

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-84589; File No. SR-MIAX-2018-35)

November 14, 2018

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing of a Proposed Rule Change to Amend Exchange Rule 100, Definitions; Rule 515, Execution of Orders and Quotes; and Rule 503, Openings on the Exchange

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 9, 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 and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 100, Definitions; Rule 515, Execution of Orders and Quotes; and Rule 503, Openings on the Exchange.

The text of the proposed rule change is available on the Exchange’s website at <http://www.miaxoptions.com/rule-filings/> at MIAX Options’ principal office, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend certain rules in connection with the listing and trading of non-multi-listed option products on the Exchange that are proprietary to the Exchange. Specifically, the Exchange proposes to amend (i) Rule 100, Definitions, to adopt two new definitions; (ii) Rule 515, Execution of Orders and Quotes, to adopt a new price protection provision; and (iii) Rule 503, Openings on the Exchange, to adopt new rule text for processing certain orders during the Opening Process.

Specifically, the Exchange proposes to amend Exchange Rule 100, Definitions, to adopt new definitions for the terms “Proprietary Product” and “Non-Proprietary Product.” The proposed definition of a Proprietary Product is, “a class of options that is listed exclusively on the Exchange and any of its affiliates,” while the proposed definition of a Non-Proprietary Product is, “a class of options that is not a Proprietary Product.” The Exchange believes that these proposed new definitions will add clarity, precision, and ease of reference to the Exchange’s rules when such rules discuss different system functionality for a particular class of options that is a Proprietary Product versus a Non-Proprietary Product.

The Exchange also proposes to amend Exchange Rule 515, Execution of Orders and Quotes, so that it applies only to Non-Proprietary Products. (The Exchange is proposing to adopt a new price protection rule (discussed below) that will apply only to Proprietary Products.) Currently, subsection (c)(1), Price Protection on Non-Market Maker Orders, describes a price

protection process for all non-Market Maker³ orders received during a trading session. The price protection process prevents an order from being executed beyond the price designated in the order's price protection instructions (the "price protection limit"). When triggered, the price protection process will cancel an order or the remaining contracts of an order.⁴ However, not all order types currently available on the Exchange are eligible for price protection, due to the nature of the order type and its intended use. Specifically, the rule currently provides that the price protection process set forth in Rule 515(c)(1) does not apply to Intermarket Sweep Orders ("ISO"),⁵ Immediate or Cancel ("IOC") orders,⁶ or Fill-or-Kill ("FOK") orders.⁷

The Exchange now proposes to amend the heading of subsection (c)(1) to read, "Price Protection on Non-Market Maker Orders in Non-Proprietary Products" so that it only applies to Non-Proprietary Products. The Exchange believes that this change will help distinguish the price protection process provided for non-Market Maker orders in Non-Proprietary Products from the proposed price protection process for non-Market Maker orders in Proprietary Products as discussed below.

The Exchange proposes to adopt new subsection (c)(2), entitled, "Price Protection on Non-Market Maker Orders in Proprietary Products." Under this proposal the System will apply the following price protection process to all non-Market Maker orders in Proprietary Products received during a regular trading session that are larger than, and priced through, the opposite

³ The term "Market Makers" refers to "Lead Market Makers", "Primary Lead Market Makers" and "Registered Market Makers" collectively. See Exchange Rule 100.

⁴ See Exchange Rule 515(c)(1).

⁵ See Exchange Rule 516(f).

⁶ See Exchange Rule 516(c).

⁷ See Exchange Rule 516(b)(2).

side NBBO.⁸ The price protection process provides exposure and time for market responses at defined price levels during the price protection process. To establish the price level, the System⁹ will calculate a protection price limit for each order eligible for price protection by adding (subtracting) a set number of MPVs¹⁰ if the order is a buy (sell) to (i) the opposite side NBBO, (ii) the previous protection limit price, or (iii) in certain circumstances the limit price of same side joining interest after the expiration of the liquidity exposure process timer as described more fully below. The number of MPVs will be determined by the Exchange and announced to Members¹¹ through a Regulatory Circular, provided that the minimum shall be no less than two (2) MPVs and the maximum shall be no more than twenty (20) MPVs.

The price protection process described above will not apply to Intermarket Sweep Orders (ISOs)¹² or Auction or Cancel (AOC) orders.¹³ Intermarket Sweep Orders are a special order

⁸ The term “NBBO” means the national best bid or offer as calculated by the Exchange based on market information received by the Exchange from OPRA. See Exchange Rule 100.

