \$0.12.

Second, the Exchange proposes to broaden the application of the Complex Taker Surcharge so that it will now apply to a Market Maker and Other Market Participants (other than Priority Customers) when trading against a Priority Customer (i) on the Strategy Book; or (ii) as a Response or unrelated quote or order in a complex order auction other than a cPRIME Auction.

Exchange Rule 518(d) describes the process for determining if a complex order is eligible to begin a Complex Order Auction and to participate in a Complex Order Auction that is in progress, and provides that upon entry into the System or upon evaluation of a complex order resting at the top of the Strategy Book, complex auction-eligible orders may be subject to an automated request for responses (“RFR”).<sup>19</sup> Members may submit Responses to the RFR, which can be either a complex Auction or Cancel (“AOC”) order or a complex AOC eQuote.

Exchange Rule 518(b)(7) defines a cPRIME Order as a type of complex order that is submitted for participation in a cPRIME Auction and trading of cPRIME Orders is governed by Rule 515A, Interpretations and Policies .12.<sup>20</sup> cPRIME Orders are processed and executed in the

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<sup>16</sup> A “non-MIAX Market Maker” is a market maker registered as such on another options exchange. See Fee Schedule, Section 1)a)ii.

<sup>17</sup> A “non-Member Broker-Dealer” is a broker-dealer that is not a member of the OCC, and that is not registered as a Member at MIAX or another options exchange. See Fee Schedule, Section 1)a)ii.

<sup>18</sup> A “Firm” fee is assessed on a MIAX Electronic Exchange Member “EEM” that enters an order that is executed for an account identified by the EEM for clearing in the Options Clearing Corporation (“OCC”) “Firm” range. See Fee Schedule, Section 1)a)ii.

<sup>19</sup> See Securities Exchange Act Release No. 79072 (October 7, 2016), 81 FR 71131 (October 14, 2016) (SR-MIAX-2016-26).

<sup>20</sup> See Securities Exchange Act Release No. 81131 (July 12, 2017), 82 FR 32900 (July 18, 2017)(SR-MIAX-2017-19). (Order Granting Approval of a Proposed Rule Change to Amend MIAX Options Rules 515, Execution of Orders and Quotes; 515A, MIAX Price

Exchange's PRIME mechanism, the same mechanism that the Exchange uses to process and execute simple PRIME orders, pursuant to Exchange Rule 515A.<sup>21</sup> PRIME is a process by which a Member may electronically submit for execution an order it represents as agent (an "Agency Order") against principal interest and/or solicited interest. The Member that submits the Agency Order ("Initiating Member") agrees to guarantee the execution of the Agency Order by submitting a contra-side order representing principal interest or solicited interest ("Contra-Side Order"). When the Exchange receives a properly designated Agency Order for Auction processing, an RFR detailing the option, side, size and initiating price is broadcasted to MIAX Options participants up to an optional designated limit price. Members may submit responses to the RFR, which can be either an AOC order or an AOC eQuote. A cPRIME Auction is the price-improvement mechanism of the Exchange's System pursuant to which an Initiating Member electronically submits a complex Agency Order into a cPRIME Auction. The Initiating Member, in submitting an Agency Order, must be willing to either (i) cross the Agency Order at a single price against principal or solicited interest, or (ii) automatically match against principal or solicited interest, the price and size of a RFR that is broadcast to MIAX Options participants up to an optional designated limit price. Such responses are defined as cPRIME AOC Responses or cPRIME eQuotes.

Specifically, the Exchange proposes to broaden the application of the Complex Taker Surcharge so that it will apply to an Electronic Exchange Member ("EEM"),<sup>22</sup> for trading against a Priority Customer Complex Order for Penny and Non-Penny Classes, when trading against a

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Improvement Mechanism ("PRIME") and PRIME Solicitation Mechanism; and 518, Complex Orders).

<sup>21</sup> Id.

<sup>22</sup> The term "Electronic Exchange Member" means the holder of a Trading Permit who is not a Market Maker. Electronic Exchange Members are deemed "members" under the Exchange Act.

Priority Customer: (i) on the Strategy Book; or (ii) as a Response or unrelated order in a complex order auction other than a cPRIME Auction. Consequently, the Exchange proposes to change the name of the surcharge from “Complex Taker Surcharge” to “Complex Surcharge” since the surcharge will apply to more complex transactions than just those transactions which remove liquidity from the Strategy Book. The Exchange notes that both Cboe and NYSE American apply their respective surcharges in a more expansive manner than the Exchange’s current application of its surcharge, and similar to how the Exchange is proposing to expand its surcharge. However, Cboe caps its fees at \$0.50 per contract in its complex order auction mechanisms. And NYSE American does not assess its surcharge in its paired complex auction mechanism. As proposed, the Exchange will apply its surcharge in its single-sided complex auction mechanism (COA), but it will not apply the surcharge in its paired complex auction mechanism (cPRIME). Accordingly, as proposed to be expanded, the Exchange’s surcharge will be more in line with Cboe’s and NYSE American’s surcharges, but it will be no more expansive than either such exchange.<sup>23</sup>

Additionally, the Exchange proposes to remove the Discounted cPRIME Response Fee of \$0.46 per contract for Members or its Affiliates that qualify for Priority Customer Rebate Program volume tiers 3 or higher and submit a cPRIME AOC Response that is received during the Response Time Interval and executed against the cPRIME Order, or a cPRIME Participating Quote or Order that is received during the Response Time Interval and executed against the cPRIME Order for standard complex order options in Penny classes; and remove the Discounted cPRIME Response Fee of \$0.95 per contract in the same tiers, for standard complex order options in non-Penny classes. By removing these discounts, the Exchange will charge such Members and their Affiliates the standard cPRIME rates in the cPRIME tier that otherwise apply

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<sup>23</sup> See supra note 14.

to such transactions. The Exchange notes that this is a business decision to discontinue offering the discount, and as a result, it will align its fees more closely to those of NYSE American.<sup>24</sup>

#### **cPRIME Agency Order Fees**

In the PCRCP, the Exchange assesses an Agency Order Credit for cPRIME Agency Orders. The Exchange currently credits each Member \$0.10 per contract per leg for each Priority Customer complex order submitted into the cPRIME Auction as a cPRIME Agency Order in each Tier. However, no credit is paid if the cPRIME Agency Order executes against a Contra-Side Order which is also a Priority Customer. The Exchange proposes to increase the Agency Order Credit for cPRIME Agency Orders submitted by Members who are in PCRCP Volume Tier 4 from \$0.10 to \$0.22. The purpose of such increase in Tier 4 is to encourage market participants to submit more Priority Customer cPRIME Agency Orders and therefore increase Priority Customer order flow. The Exchange additionally proposes to limit the cPRIME Agency Order Credit to be payable to the first 1,000 contracts per leg for each cPRIME Agency Order. Such limit will be applicable to all Tiers of the PCRCP.

