

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-86345; File No. SR-MIAX-2019-32)

July 10, 2019

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Exchange 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 July 3, 2019, Miami International Securities Exchange, LLC (“MIAX Options” or the “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 Exchange 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 Exchange Rule 503, Openings on the Exchange, to make minor non-substantive edits to harmonize the rule text to that of the Exchange’s affiliate, MIAX Emerald, LLC (“MIAX Emerald” or “Emerald”). Additionally, the Exchange proposes to amend subsection (f)(2)(iv)(A)2. to adopt new rule text relating to the price at which an Intermarket Sweep Order (“ISO”) is routed in order to align the rule text to the operation of the System.³ The Exchange also proposes to adopt new subsection (f)(2)(xi) related to the operation of Route Timers and Imbalance Timers during the Opening Process.⁴ Finally, the Exchange proposes to amend paragraph (g) to adopt new rule text that identifies Help Desk staff authorized to take actions during Opening Process to maintain a fair and orderly market.

First, the Exchange proposes to amend subsection (b) to adopt new rule text that is identical to rule text found in Emerald,⁵ to state that the order types that may participate in the opening process are set forth in Rule 516, Order Types Defined. The Exchange believes that this provides additional detail and clarity to the rule.

Next, the Exchange proposes to amend subsection (f)(2)(iv) to insert the word “Trading” to provide consistency and clarity within the rule text. The rule discusses Minimum Trading

³ The term “System” means the automated trading system used by the Exchange for the trading of securities. See Exchange Rule 100.

⁴ See Exchange Rule 503(f).

⁵ See MIAX Emerald Exchange Rule 503(b).

Increments,⁶ and the last reference in the sentence is to the Minimum Increment. The Exchange now proposes to change this phrase to, “Minimum Trading Increment,” to align to the rest of the rule text and to the rule text of Emerald.⁷

Next, the Exchange proposes to amend subsection (f)(2)(iv)(A)(1.) and (2.) to correct the formatting of subsection (1.) and (2.) to remove the parentheses to make the formatting consistent with the hierarchical convention used throughout the rulebook. The Exchange also proposes to amend subsection 2. to conform the rule to the current System behavior and state that any order that is routed pursuant to this Rule will be marked as an Intermarket Sweep Order (“ISO”), as defined in Rule 1400(h), with a limit price equal to the “away market’s displayed price,” and not the Exchange’s “opening price” as currently stated in the rule.⁸

As described in the Exchange’s current rule, the Exchange will route to other markets disseminating prices better than the Exchange’s opening price and will also route to other markets disseminating prices equal to the Exchange’s opening price if necessary.⁹ Given that the order is being routed to another market center for execution the limit price of the order being routed should be equal to the away market’s displayed price rather than the Exchange’s opening price (although, in certain circumstances the away market’s displayed price may be equal to the Exchange’s opening price) as currently articulated in the Rule. The Exchange notes that this change was also recently made by MIAX Emerald.¹⁰

⁶ See Exchange Rule 510.

⁷ See MIAX Emerald Exchange Rule 503(f)(2)(iv).

⁸ The Exchange notes that Rule 1400(h) pertains primarily to ISOs received by the Exchange, whereas in this instance the Exchange will be sending the ISO to another exchange.

⁹ See Exchange Rule 503(f)(2)(iv)(A).

¹⁰ See Securities Exchange Act Release No. 85910 (May 22, 2019) 84 FR 24840 (May 29, 2019) (SR-EMERALD-2019-22).

Next, the Exchange proposes to amend subsection (f)(2)(vii)(A) to update and relocate the parenthetical which currently follows the text, “Opening Orders (‘OPG Orders’)” so that the proposed rule text reads, “Opening (‘OPG’) Orders” and is aligned to the current MIAX Emerald rule.¹¹

Next, the Exchange proposes to reorganize subsection (f)(2)(viii) to move a parenthetical phrase closer to its subject to make the sentence easier to read. Specifically, the parenthetical, “(including limit orders that are treated as market orders except for limit orders in series with a bid of \$0.00 and an offer less than \$0.05, which will not be treated as market orders),” will be placed after the phrase market orders, making the proposed rule text read as follows, “[t]he System will give priority to market orders (including limit orders that are treated as market orders except for limit orders in series with a bid of \$0.00 and an offer less than \$0.05, which will not be treated as market orders) first in type, then in time priority, then to resting limit orders at the opening price.” The Exchange believes relocating the parenthetical phrase helps clarify the rule.