⁹ The term “System” means the automated trading system used by the Exchange for the trading of securities. See Exchange Rule 100.

¹⁰ The term MPV means Minimum Price Variation. See Exchange Rule 510.

¹¹ 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.

¹² Intermarket Sweep Order (“ISO”) means a limit order for an option series that, simultaneously with the routing of the ISO, one or more additional ISOs, as necessary, are routed to execute against the full displayed size of any Protected Bid, in the case of a limit order to sell, or any Protected Offer, in the case of a limit order to buy, for the option series with a price that is superior to the limit price of the ISO. A Member may submit an Intermarket Sweep Order to the Exchange only if it has simultaneously routed one or more additional Intermarket Sweep Orders to execute against the full displayed size of any Protected Bid, in the case of a limit order to sell, or Protected Offer, in the case of a limit order to buy, for an options series with a price that is superior to the limit price of the Intermarket Sweep Order. See Exchange Rule 1400(h).

¹³ See Exchange Rule 516(b)(4).

type designed to prevent “trade-throughs.”¹⁴ ISOs are immediately executable in the System and are not eligible for routing to another exchange. An Auction or Cancel order is a limit order used to provide liquidity during a specific Exchange process (such as the Opening Imbalance process described in Rule 503) with a time in force that corresponds with that event. AOC orders are not displayed to any market participant, are not included in the MBBO¹⁵ and therefore not eligible for trading outside of the event, may not be routed, and may not trade at a price inferior to the away markets.¹⁶

Price protection is provided to orders on the Exchange to prevent executions at erroneous prices. The use of Intermarket Sweep Orders is a key component of the trade-through exemption provided by Rule 611 of Reg NMS¹⁷ and applying a price protection limit to these types of orders may prevent them from achieving their intended purpose. Similarly, Auction or Cancel orders are submitted for a specific purpose and applying a price protection limit is unnecessary. AOC orders are used to provide liquidity during a specific Exchange process with a time in force that corresponds with the event and are not eligible for trading outside of the event.

The Exchange now proposes to adopt new subsection (c)(2)(i) to provide a Liquidity Exposure Process (“LEP”) for over-sized orders in Proprietary Products. Interest that would be posted, managed, or that would trade at a price more aggressive than the order’s protected price will be subject to the LEP for oversized orders in Proprietary Products. To begin the LEP, the System will broadcast a liquidity exposure message to all subscribers of the Exchange’s data

¹⁴ Trade-through means the purchase or sale of an NMS stock during regular trading hours, either as principal or agent, at a price that is lower than a protected bid or higher than a protected offer. 17 CFR 242.600(b)(77).

¹⁵ The term “MBBO” means the best bid or offer on the Exchange. See Exchange Rule 100.

¹⁶ See Exchange Rule 516(b)(4).

¹⁷ 17 CFR 242.611(b)(5).

feeds which will include the symbol, side of the market, quantity of matched contracts, the imbalance quantity, “must fill” quantity, and price. Additionally, the System will start a Liquidity Exposure Process timer, not to exceed three (3) seconds, as determined by the Exchange and announced via Regulatory Circular.

All market participants can respond to the liquidity exposure broadcast message. The System will evaluate interest received during the Liquidity Exposure Process based on price and the side of the market relative to the side of the market of the initiating order. During the Liquidity Exposure Process if the Exchange receives interest on the opposite side of the market from the initiating order that locks or crosses the Book price of the interest subject to the LEP, the interest will trade, with resting liquidity executed prior to joining liquidity.

Example 1

MPV: 0.01

LEP Increment: 5

The Exchange has two orders resting on its Book:¹⁸

Order 1 is to sell 10 contracts at \$1.10

Order 2 is to sell 20 contracts at \$1.20.

MBBO: 1.00(10) x 1.10(10)

NBBO: 1.00(10) x 1.10(10)

The Exchange receives a new order (Order 3) to buy 20 contracts at \$1.20.

When the order is received it is assigned a price protection limit that is calculated by adding 5 MPVs to the opposite side NBBO, therefore the price protection limit for Order 3 is \$1.15.

Order 3 buys 10 contracts from Order 1 at \$1.10.

Since Order 3 would now trade at a price (\$1.20) more aggressive than its protected price (\$1.15). The System will initiate the Liquidity Exposure Process at the protected price of \$1.15.

¹⁸ The term “Book” means the electronic book of buy and sell orders and quotes maintained by the System. See Exchange Rule 100.

The System will broadcast a liquidity exposure message to all subscribers of the Exchange's data feed, and begin a timer, not to exceed three (3) seconds, as determined by the Exchange.