#### **cPRIME Contra-Side Order Fees**

The Exchange assesses a per contract fee to all market participants except Priority Customers for Contra-Side Orders in cPRIME Auctions. Currently, the cPRIME Contra-Side Order Fee is \$0.05 for options in Penny classes and non-Penny classes. The Exchange proposes to increase the fee assessed to all market participants except Priority Customers for cPRIME Contra-Side Orders for options in non-Penny classes from \$0.05 to \$0.07. To implement this change on the Fee Schedule, the Exchange is proposing to bifurcate the fee for Penny classes and non-Penny classes by adding a new column to the table under Section 1)a)vi) of the Fee

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<sup>24</sup> See NYSE American Fee Schedule, p. 17, Complex CUBE Auction (charging a RFR Response Fee Non-Customer in Penny Pilot issues of \$0.50 and an RFR Response Fee Non-Customer in Non-Penny Pilot issues of \$1.05).

Schedule for the cPRIME Contra-Side Order fees assessable for orders in non-Penny classes setting forth the increased fee of \$0.07 for all market participants except Priority Customers. The purpose of increasing such fee for options in non-Penny classes is to more closely align the Exchange's fees for cPRIME Contra-Side Orders with similar fees of other exchanges.<sup>25</sup>

### **cPRIME Break-up Credit**

The Exchange applies a break-up credit to an EEM that submitted a cPRIME Order for agency contracts that are submitted to the cPRIME Auction that trade with a cPRIME AOC Response or a cPRIME Participating Quote or Order that trades with the cPRIME Order ("cPRIME Break-up Credit"). Currently, the per contract cPRIME Break-up Credit payable to all market participants for options in Penny classes is \$0.25 and for options in non-Penny classes is \$0.60. The current cPRIME Break-up Credit does not take into account the degree to which the cPRIME Order was broken up.

The Exchange now proposes to take into account the degree to which the cPRIME Order was broken up, through paying a higher credit amount if the cPRIME Order experienced a greater degree of break-up. In particular, the Exchange proposes to pay an enhanced cPRIME Break-up Credit to all market participants who experience a greater than sixty percent (60%) break-up of their cPRIME Order in a cPRIME Auction, instead of the regular cPRIME Break-up Credit specified in the Fee Schedule. If the market participant experiences a greater than sixty percent (60%) break-up of their cPRIME Order in a cPRIME Auction, then it shall be credited \$0.28, an additional \$0.03 per contract, for options in Penny classes, and \$0.72, an additional \$0.12 per contract, for options in non-Penny classes. For example, if the original cPRIME Agency Order in a Penny class was for 100 contracts and the Member received only 30 contracts

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<sup>25</sup> See Securities Exchange Act Release No. 83532 (June 28, 2018), 83 FR 31205 (July 3, 2018) (SR-NYSEAMER-2018-32) (Notice of Filing and Immediate Effectiveness of Proposed Change to Modify the NYSE American Options Fee Schedule).

of the original cPRIME Order as a result of the break-up, and the other 70 contracts traded with a cPRIME AOC response or a cPRIME Participating Quote or Order (which equals 70%), then they would be credited \$0.28 as a cPRIME Break-up Credit. As another example, if the original cPRIME Agency Order in a Penny class was for 100 contracts and the Member received 40 contracts of the original cPRIME Order as a result of the break-up and the other 60 contracts traded with a cPRIME AOC response or a cPRIME Participating Quote or Order (which equals 60%), then they would only be credited \$0.25 as a cPRIME Break-up Credit. The decision to offer an enhanced cPRIME Break-up Credit is based on an analysis of current revenue and volume levels and is intended to encourage market participants to continue participating in cPRIME Auctions. The Exchange believes that by offering Members this enhanced cPRIME Break-up Credit, it will be able to further incentivize Members to send cPRIME orders to the Exchange, and enable it to better compete with NYSE American. Although it is a business decision to bifurcate the Exchange's enhanced cPRIME Break-up Credit based on the degree to which the cPRIME Order is broken up, the Exchange notes that its credit still remains lower than those of NYSE American, which the Exchange believes will serve to enhance competition. There are several approaches used by Exchanges to attract certain types of order flow, and many approaches often rely on the existence of certain conditions and thresholds being met.<sup>26</sup> This

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<sup>26</sup> See for example NYSE American Fee Schedule, p. 18, Initiating Participant Credit. (NYSE American offers a "break-up" credit to Initiating Participants for each contract in a Complex Contra Order paired with a Complex CUBE Order that does not trade with the Complex CUBE Order because it is replaced at auction. Depending on the Tier for which the ATP holder qualifies, it may receive anywhere from a \$0.20 to a \$0.35 credit in Penny Pilot issues and anywhere from \$0.50 to \$0.75 in non-Penny Pilot issues, with those who qualify for ACE Tier 5, and execute more than 1% TCADV in monthly Initiating Complex CUBE Orders being eligible to receive an alternative enhance Initiating Participant Credit of \$0.45 per contract for Penny Pilot issues and \$0.90 per contract for non-Penny Pilot issues.

proposed approach of offering an enhanced credit based on the degree of break-up of a cPRIME Order is another variation of one such type of condition.