Next, the Exchange proposes to adopt new paragraph (xi) to subsection (f)(2) to state that any Route Timer or Imbalance Timer in process shall terminate with respect to an option if at any time during the Opening Process there is a trading halt or trading pause in such option on the Exchange. The option may be subject to any new subsequent Route Timer or Imbalance Timer during the Opening Process upon the termination of the trading halt or trading pause for such option. The Exchange believes this adds additional detail and clarity to the rule concerning the

¹¹ See MIAX Emerald Exchange Rule 503(f)(2)(vii)(A).

operation of Route Timers and Imbalance Timers on the Exchange, additionally, this rule text is identical to that of MIAX Emerald.¹²

Finally, the Exchange proposes to amend subsection (g) to state that Senior Help Desk personnel may deviate from the standard manner of the Opening Process when necessary, including delay or compel the opening of any series in any option class, modify timers or settings described in this Rule, when necessary in the interests of commencing or maintaining a fair and orderly market, in the event of unusual market conditions or in the public interest. The Exchange will make and maintain records to document all determinations to deviate from the standard manner of the Opening Process, and periodically review these determinations for consistency with the interests of a fair and orderly market. The Exchange is amending the rule to add additional specificity by designating that only Senior Help Desk personnel may deviate from the standard manner of the Opening Process when necessary. The Exchange is also providing examples of the type of actions that Senior Help Desk personnel may take to ensure a fair and orderly market is maintained. Additionally, the Exchange is proposing to amend the rule to adopt a provision stating that the Exchange will maintain records to document all determinations to deviate from the standard manner of the Opening Process, and periodically review these determinations for consistency with the interests of a fair and orderly market. The Exchange notes that the proposed rule text is identical to that found in the MIAX Emerald Rule.¹³

The Exchange believes that although MIAX Emerald rules may, in certain instances, intentionally differ from MIAX Options rules, the proposed changes will promote uniformity with MIAX Options with respect to rules that are intended to be identical. MIAX Emerald and

¹² See MIAX Emerald Exchange Rule 503(f)(2)(xi).

¹³ See MIAX Emerald Exchange Rule 503(g).

MIAX Options may have a number of Members¹⁴ in common, and where feasible the Exchange intends to implement similar behavior to provide consistency between MIAX Options and MIAX Emerald so as to avoid confusion among Members.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act¹⁵ in general, and furthers the objectives of Section 6(b)(5) of the Act¹⁶ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange is proposing to add additional detail to the rule to provide clarity and precision in the Exchange's rule. The Exchange proposes to provide an internal cross reference to Rule 516, Order Types, where a list of valid order types eligible to participate in the opening process may be found. Additionally, the Exchange is proposing to make a number of non-substantive changes by adding clarifying text to the rule which provides additional detail and clarity to the rule. Clarity and transparency of the Exchange's rules benefits investors and the public by eliminating the potential for confusion.

The Exchange's proposal to correctly identify the price at which orders may be routed during the Opening Process removes impediments to and perfects the mechanisms of a free and

¹⁴ 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.

¹⁵ 15 U.S.C. 78f(b).

¹⁶ 15 U.S.C. 78f(b)(5).

open market and a national market system and, in general, protects investors and the public interest by ensuring that interest routed as a result of an imbalance on the Exchange during its Opening Process is properly priced for execution. This reduces the risk of trading through¹⁷ other market centers and promotes just and equitable principles of trade by routing orders to market centers where they may receive an execution. The Exchange's proposal more accurately describes how the System prices interest being routed pursuant to the Opening Process. The Exchange believes its proposal provides accuracy and clarity to the rule and protects investors and the public interest by clearly and accurately describing Exchange functionality which may influence investors' decisions concerning the submission of their orders.

