

*Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2021-94 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-NYSEArca-2021-94. This file number should be included on the subject line if email 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-NYSEArca-2021-94, and should be submitted on or before December 1, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**J. Matthew DeLesDernier,**  
*Assistant Secretary.*

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**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-93524; File No. SR-MIAX-2021-54]

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

November 4, 2021

Pursuant to 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 October 22, 2021, Miami International Securities Exchange LLC ("MIAX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange is filing a proposal to amend the MIAX Options Fee Schedule (the "Fee Schedule") to make non-substantive, clarifying changes.

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

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

**1. Purpose**

The Exchange proposes to amend the Fee Schedule to make non-substantive,

clarifying changes to Sections 3)b) and 5)d)ii) for the monthly Trading Permit fees for Market Makers<sup>3</sup> and the monthly MIAX Express Interface ("MEI")<sup>4</sup> Port fees for Market Makers. The Exchange does not propose to amend the amount of Trading Permit fees or MEI Port fees in this filing. The Exchange also does not propose to amend the calculation methodology for Trading Permit fees or MEI Port fees in this filing.

**Monthly Market Maker Trading Permit Fee Clarifying Changes**

First, the Exchange proposes to amend Section 3)b) of the Fee Schedule to amend the text below the table for the monthly Trading Permit fees applicable to Market Makers. Specifically, the Exchange proposes to add the following two clarifying sentences to begin the explanatory paragraph following the table for the monthly Trading Permit fees applicable to Market Makers:

For the calculation of the monthly Market Maker Trading Permits, the applicable fee rate is the lesser of either the per class basis or percentage of total national average daily volume measurement. The amount of monthly Market Maker Trading Permit Fee will be based upon the number of classes in which the Market Maker was assigned to quote on any given day within the calendar month, or upon the class volume percentages set forth in the above table.

The Exchange also proposes to remove the following sentence to the end of the explanatory paragraph, which is currently the first sentence of the explanatory paragraph below the table for the monthly Trading Permit fees applicable to Market Makers:

For the calculation of the monthly Market Maker Trading Permit Fees, the number of classes is defined as the greatest number of classes the Market Maker was assigned to quote in on any given day within the calendar month and the class volume percentage is based on the total national average daily volume in classes listed on MIAX in the prior calendar quarter.

In place of the deleted sentence described above, the Exchange proposes to insert the following two sentences, which will become sentences three and four of the revised explanatory paragraph:

The Exchange will assess MIAX Market Makers the monthly Market Maker Trading Permit Fee based on the greatest number of

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

<sup>4</sup> MIAX Express Interface is a connection to MIAX systems that enables Market Makers to submit simple an [sic] complex electronic quotes to MIAX. See MIAX Options Fee Schedule, 5) d) ii).

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

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

<sup>21</sup> 17 CFR 200.30-3(a)(12).

classes listed on MIAX that the MIAX Market Maker was assigned to quote in on any given day within a calendar month. The class volume percentage is based on the total national average daily volume in classes listed on MIAX in the prior calendar quarter.

The Exchange notes that these two sentences are a combination of sentences already included in the explanatory paragraph. In connection with all of the changes described above, the Exchange proposes to delete the following sentence:

The Exchange will assess MIAX Market Makers the monthly Market Maker Trading Permit Fee based on the greatest number of classes listed on MIAX that the MIAX Market Maker was assigned to quote in on any given day within a calendar month and the applicable fee rate that is the lesser of either the per class basis or percentage of total national average daily volume measurement.

The Exchange notes that all of these changes, when taken together, do not alter the calculation methodology for how the Exchange currently calculates monthly Trading Permit fees for Market Makers. These changes are being made solely to clarify the explanatory paragraph below the table of fees for monthly Trading Permit fees for Market Makers. The Exchange believes that these revised sentences summarize that the monthly Market Maker Trading Permit fee rate is the lesser of the per class basis or the percentage of total national average daily volume measure and better clarifies how the MIAX Market Maker Trading Permit fee will continue to be calculated and applied each month. The Exchange does not propose to amend the amount or calculation of the monthly Trading Permit fee for Market Makers.