During the Liquidity Exposure Process the Exchange receives a new order (Order 4) to sell 10 contracts at \$1.15. This order locks the current same side Book Price of \$1.15 and Order 4 sells 10 contracts to Order 3 at \$1.15, filling Order 3 and ending the Liquidity Exposure Process.

Order 2, sell 20 contracts at \$1.20, remains on the Book.

During the Liquidity Exposure Process if the Exchange receives interest on the same side of the market as the initiating order that is priced more aggressively than the Book price of the interest subject to the LEP that also locks or crosses the opposite side NBBO, the System will immediately terminate the timer.

Example 2

MPV: 0.01

LEP Increment: 5

The Exchange has one order resting on its Book:

Order 1 is to sell 10 contracts at \$1.10.

MBBO: 1.00(10) x 1.10(10)

NBBO: 1.00(10) x 1.10(10)

The Exchange receives a new order (Order 2) to buy 20 contracts at \$1.20.

When the order is received it is assigned a price protection limit that is calculated by adding 5 MPVs to the opposite side NBBO, therefore the price protection limit for Order 2 is \$1.15.

Order 2 buys 10 contracts from Order 1 at \$1.10.

Since Order 2 would now trade at a price (\$1.20) more aggressive than its protected price (\$1.15). The System will initiate the Liquidity Exposure Process at the protected price of \$1.15.

During the Liquidity Exposure Process the Exchange receives a new order (Order 3) to buy 10 contracts at \$1.17. This order is more aggressive than the Book price and crosses the opposite NBBO, therefore the Liquidity Exposure Timer immediately ends.

Trade Allocation Following the End of the Liquidity Exposure Process

Proposed rule 515(c)(2)(i)(B) provides that at the end of the timer, the initiating order,

resting liquidity, and any same side joining interest will (i) be handled in accordance to Exchange Rule 515, Execution of Orders and Quotes, or (ii) trade against opposite side interest in the following sequence: Resting interest will be filled first, followed by joining interest in the order it was received. Opposite side interest will be allocated in accordance to the Exchange's standard allocation, as described in Exchange Rule 514, Priority of Quotes and Orders.

The Exchange also proposes to amend subsection (f)(2)(vii)(B)(5) of Rule 503, Openings on the Exchange. Currently the rule provides that if there is an opening transaction, any unexecuted contracts from the imbalance not traded or routed will be cancelled back to the entering Member if the price for those contracts crosses the opening price, unless the Member that submitted the original order has instructed the Exchange in writing to re-enter the remaining size, in which case the remaining size will be automatically submitted as a new order. The Exchange now proposes to amend the rule to adopt a new provision to state that unexecuted contracts that are from a non-Market Maker order in a Proprietary Product, in which case the remaining size will be placed on the Book with a protected price equal to the opening price and the Liquidity Exposure Process, as defined in Exchange Rule 515(c)(2)(i), will begin immediately after the Opening Process is complete.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act¹⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act²⁰ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions

¹⁹ 15 U.S.C. 78f(b).

²⁰ 15 U.S.C. 78f(b)(5).

in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that adopting definitions for Proprietary Products and Non-Proprietary Products on the Exchange adds additional detail to the Exchange's Rulebook and promotes transparency and clarity in the Exchange's rules. The new proposed definitions allow the Exchange to distinguish between two separate and distinct classes of options listed on the Exchange and to describe rules that may be applicable to one class and not the other. The Exchange believes its proposal will promote just and equitable principles of trade and foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and 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, by creating a clear distinction between Proprietary and Non-Proprietary Products on the Exchange and the rules applicable to each separately and collectively.

The price protection process for non-Market Maker orders in Proprietary Products described herein removes impediments to and perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest by providing price protection and order handling to over-sized orders in Proprietary Products. The Exchange believes that Proprietary Product and Non-Proprietary Product orders should have separate price protection processes due to the inherent differences between these classes of options. The price protection process for non-Market Maker orders in Non-Proprietary Products cancels the order or the remaining contracts of an order when triggered.²¹ Non-Proprietary

²¹ See supra note 4.