The proposed rule changes are scheduled to become operative August 1, 2018.

## 2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with Section 6(b) of the Act<sup>27</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act,<sup>28</sup> in that it is an equitable allocation of reasonable fees and other charges among Exchange members and issuers and other persons using its facilities, and 6(b)(5) of the Act,<sup>29</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 fee increases for the various Sliding Scale tiers in Penny and non-Penny classes for complex orders is equitable and not unfairly discriminatory because all MIAX Options Market Makers are subject to the same fees and access to the Exchange is offered on terms that are not unfairly discriminatory. The Exchange initially set its complex order fees at the various volume levels based upon business determinations and an analysis of current complex order fees and volume levels at other exchanges. When the Exchange initially adopted complex order fees, it set its complex order fees lower than other exchanges in order to encourage its Market Makers to reach for higher volume levels in order to achieve greater discounts. For competitive and business reasons, the Exchange believes that it is now

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<sup>27</sup> 15 U.S.C. 78f(b).

<sup>28</sup> 15 U.S.C. 78f(b)(4).

<sup>29</sup> 15 U.S.C. 78f(b)(1) and (b)(5).

appropriate to increase complex order fees to be more in line with competing exchanges. The Exchange notes that the increased complex order fees are comparable to those assessed by other exchanges.<sup>30</sup>

Furthermore, the proposed increases to the fees for complex orders in Penny and non-Penny classes in the specified tiers promotes just and equitable principles of trade, fosters cooperation and coordination with persons engaged in facilitating transactions in securities, and protects investors and the public interest, because even with the increases, the Exchange's proposed fees for Market Makers complex orders still remain competitive with certain other options exchanges offering comparable pricing models, and should enable the Exchange to continue to attract order flow and grow market share. The Exchange believes that the amount of such fees, as proposed to be increased, will continue to encourage MIAX Options Market Makers to send complex orders to the Exchange. To the extent that order flow is increased by the proposal, market participants will increasingly compete for the opportunity to trade on the Exchange, including sending more orders which will have the potential to be assessed lower fees and higher rebates than certain other competing options exchanges. The resulting increased volume and liquidity will benefit all Exchange participants by providing more trading opportunities and tighter spreads.

The Exchange's proposal to increase the Complex Taker Surcharge and broaden its application and rename it as the "Complex Surcharge" is consistent with Section 6(b)(4) of the Act<sup>31</sup> because it applies equally to all market participants (both MIAX Market Makers and Other Market Participants, except Priority Customers) that would be charged such Complex Surcharge. Assessing the Complex Surcharge to MIAX Market Makers and Other Market Participants

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<sup>30</sup> See *supra* notes 14, 24, 25 and 26.

<sup>31</sup> 15 U.S.C. 78f(b)(4).



(except Priority Customers), in a broader application, similar to that of other exchanges, is reasonable and not unfairly discriminatory because it will provide MIAX Options Market Makers and Other Market Participants with equal surcharges when trading against a Priority Customer. As stated above, the Complex Surcharge is similar to surcharges assessed on Cboe and NYSE American.<sup>32</sup> The Exchange notes that, although the increase of the Complex Surcharge represents a slight fee increase, the Exchange believes that this increase is fair and equitable because it is in line with the amount of surcharges assessed on other options exchanges, when trading against Priority Customer Complex Orders, including trading in a complex order book, complex order auctions, and complex order price improvement mechanisms.<sup>33</sup>

The Exchange's proposal to broaden the application of the Complex Taker Surcharge and to rename it as the "Complex Surcharge" is also consistent with Section 6(b)(5) of the Act<sup>34</sup> because it perfects the mechanisms of a free and open market and a national market system and protect investors and the public interest by aligning the broader application of the Complex Surcharge and the definition of Complex Surcharge to that of other options exchanges,<sup>35</sup> which will help to create consistency and uniformity in the marketplace. The proposed Complex Surcharge increase is similar to the surcharge increase effected by Cboe and NYSE American.<sup>36</sup> The Exchange believes for these reasons that the Complex Surcharge and the broadened application of it, is equitable, reasonable and not unfairly discriminatory, and thus consistent with the Act.

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<sup>32</sup> See supra note 14.

<sup>33</sup> See Cboe Fees Schedule, footnote 35; see also NYSE American Fee Schedule, p. 11; see Securities Exchange Act Release No. 83532 (June 28, 2018), 83 FR 31206 (July 3, 2018) (SR-NYSEAMER-2018-32).

<sup>34</sup> 15 U.S.C. 78f(b)(1) and (b)(5).

<sup>35</sup> See supra note 14.

<sup>36</sup> Id.

The Exchange's proposal to remove the Discounted cPRIME Response Fee of \$0.46 per contract for Members or its Affiliates that qualify for Priority Customer Rebate Program volume tiers 3 or higher and submit a cPRIME AOC Response that is received during the Response Time Interval and executed against the cPRIME Order, or a cPRIME Participating Quote or Order that is received during the Response Time Interval and executed against the cPRIME Order for standard complex order options in Penny classes; and remove the Discounted cPRIME Response Fee of \$0.95 per contract in the same tiers, for standard complex order options in non-Penny classes, is consistent with Section 6(b)(4) of the Act<sup>37</sup> because it applies equally to all market participants and although by removing this discount, the Exchange notes this would increase the cPRIME Response Fee for some market participants, it represents a slight increase, and the Exchange believes that this increase is fair and equitable because it is in line with the amount of surcharges assessed on other options exchanges.<sup>38</sup> Further, the proposal is also consistent with Section 6(b)(5) of the Act<sup>39</sup> because it perfects the mechanisms of a free and open market and a national market system and protects investors and the public interest because it will align the Exchange's rule to that of other options exchanges, which will help to create consistency and uniformity in the marketplace. In addition, the removal of the discounted for the cPRIME Response Fee would align the Exchange's fees closer to those of another options exchange.<sup>40</sup>

The Exchange's proposal to increase the cPRIME Agency Order Credit assessable to cPRIME Agency Orders by Members in Tier 4 of the PCRCP is consistent with Section 6(b)(4) of the Act<sup>41</sup> because it applies equally to all participants in that tier. The Exchange believes that the

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<sup>37</sup> 15 U.S.C. 78f(b)(4).