#### MEI Port Fee Clarifying Changes

Next, the Exchange proposes to amend Section 5(d)(ii) of the Fee Schedule to make non-substantive, clarifying changes to the explanatory paragraph below the table of MEI Port fees applicable to Market Makers. The Exchange proposes to move the current first sentence of the explanatory paragraph below the table of MEI Port fees applicable to Market Makers in Section 5(d)(ii) to now be the final sentence. In its place, the Exchange proposes to add the following sentence: “The applicable fee rate is the lesser of either the per class basis or percentage of total national average daily volume measurement.” In connection with this change, the Exchange proposes to amend the sentence that will now follow the new first sentence of the explanatory paragraph. In particular, the Exchange proposes to move footnote 26 to the second sentence of the

explanatory paragraph to contain the defined term in footnote 26 for “MIAX Express Interface (‘MEI’)” Port.<sup>5</sup> The final sentence of the explanatory paragraph will now read as follows: “MIAX will assess monthly MEI Port Fees on Market Makers in each month the Member has been credentialed to use the MEI Port in the production environment and has been assigned to quote in at least one class.”

Further, the Exchange proposes to amend the second sentence of the explanatory paragraph to remove the word “and” that connects the two clauses describing how the Exchange calculates the monthly MEI Port fee for Market Makers. In place of the word “and,” the Exchange proposes to clarify that the amount of the monthly MEI Port fee will be based upon the number of classes in which the Market Maker was assigned to quote on any given day within the calendar month, or upon the class volume percentages set forth in the MEI Port fee table.

The Exchange further proposes to remove the fifth sentence of the explanatory paragraph below the table of MEI Port fees in Section 5(d)(ii) and move it up in the paragraph, immediately following the second sentence. With this change, the third sentence of the explanatory paragraph will be as follows: “The Exchange will assess MIAX Market Makers the monthly MEI Port Fee based on the greatest number of classes listed on MIAX that the MIAX Market Maker was assigned to quote in on any given day within a calendar month.” This phrase is currently contained in the fifth sentence of the explanatory paragraph and the Exchange now proposes to make the phrase its own sentence and move it earlier in the paragraph. The Exchange believes that these revised sentences summarize that the monthly MEI Port fee rate is the lesser of either the per class basis or percentage of total national average daily volume measurement and better clarifies how the monthly MEI Port fee for Market Makers will continue to be calculated and applied. The Exchange does not propose to amend the amount or calculation of the monthly MEI Port fee for Market Makers.

#### 2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act<sup>6</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>7</sup> in particular,

in that it is an equitable allocation of reasonable fees and other charges among its members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, and dealers.

The Exchange believes the proposed changes are consistent with Section 6(b)(4) of the Act in that they are reasonable, equitable, and not unfairly discriminatory because they are non-substantive, clarifying changes regarding the Exchange’s monthly Trading Permit and MEI Port fees applicable to Market Makers and will reduce the risk of confusion to market participants. The proposed changes promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protect investors and the public interest by clarifying how the MIAX Market Maker Trading Permit fee and the MEI Port fee will be calculated and applied each month. The Exchange believes that these proposed changes will provide greater clarity to Members and the public regarding the Exchange’s Fee Schedule and that it is in the public interest for the Fee Schedule to be accurate and concise so as to eliminate the potential for confusion.

#### 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. Specifically, the Exchange believes the proposed change will not impose any burden on intra-market competition as the proposed rule change will have no impact on competition as it is not designed to address any competitive issue but rather is designed to remedy minor non-substantive, clarifying issues and provide added clarity to the Fee Schedule. In addition, the Exchange does not believe the proposal will impose any burden on inter-market competition as the proposal does not address any competitive issues and is intended to protect investors by providing further transparency regarding the Exchange’s Fee Schedule.

<sup>5</sup> See Fee Schedule, footnote 26.

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(4) and (5).