Products, by definition, may be listed on multiple venues, therefore the Exchange believes returning these orders to the Member for analysis and evaluation to be in the best interest of the Member as the Member may choose to re-price and re-submit the order to the Exchange or to route the order to another market center entirely. Conversely, Proprietary Products, by definition, may be exclusively traded on the Exchange, therefore a new price protection process is warranted as canceling non-Market Maker orders in Proprietary Products whose price protection limit has been triggered may not provide a benefit to the Member, as there is no other market center from which to seek an execution.²²

The Exchange believes that its proposal promotes just and equitable principles of trade and removes impediments to and perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest, as the proposed price protection process and order handling for over-sized orders in Proprietary Products is similar to drill-through price protection offered on other exchanges. The Exchange's proposed Liquidity Exposure Process operates in a similar fashion to the drill through protection provided by the Cboe Exchange.²³ The Cboe Exchange will establish a price threshold for an order for a buy as a predetermined amount of minimum price intervals above the NBO,²⁴ or if the order is a sell, as a predetermined amount of minimum price intervals below the NBB.²⁵ (which may be no less than two minimum increment ticks in either case).²⁶ If the unexecuted portion of an order

²² The Exchange notes that a Member who believes that an execution has occurred at an erroneous price may avail themselves of the protections provided in Exchange Rule 521, Nullification and Adjustment of Options Transactions Including Obvious Errors.

²³ See Cboe Exchange Rule 6.13(b)(v)(B).

²⁴ National Best Offer.

²⁵ National Best Bid.

²⁶ See Cboe Exchange Rule 6.13(b)(v)(B)(I).

would execute at a subsequent price through the threshold price (higher for a buy and lower for a sell), also known as the drill through price, the System will not automatically execute that part of the order and will instead expose that portion at the better of the NBBO and the drill through price. The exposure period (which the Exchange determines and announces via Regulatory Circular and will not be in excess of three seconds)²⁷ provides an additional opportunity for execution of these orders (or unexecuted portion). One difference is that the Cboe will cancel the order (or any unexecuted portion) that does not execute during that time period,²⁸ whereas under the Exchange's proposal the order will not be canceled, as the Exchange does not believe it is the best interest of the Member to return an order in a Proprietary Product that ultimately may only be executed on the Exchange.

The Exchange believes that its proposed change to the Opening Process for when there is an opening transaction in a Proprietary Product to assign such unexecuted contracts with a protected price equal to the opening price and to subject the order to the Liquidity Exposure Process promotes just and equitable principles of trade, removes impediments to and perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest. Specifically, under the Exchange's current rule, during the Exchange's Opening Process as described in Rule 503(f)(2)(vii)(B)(5), if there is an opening transaction, any unexecuted contracts from the imbalance not traded or routed are cancelled back to the entering Member if the price for those contracts crosses the opening price. The Exchange believes that in this situation canceling the unexecuted contracts back to the Member allows the Member the opportunity to reevaluate its order and possibly resubmit the order to the Exchange

²⁷ See Cboe Exchange Rule 6.13(b)(v)(B)(III).

²⁸ See Securities Exchange Act Release No. 79244 (November 4, 2016), 81 FR 79063 (November 10, 2016) (SR-CBOE-2016-053).

with a different price or to submit the order to another market center completely. If, however, the order was for a Proprietary Product, canceling the unexecuted contracts back to the Member would not be in the Member's best interest as there may be no other market center for the Member to re-send the order. Therefore, under the proposed rule if the unexecuted contracts are from a non-Market Maker order in a Proprietary Product, the remaining contracts will be placed on the Book with a protected price equal to the opening price and the Liquidity Exposure Process will begin immediately after the Opening Process is complete. By definition Proprietary Products may be exclusively listed on the Exchange and the Exchange believes it is in the best interest of the investor to provide a mechanism by which an investors' order in a Proprietary Product may ultimately be filled.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange does not believe the proposed rule change will impose any burden on inter-market competition as the proposed rule changes are designed to facilitate the handling of orders in Proprietary Products on the Exchange. By definition Proprietary Products may be listed exclusively on the Exchange, and therefore have no impact on inter-market competition.

The Exchange's proposed adoption of definitions for Proprietary Products and Non-Proprietary Products adds clarity and precision to the Exchange's rules. The Exchange's proposed adoption of a price protection process and management process for over-sized orders in Proprietary Products is designed to benefit market participants that transact in Proprietary Products on the Exchange. The Exchange believes that the proposed rule changes will benefit investors and the marketplace as a whole.

Additionally, the Exchange does not believe the proposed rule change will impose any burden on intra-market competition as the Rules apply equally to all Exchange Members.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-MIAX-2018-35 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-2018-35. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All

submissions should refer to File Number SR-MIAX-2018-35, 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.²⁹

Eduardo A. Aleman
Assistant Secretary

²⁹ 17 CFR 200.30-3(a)(12).