<sup>38</sup> See supra note 26.

<sup>39</sup> 15 U.S.C. 78f(b)(1) and (b)(5).

<sup>40</sup> See supra note 26.

<sup>41</sup> 15 U.S.C. 78f(b)(4).

proposed PCRCP rebate increase in Tier 4 for Priority Customer orders submitted into cPRIME Auctions is fair, equitable, and not unreasonably discriminatory. The PCRCP is reasonably designed because it will incentivize providers of Priority Customer order flow to send that Priority Customer order flow to the Exchange in order to obtain the highest volume threshold and receive a credit in a manner that enables the Exchange to improve its overall competitiveness and strengthen its market quality for all market participants.

In addition, the proposal is also consistent with Section 6(b)(5) of the Act<sup>42</sup> because it perfects the mechanisms of a free and open market and a national market system and protects investors and the public interest because, while only Priority Customer order flow qualifies for the rebate program under the PCRCP and specifically only order flow by Members in Tier 4 of the PCRCP will receive the greater rebate, an increase in Priority Customer order flow will bring greater volume and liquidity, which benefit all market participants by providing more trading opportunities and tighter spreads. To the extent Priority Customer order flow is increased by the proposal, market participants will increasingly compete for the opportunity to trade on the Exchange including sending more orders and providing narrower and larger-sized quotations in the effort to trade with such Priority Customer order flow.

The Exchange's proposal to establish a limit as to how many contracts the cPRIME Agency Order Credit shall apply to is consistent with Section 6(b)(4) of the Act<sup>43</sup> because it applies equally to all market participants who submit cPRIME Agency Orders. Further, the proposal is also consistent with Section 6(b)(5) of the Act<sup>44</sup> because it perfects the mechanisms of a free and open market and a national market system and protects investors and the public

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<sup>42</sup> 15 U.S.C. 78f(b)(1) and (b)(5).

<sup>43</sup> 15 U.S.C. 78f(b)(4).

<sup>44</sup> 15 U.S.C. 78f(b)(1) and (b)(5).

interest because it will align the Exchange's rule to that of other options exchanges, which will help to create consistency and uniformity in the marketplace. It is also not novel since other exchanges similarly limit a similar rebate to the first 1,000 contracts.<sup>45</sup>

The Exchange's proposal to increase the cPRIME Contra-Side Orders fees assessable to all market participants except for Priority Customers in non-Penny classes is consistent with Section 6(b)(4) of the Act<sup>46</sup> because the Exchange believes that it is reasonable to assess lower transaction and credit rates to options in Penny classes than non-Penny classes. The Exchange believes that options which trade at these wider spreads merit offering greater inducement for market participants.

The Exchange believes that is equitable and not unfairly discriminatory that Priority Customers be charged lower fees in cPRIME Auctions than other market participants. The exchanges, in general, have historically aimed to improve markets for investors and develop various features within their market structure for customer benefit. The Exchange assesses Priority Customers lower or no transactions fees because Priority Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Moreover, the Exchange believes that assessing all other market participants that are not Priority Customers a higher transaction fee than Priority Customers for cPRIME Order transactions is reasonable, equitable, and not unfairly discriminatory because these types of

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<sup>45</sup> See Cboe Fees Schedule, p. 3; see also NYSE American Fee Schedule, p. 18, footnote 2 under Section I.G.

<sup>46</sup> 15 U.S.C. 78f(b)(4).

market participants are more sophisticated and have higher levels of order flow activity and system usage. This level of trading activity draws on a greater amount of system resources than that of Priority Customers, and thus, generates greater ongoing operational costs. Further, the Exchange believes that charging all market participants that are not Priority Customers the same fee for all cPRIME transactions is not unfairly discriminatory as the fees will apply to all these market participants equally.

In addition, the proposal is also consistent with Section 6(b)(5) of the Act<sup>47</sup> because it perfects the mechanisms of a free and open market and a national market system and protects investors and the public interest because, within the cPRIME Auction, the fee difference between Penny and non-Penny classes provides greater opportunity for market participants to offer price improvement. As such, the Exchange believes that the opportunity for additional price improvement provided by these wider spreads again merits offering greater incentive for market participants to increase the potential price improvement for customer orders in these transactions.

The Exchange's proposal to pay an enhanced cPRIME Break-up Credit for options in Penny classes and non-Penny classes to all market participants who experience a greater than sixty percent (60%) break-up of their cPRIME Order in a cPRIME Auction is consistent with Section 6(b)(4) of the Act<sup>48</sup> because it will encourage market participants to continue participating in cPRIME Auctions. The Exchange believes that the enhanced cPRIME Break-up Credit should improve market quality for all market participants. Additionally, the Exchange believes that by offering this enhanced cPRIME Break-up Credit, it will be able to incentivize initiating orders in order to compete with NYSE American. Although it is a business decision to bifurcate the Exchange's enhanced cPRIME Break-up Credit, the Exchange notes that its credit

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<sup>47</sup> 15 U.S.C. 78f(b)(1) and (b)(5).

<sup>48</sup> 15 U.S.C. 78f(b)(4).

still remains lower than those of NYSE American, which the Exchange believes will serve to enhance competition.<sup>49</sup>

In addition, the proposal is also consistent with Section 6(b)(5) of the Act<sup>50</sup> because it perfects the mechanisms of a free and open market and a national market system and protects investors and the public interest because it applies equally to all cPRIME orders which are subject to a break-up and access to the Exchange is offered on terms that are not unfairly discriminatory.

**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 Exchange believes that the proposed increase in the Complex Surcharge for complex transactions is intended to promote narrower spreads and greater liquidity at the best prices. The fee-based incentives for market participants to provide liquidity by submitting complex orders to the Exchange, and thereby improve liquidity on the Exchange, should enable the Exchange to attract order flow and compete with other exchanges which also provide such incentives to their market participants for similar transactions.