*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>8</sup> and Rule 19b-4(f)(2)<sup>9</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:

#### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-MIAX-2021-54 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-2021-54. This file number should be included on the subject line if email 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-2021-54 and should be submitted on or before December 1, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2021-24530 Filed 11-9-21; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-93527; File No. PCAOB-2021-01]

### Public Company Accounting Oversight Board; Order Granting Approval of Proposed Rule Governing Board Determinations Under the Holding Foreign Companies Accountable Act

November 4, 2021.

#### I. Introduction

On September 23, 2021, the Public Company Accounting Oversight Board (the "Board" or the "PCAOB") filed with the Securities and Exchange Commission (the "Commission"), pursuant to Section 107(b)<sup>1</sup> of the Sarbanes-Oxley Act of 2002 (as amended, the "Sarbanes-Oxley Act") and Section 19(b)<sup>2</sup> of the Securities Exchange Act of 1934 (the "Exchange Act"), a proposal to adopt a new rule, PCAOB Rule 6100, *Board Determinations Under the Holding Foreign Companies Accountable Act* (the "Proposed Rule").<sup>3</sup> The Proposed

Rule was published for comment in the **Federal Register** on September 28, 2021.<sup>4</sup> This order approves the Proposed Rule, which we find to be consistent with the requirements of the Sarbanes-Oxley Act and the securities laws and necessary or appropriate in the public interest or for the protection of investors.

#### II. Description of the Proposed Rule

On September 22, 2021, the Board adopted the Proposed Rule,<sup>5</sup> which is intended to establish a framework for the Board's determinations under the Holding Foreign Companies Accountable Act (the "HFCAA") that the Board is unable to inspect or investigate completely registered public accounting firms located in a foreign jurisdiction because of a position taken by one or more authorities in that jurisdiction.

The Proposed Rule establishes:

- The manner of the Board's determinations;
- The factors the Board will evaluate and the documents and information the Board will consider when assessing whether a determination is warranted;
- The form, public availability, effective date, and duration of such determinations; and
- The process by which the Board will reaffirm, modify, or vacate any such determinations.

#### A. Applicability and Effective Date

The Proposed Rule will be effective promptly upon approval by the Commission.

#### III. Comment Letters

The comment period on the Proposed Rule ended on October 18, 2021, and we did not receive any comments on the Proposed Rule. The PCAOB received and considered public comments prior to adopting the Proposed Rule.

#### IV. Effect on Emerging Growth Companies

In the PCAOB Adopting Release, the Board concluded that Section 103(a)(3)(C) of the Sarbanes-Oxley Act does not apply to the Proposed Rule.<sup>6</sup> Section 103(a)(3)(C) of the Sarbanes-Oxley Act requires that any rules of the

Act, PCAOB Release No. 2021-004 (Sept. 22, 2021) ("PCAOB Adopting Release"), available at [https://pcaob-assets.azureedge.net/pcaob-dev/docs/default-source/rulemaking/docket048/2021-004-hfcaa-adopting-release.pdf?sfvrsn=f6dfb7f8\\_4](https://pcaob-assets.azureedge.net/pcaob-dev/docs/default-source/rulemaking/docket048/2021-004-hfcaa-adopting-release.pdf?sfvrsn=f6dfb7f8_4).

<sup>4</sup> See *Public Company Accounting Oversight Board; Notice of Filing of Proposed Rule on Board Determinations Under the Holding Foreign Companies Accountable Act*, Release No. 34-93112 (Sept. 23, 2021) [86 FR 53699 (Sept. 28, 2021)].

<sup>5</sup> See *supra* note 3.

<sup>6</sup> See PCAOB Adopting Release at footnote 112.

<sup>10</sup> 17 CFR 200.30-3(a)(12).

<sup>11</sup> 15 U.S.C. 7217(b).

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

<sup>3</sup> See *Rule Governing Board Determinations Under the Holding Foreign Companies Accountable*

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>9</sup> 17 CFR 240.19b-4(f)(2).