The Exchange is proposing to adopt a new provision regarding the operation of Route Timers and Imbalance Timers during the Opening Process. The Exchange's proposed rule will provide that any Route Timer or Imbalance Timer in process during the Opening Process shall terminate with respect to an option if at any time during the Opening Process there is a trading halt or a trading pause in such option. The Exchange believes this provision promotes just and equitable principles of traded [sic] 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, and contributes to the operation of a fair and orderly market by immediately ceasing any activity in any option that is subject to a trading halt or a trading pause.

This provision is identical to a provision found in MIAX Emerald.¹⁸ The Exchange believes adding this provision provides additional detail to the rule and protects investors and the public interest by clearly describing Exchange functionality which may influence investors'

¹⁷ A trade-through occurs when one trading center executes an order at a price that is inferior to the price of a protected quotation, often representing an investor limit order, displayed by another trading center.

¹⁸ See supra note 12.

decisions concerning the submission of orders. The Exchange is proposing to harmonize the MIAX Options rule to that of MIAX Emerald as the opening process is similar and wherever possible the Exchange would like to harmonize identical rules so that the only differences between the rules of the two exchanges are those that are intentional.

Finally, the Exchange is proposing to amend its current provision pertaining to the actions that the Help Desk may take in the interests of maintaining a fair and orderly market to adopt a more detailed and nuanced provision from MIAX Emerald. This provision identifies which Help Desk personnel may take actions during the Opening Process (Senior Help Desk personnel) and provides examples of the type of actions which may be undertaken. Additionally, the provision provides that the Exchange will make and maintain records to document all determinations to deviate from the standard manner of the Opening Process and periodically reviewing these determinations for consistency with the interests of a fair and orderly market. The Exchange believes its proposal 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 by providing additional detail in the Exchange's rules and by providing a review process for instances where there was a deviation from the standard Opening Process.

The Exchange believes its proposal removes impediments to and perfects the mechanisms of a free and open market by providing clarity in the Exchange's rules and more detail concerning the Opening Process on the Exchange. The Exchange believes clarity and transparency benefits investors and the public and allows investors and the public to make informed decisions regarding the submission of orders to the Exchange.

Additionally, the Exchange believes that although MIAX Emerald rules may, in certain instances, intentionally differ from MIAX Options rules, the proposed changes will promote uniformity with MIAX Emerald with respect to rules that are intended to be identical. The Exchange believes that it will reduce the potential for confusion by its members that are also members of MIAX Emerald if the only differences between MIAX Options rules and MIAX Emerald rules are those that are intended.

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 does not believe that the proposed rule change will impose any burden on inter-market competition as the proposed rule change adds additional detail to the Exchange's rules and further clarifies current Exchange functionality and is not a competitive filing. The Exchange does not believe the proposed rule regarding the price of routed orders will impose any burden on inter-market competition as exchanges routinely route orders to one another and there is no change to the Exchange's functionality related to routing orders during the Opening Process.

Additionally, the Exchange does not believe that the proposed rule change will impose any burden on intra-market competition as the Opening Process affects all Members equally, and the specific situation that the proposal addresses occurs only in the limited instance as described herein.

The Exchange does not believe that the proposed rule change to adopt new rule text pertaining to the termination of Route Timers or Imbalance Timers during the Opening Process

when there is a trading halt or trading pause in the option will impose any burden on inter-market competition as the change pertains only to the Exchange's Opening Process.

Additionally, the Exchange does not believe that the proposed rule change to amend the provision concerning the actions that the Help Desk may take to deviate from the standard manner of the Opening Process to maintain a fair and orderly market will impose any burden on inter-market competition as the proposed rule change is designed to identify the specific Help Desk personnel authorized to deviate from the standard manner of the Opening Process and to provide some examples of the type of actions that may be undertaken to ensure the operation of a fair and orderly market.

The Exchange does not believe that the proposed changes impose a burden on intra-market competition as the proposed changes are designed to provide additional detail and clarity in the Exchange's rules and are not intended to influence competition among 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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act¹⁹ and Rule 19b-4(f)(6)²⁰ thereunder.

¹⁹ 15 U.S.C. 78s(b)(3)(A).

²⁰ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change,

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>);
or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-MIAX-2019-32 on the subject line.

Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-MIAX-2019-32. 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

or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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-2019-32 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.²¹

Eduardo A. Aleman
Deputy Secretary

²¹ 17 CFR 200.30-3(a)(12).