The Exchange believes that increased complex order flow will bring greater volume and liquidity which in turn benefits all market participants by providing more trading opportunities and tighter spreads. Therefore, any potential effects that the increased Complex Surcharge for complex transactions may have on intra-market competition are justifiable due to the reasons stated above.

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<sup>49</sup> See supra note 26.

<sup>50</sup> 15 U.S.C. 78f(b)(1) and (b)(5).

The Exchange believes that the proposed changes to the rebates and fees for participation in a cPRIME Auction are not going to have an impact on intra-market competition based on the total cost for participants to transact in such order types versus the cost for participants to transact in the other order types available for trading on the Exchange. As noted above, the Exchange believes that the proposed changes in the rebates and fees for the cPRIME Auction are comparable to that of other exchanges offering similar electronic price improvement mechanisms for complex orders and the Exchange believes that, based on experience with electronic price improvement crossing mechanisms on other markets, market participants understand that the price-improving benefits offered by the cPRIME Auction justify the transaction costs associated with the cPRIME Auction. To the extent that there is a difference between non-cPRIME Auction transactions and cPRIME Auction transactions, the Exchange does not believe this difference will cause participants to refrain from responding to cPRIME Auctions.

With respect to cPRIME Auctions, the Exchange notes that Cboe caps its fees at \$0.50 per contract in its complex order auction mechanisms. And NYSE American does not assess its surcharge in its paired complex auction mechanism. As proposed, the Exchange will apply its surcharge in its single-sided complex auction mechanism (COA), but it will not apply the surcharge in its paired complex auction mechanism (cPRIME). Accordingly, as proposed to be expanded, the Exchange's surcharge will be more in line with Cboe's and NYSE American's surcharges, but it will be no more expansive than either such exchange.<sup>51</sup> Because the Complex Surcharge will not be applied in its cPRIME Auction, the Exchange believes that the proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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<sup>51</sup> See supra note 14.

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. The Exchange believes that the proposed rule change reflects this competitive environment because they modify the Exchange's fees in a manner that encourages market participants to provide liquidity and to send order flow to the Exchange.

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>52</sup> and Rule 19b-4(f)(2)<sup>53</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:

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<sup>52</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>53</sup> 17 CFR 240.19b-4(f)(2).



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:to-rule-comments@sec.gov). Please include File Number SR-MIAX-2018-22 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-2018-22. 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 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 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-2018-22 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>54</sup>

Brent J. Fields  
Secretary

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<sup>54</sup> 17 CFR 200.30-3(a)(12).

New text is underlined;

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# MIAX Options Fee Schedule

## 1) Transaction Fees

### a) Exchange Fees

#### i) Market Maker Transaction Fees

#### Market Maker Sliding Scale

Members and Their Affiliates <sup>1</sup> In Priority Customer Rebate Program Volume Tier 3 or Higher									
	Tier	Percentage Thresholds	Simple				Complex		
			Per Contract Fee For Penny Classes		Per Contract Fee For Non-Penny Classes		Per Contract Fee for Penny Classes	Per Contract Fee for Non- Penny Classes	Per Contract Surcharge for <u>Trading [Removing Liquidity]</u> Against a [Resting] Priority Customer Complex Order [on the Strategy Book] for Penny and Non- Penny Classes
			Maker*	Taker	Maker*	Taker			
All MIAX Market Makers	1	0.00% - 0.075%	\$0.21	\$0.23	\$0.25	\$0.30	\$0.25	\$(0.29) <u>0.32</u>	\$(0.10) <u>0.12</u>
	2	Above 0.075% - 0.70%	\$0.16	\$0.22	\$0.19	\$0.27	\$(0.19) <u>0.24</u>	\$(0.23) <u>0.29</u>	\$(0.10) <u>0.12</u>
	3	Above 0.70% - 1.10%	\$0.10	\$0.19	\$0.12	\$0.23	\$(0.12) <u>0.21</u>	\$(0.16) <u>0.25</u>	\$(0.10) <u>0.12</u>
	4	Above 1.10% - 1.50%	\$0.05	\$0.18	\$0.08	\$0.22	\$(0.07) <u>0.20</u>	\$(0.11) <u>0.24</u>	\$(0.10) <u>0.12</u>
	5	Above 1.50%	\$0.03	\$0.17	\$0.06	\$0.21	\$(0.05) <u>0.19</u>	\$(0.09) <u>0.23</u>	\$(0.10) <u>0.12</u>

<sup>1</sup> For purposes of the MIAX Options Fee Schedule, the term "Affiliate" means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, ("Affiliate"), or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An "Appointed Market Maker" is a MIAX Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an "Appointed EEM" is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAX Market Maker) that has been appointed by a MIAX Market Maker, pursuant to the following process. A MIAX Market Maker appoints an EEM and an EEM appoints a MIAX Market Maker, for the purposes of the Fee Schedule, by each completing and sending an executed Volume Aggregation Request Form by email to membership@miaxoptions.com no later than 2 business days prior to the first business day of the month in which the designation is to become effective. Transmittal of a validly completed and executed form to the Exchange along with the Exchange's acknowledgement of the effective designation to each of the Market Maker and EEM will be viewed as acceptance of the appointment. The Exchange will only recognize one designation per Member. A Member may make a designation not more than once every 12 months (from the date of its most recent designation), which designation shall remain in effect unless or until the Exchange receives written notice submitted 2 business days prior to the first business day of the month from either Member indicating that the appointment has been terminated. Designations will become operative on the first business day of the effective month and may not be terminated prior to the end of the month. Execution data and reports will be provided to both parties.

Members and Their Affiliates Not In Priority Customer Rebate Program Volume Tier 3 or Higher									
	Tier	Percentage Thresholds	Simple				Complex		
			Per Contract Fee For Penny Classes		Per Contract Fee For Non-Penny Classes		Per Contract Fee for Penny Classes	Per Contract Fee for Non- Penny Classes	Per Contract Surcharge for Trading [Removing Liquidity] Against a [Resting] Priority Customer Complex Order [on the Strategy Book] for Penny and Non- Penny Classes
			Maker*	Taker	Maker*	Taker			
All MIAX Market Makers <sup>2</sup>	1	0.00% - 0.075%	\$0.23	\$0.25	\$0.27	\$0.32	\$0.25	\$[0.29]0.32	\$[0.10]0.12
	2	Above 0.075% - 0.70%	\$0.18	\$0.24	\$0.21	\$0.29	\$[0.19] 0.24	\$[0.23]0.29	\$[0.10]0.12
	3	Above 0.70% - 1.10%	\$0.12	\$0.21	\$0.14	\$0.25	\$[0.12] 0.21	\$[0.16]0.25	\$[0.10]0.12
	4	Above 1.10% - 1.50%	\$0.07	\$0.20	\$0.10	\$0.24	\$[0.07] 0.20	\$[0.11]0.24	\$[0.10]0.12
	5	Above 1.50%	\$0.05	\$0.19	\$0.08	\$0.23	\$[0.05] 0.19	\$[0.09]0.23	\$[0.10]0.12

\* The Maker Penny and Non-Penny fees will apply to opening transactions, transactions resulting from quotes that uncross the ABBO, and any other transaction that is not a taker transaction.

Volume thresholds are based on the total national Market Maker volume of any options classes with traded volume on MIAX during the month in simple and complex orders (excluding QCC and cQCC Orders, PRIME and cPRIME AOC Responses, and unrelated MIAX Market Maker quotes or unrelated MIAX Market Maker orders that are received during the Response Time Interval and executed against the PRIME Order (“PRIME Participating Quotes or Orders”) and unrelated MIAX Market Maker complex quotes or unrelated MIAX Market Maker complex orders that are received during the Response Time Interval and executed against a cPRIME Order (“cPRIME Participating Quote or Order”). The Market Maker Sliding Scale applies to MIAX Market Maker (RMM, LMM, DLMM, PLMM, DPLMM) transaction fees in all products except mini-options. MIAX Market Makers will be assessed a \$0.02 per executed contract fee for transactions in mini-options. A MIAX Market Maker's standard per contract transaction fee shall be reduced to the fees shown on the sliding scale as the MIAX Market Maker reaches the volume thresholds shown on the sliding scale in a month. The Exchange will aggregate the trading activity of Members and their Affiliates for purposes of the sliding scale. The per contract surcharge for trading against a Priority Customer Complex Order for Penny and Non-Penny Classes applies to a MIAX Market Maker when trading against a Priority Customer: (i) on the Strategy Book; or (ii) as a Response or unrelated quote or order in a complex order auction other than a cPRIME Auction.

<sup>2</sup> See MIAX Rule 100 for the definition of Registered Market Maker (“RMM”), Primary Lead Market Maker (“PLMM”), Lead Market Maker (“LMM”). Directed Order Lead Market Maker (“DLMM”) and Directed Primary Lead Market Maker (“DPLMM”) is a party to a transaction being allocated to the LMM or PLMM and is the result of an order that has been directed to the LMM or PLMM.

## ii) Other Market Participant Transaction Fees

Types of Other Market Participants	Standard Options Transaction Fee for Simple and Complex Orders (per executed contract)		Per Contract Surcharge for Trading [Removing Liquidity] Against a [Resting] Priority Customer Complex Order [on the Strategy Book] for Penny and Non-Penny Classes	Mini Options Transaction Fee (per executed contract)		These fees will apply to all option classes traded on MIAX
	Penny Classes	Non-Penny Classes		Penny Classes	Non-Penny Classes	
Priority Customer <sup>3</sup>	\$0.00	\$0.00	\$0.00	\$0.000	\$0.000	There is no fee assessed to an Electronic Exchange Member (an "EEM," as defined in MIAX Rule 100) that enters an order that is executed for the account of a Priority Customer.
Public Customer that is Not a Priority Customer	\$0.47 <sup>4</sup>	\$0.75 <sup>5</sup>	\$(0.10)0.12	\$0.05	\$0.07	This fee is assessed to an EEM that enters an order that is executed for the account of a Public Customer <sup>6</sup> that does not meet the criteria for designation as a Priority Customer. This fee will also be charged to an EEM that enters an order for the account of a Public Customer that has elected to be treated as a Voluntary Professional. <sup>7</sup>
Non-MIAX Market Maker	\$0.47 <sup>8</sup>	\$0.75 <sup>9</sup>	\$(0.10)0.12	\$0.045	\$0.07	This fee is assessed to an EEM that enters an order that is executed for the account of a non-MIAX market maker. A non-MIAX market maker is a market maker registered as such on another options exchange.

<sup>3</sup> The term "Priority Customer" means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). See Exchange Rule 100.

<sup>4</sup> Any Member or its Affiliate that qualifies for Priority Customer Rebate Program volume tiers 3 or higher will be assessed \$0.45 per contract for standard options in simple order executions.

<sup>5</sup> Any Member or its Affiliate that qualifies for Priority Customer Rebate Program volume tiers 3 or higher will be assessed \$0.73 per contract for standard options in simple order executions.

<sup>6</sup> The term "Public Customer" means a person that is not a broker or dealer in securities. See Exchange Rule 100.

<sup>7</sup> The term "Voluntary Professional" means any Public Customer that elects, in writing, to be treated in the same manner as a broker or dealer in securities for purposes of Rule 514, as well as the Exchange's schedule of fees. See Exchange Rule 100.

<sup>8</sup> Any Member or its Affiliate that qualifies for Priority Customer Rebate Program volume tiers 3 or higher will be assessed \$0.45 per contract for standard options in all options classes.

<sup>9</sup> Any Member or its Affiliate that qualifies for Priority Customer Rebate Program volume tiers 3 or higher will be assessed \$0.73 per contract for standard options in simple order executions.

Types of Other Market Participants	Standard Options Transaction Fee for Simple and Complex Orders (per executed contract)		Per Contract Surcharge for Trading [Removing Liquidity] Against a [Resting] Priority Customer Complex Order [on the Strategy Book] for Penny and Non-Penny Classes	Mini Options Transaction Fee (per executed contract)		These fees will apply to all option classes traded on MIAX
	Penny Classes	Non-Penny Classes		Penny Classes	Non-Penny Classes	
<i>Non-Member Broker-Dealer</i>	\$0.47 <sup>10</sup>	\$0.75 <sup>11</sup>	\$[0.10]0.12	\$0.045	\$0.07	This fee is assessed to an EEM that enters an order that (i) is executed for the account of a non-Member Broker-Dealer, and (ii) is identified by the EEM for clearing in the Options Clearing Corporation (“OCC”) “customer” range. A non-Member Broker-Dealer is a broker-dealer that is not a member of the OCC, and that is not registered as a Member at MIAX or another options exchange.
<i>Firm</i>	\$0.47 <sup>12</sup>	\$0.75 <sup>13</sup>	\$[0.10]0.12	\$0.04	\$0.07	This fee is assessed to an EEM that enters an order that is executed for an account identified by the EEM for clearing in the OCC “Firm” range.

The per contract surcharge for trading against a Priority Customer Complex Order for Penny and Non-Penny Classes applies to an EEM when trading against a Priority Customer: (i) on the Strategy Book; or (ii) as a Response or unrelated order in a complex order auction other than a cPRIME Auction.

<sup>10</sup> Any Member or its Affiliate that qualifies for Priority Customer Rebate Program volume tiers 3 or higher will be assessed \$0.45 per contract for standard options in simple order executions.  
<sup>11</sup> Any Member or its Affiliate that qualifies for Priority Customer Rebate Program volume tiers 3 or higher will be assessed \$0.73 per contract for standard options in simple order executions.  
<sup>12</sup> Any Member or its Affiliate that qualifies for Priority Customer Rebate Program volume tiers 3 or higher will be assessed \$0.45 per contract for standard options in simple order executions.  
<sup>13</sup> Any Member or its Affiliate that qualifies for Priority Customer Rebate Program volume tiers 3 or higher will be assessed \$0.73 per contract for standard options in simple order executions.

## iii) Priority Customer Rebate Program

Origin	Tier	Percentage Thresholds of National Customer Volume in Multiply-Listed Options Classes Listed on MIAX (Monthly)	Per Contract Credit for Simple Orders in non-MIAX Select Symbols <sup>14</sup>	Per Contract Credit for Simple Orders in MIAX Select Symbols	Per Contract Credit for PRIME Agency Order	Per Contract Credit for cPRIME Agency Order*	Per Contract Credit for Complex Orders
Priority Customer	1	0.00% - 0.50%	\$0.00	\$0.00	\$0.10	\$0.10	\$0.00
	2	Above 0.50% - 1.20%	\$0.10	\$0.10	\$0.10	\$0.10	\$0.21
	3	Above 1.20% - 1.75%	\$0.15	\$0.20	\$0.10	\$0.10	\$0.24
	4	Above 1.75%	\$0.21	\$0.24	\$0.10	\$(0.10)0.22	\$0.25

\*The per contract credit for cPRIME Agency Orders is assessable to the first 1,000 contracts per leg for each cPRIME Agency Order. Such limit will be applicable to all tiers of the Priority Customer Rebate Program.

MIAX shall credit each Member the per contract amount set forth above as applicable resulting from each Priority Customer order transmitted by that Member which is executed electronically on the Exchange in all multiply-listed option classes (excluding, in simple or complex as applicable, QCC and cQCC Orders, mini-options, Priority Customer-to-Priority Customer Orders, C2C and cC2C Orders, PRIME and cPRIME AOC Responses, PRIME and cPRIME Contra-side Orders, PRIME and cPRIME Orders for which both the Agency and Contra-side Order are Priority Customers, and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in MIAX Rule 1400), provided the Member meets certain percentage thresholds in a month as described in the Priority Customer Rebate Program table.

For each Priority Customer order transmitted by that Member which is executed electronically on the Exchange in MIAX Select Symbols in simple order executions, MIAX shall credit each member at the separate per contract rate for MIAX Select Symbols.

For each Priority Customer order submitted into the PRIME Auction as a PRIME Agency Simple Order, MIAX shall credit each member at the separate per contract rate for PRIME Agency Simple Orders; however, no rebates will be paid if the PRIME Agency Simple Order executes against a Contra-side Order which is also a Priority Customer.

All fees and rebates are per contract per leg.

For each Priority Customer complex order submitted into the cPRIME Auction as a cPRIME Agency Order, MIAX shall credit each member at the separate per contract per leg rate for cPRIME Agency Orders; however, no rebates will be paid if the cPRIME Agency Order executes against a Contra-side Order which is also a Priority Customer.

The Priority Customer rebate payment will be calculated from the first executed contract at the applicable threshold per contract credit with rebate payments made at the highest achieved volume tier for each contract traded in that month.

<sup>14</sup> The term "MIAX Select Symbols" means options overlying AAL, AAPL, AIG, AMAT, AMD, AMZN, BA, BABA, BB, BIDU, BP, C, CAT, CBS, CELG, CLF, CVX, DAL, EBAY, EEM, FB, FCX, GE, GILD, GLD, GM, GOOGL, GPRO, HAL, HTZ, INTC, IWM, JCP, JNJ, JPM, KMI, KO, MO, MRK, NFLX, NOK, ORCL, PBR, PFE, PG, QCOM, QQQ, RIG, S, SPY, T, TSLA, USO, VALE, VXX, WBA, WFC, WMB, WY, X, XHB, XLE, XLF, XLP, XOM and XOP.

The percentage thresholds are calculated based on the percentage of national customer volume in multiply-listed options classes listed on MIAX entered and executed over the course of the month (excluding QCC and cQCC Orders, Priority Customer-to-Priority Customer Orders, C2C and cC2C Orders, PRIME and cPRIME AOC Responses, PRIME and cPRIME Contra-side Orders, and PRIME and cPRIME Orders for which both the Agency and Contra-side Order are Priority Customers). Volume for transactions in both simple and complex orders will be aggregated to determine the appropriate volume tier threshold applicable to each transaction. Volume will be recorded for and credits will be delivered to the Member Firm that submits the order to MIAX. MIAX will aggregate the contracts resulting from Priority Customer orders transmitted and executed electronically on MIAX from Members and their Affiliates for purposes of the thresholds described in the Priority Customer Rebate Program table.

MIAX shall credit each "Qualifying Member" \$0.03 per contract (excluding QCC and cQCC Orders, mini-options, Priority Customer-to-Priority Customer Orders, C2C and cC2C Orders, PRIME and cPRIME Agency Orders, PRIME and cPRIME AOC Responses, PRIME and cPRIME Contra-side Orders, PRIME and cPRIME Orders for which both the Agency and Contra-side Order are Priority Customers, and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in MIAX Rule 1400) resulting from each Priority Customer order in simple or complex order executions which falls within the Priority Customer Rebate Program volume tier 1 above. "Qualifying Member" shall mean a Member or its Affiliate that qualifies for the Professional Rebate Program as described below and achieves a volume increase in excess of 0.065% for Professional orders transmitted by that Member which are executed electronically on the Exchange in all multiply-listed option classes for the account(s) of a Professional and which qualify for the Professional Rebate Program during a particular month relative to the applicable Baseline Percentage (as defined under the Professional Rebate Program).

Any Member or its Affiliate that qualifies for Priority Customer Rebate Program volume tiers 3 or higher will be credited an additional \$0.02 per contract for each Priority Customer order executed in the PRIME Auction as a PRIME Agency Order over a threshold of above 0.60% of national customer volume in multiply-listed options classes listed on MIAX during the relevant month (excluding QCC and cQCC Orders, mini-options, Priority Customer-to-Priority Customer Orders, C2C and cC2C Orders, cPRIME Agency Orders, PRIME and cPRIME AOC Responses, PRIME and cPRIME Contra-side Orders, PRIME and cPRIME Orders for which both the Agency and Contra-side Order are Priority Customers, and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in MIAX Rule 1400); volume will be recorded for and credits will be delivered to the Member Firm that submits the order to MIAX. In the event of a MIAX System outage or other interruption of electronic trading on MIAX, the Exchange will adjust the national customer volume in multiply-listed options for the duration of the outage. A Member may request to receive its credit under the Priority Customer Rebate Program as a separate direct payment.

**iv) – v) no change.**



**vi) MIAX Complex Price Improvement Mechanism (“cPRIME”) Fees**

Types of Market Participants	cPRIME Order Fee			Responder to cPRIME Auction Fee		cPRIME Break-up Credit*	
	Per Contract Fee for Agency Order	Per Contract Fee for Contra-side Order for Penny Classes	Per Contract Fee for Contra-side Order for Non-Penny Classes	Per Contract Fee for Penny Classes	Per Contract Fee for Non-Penny Classes	Per Contract Credit for Penny Classes	Per Contract Credit for Non-Penny Classes
<i>Priority Customer</i>	\$0.00	\$0.00	<u>\$0.00</u>	\$0.50	\$0.99	\$0.25	\$0.60
<i>Public Customer that is Not a Priority Customer</i>	\$0.30	\$0.05	<u>\$0.07</u>	\$0.50	\$0.99	\$0.25	\$0.60
<i>MIAX Market Maker</i>	\$0.30	\$0.05	<u>\$0.07</u>	\$0.50	\$0.99	\$0.25	\$0.60
<i>Non-MIAX Market Maker</i>	\$0.30	\$0.05	<u>\$0.07</u>	\$0.50	\$0.99	\$0.25	\$0.60
<i>Non-Member Broker-Dealer</i>	\$0.30	\$0.05	<u>\$0.07</u>	\$0.50	\$0.99	\$0.25	\$0.60
<i>Firm</i>	\$0.30	\$0.05	<u>\$0.07</u>	\$0.50	\$0.99	\$0.25	\$0.60

\*MIAX will apply an enhanced cPRIME Break-up credit to the EEM that submitted the cPRIME Order for agency contracts that are submitted to the cPRIME Auction that trade with a cPRIME AOC Response or a cPRIME Participating Quote or Order that trades with the cPRIME Order if the EEM experiences a greater than sixty percent (60%) break-up of their cPRIME order in the cPRIME Auction. If the EEM is entitled to an enhanced cPRIME Break-up credit, the Exchange will pay a \$0.28 cPRIME Break-up credit for options in Penny classes and a \$0.72 cPRIME Break-up credit for options in Non-Penny classes instead of the regular cPRIME Break-up credit.

All fees and credits are per contract per leg. MIAX will assess the Responder to cPRIME Auction Fee to: (i) a cPRIME AOC Response that executes against a cPRIME Order, and (ii) a cPRIME Participating Quote or Order that executes against a cPRIME Order. MIAX will apply the cPRIME Break-up credit to the EEM that submitted the cPRIME Order for agency contracts that are submitted to the cPRIME Auction that trade with a cPRIME AOC Response or a cPRIME Participating Quote or Order that trades with the cPRIME Order. MIAX will assess the standard complex transaction fees to a cPRIME AOC Response if it executes against unrelated complex orders. [Any Member or its Affiliate that qualifies for Priority Customer Rebate Program volume tiers 3 or higher and submits a cPRIME AOC Response that is received during the Response Time Interval and executed against the cPRIME Order, or a cPRIME Participating Quote or Order that is received during the Response Time Interval and executed against the cPRIME Order, will be assessed a Discounted cPRIME Response Fee of \$0.46 per contract for standard complex order options in Penny Pilot classes. Any Member or its Affiliate that qualifies for Priority Customer Rebate Program volume tiers 3 or higher and submits a cPRIME AOC Response that is received during the Response Time Interval and executed against the cPRIME Order, or a cPRIME Participating Quote or Order that is received during the Response Time Interval and executed against the cPRIME Order, will be assessed a Discounted cPRIME Response Fee of \$0.95 per contract for standard complex order options in non-Penny Pilot classes.]

**vii) – x) no change.**

**b) – c) No change.**

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