be submitted on or before November 28, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[39]

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

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**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96201; File No. SR–MIAX–2022–40]

**Self-Regulatory Organizations: Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by Miami International Securities Exchange, LLC To Remove the Fill-Or-Kill ("FOK") Order Type and Fill Or Kill ("FOK") eQuotes From the Exchange**

November 1, 2022.

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 October 27, 2022, 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 remove the fill-or-kill ("FOK")[3] order type and fill or kill ("FOK") eQuotes[4] from 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 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 offers a number of different order types for use on the Exchange.[5] One of the order types the Exchange offers to Members[6] is a fill-or-kill ("FOK") order. A fill-or-kill order is a limit order that is to be executed in its entirety at a single price as soon as it is received and, if not so executed is cancelled. A fill-or-kill order is not valid during the opening rotation process described in Rule 503.[7] Similarly, the Exchange offers a fill or kill ("FOK") eQuote which is an eQuote submitted by a Market Maker[8] that must be matched with another quote or order for an execution in its entirety at a single price upon receipt into the System or will be immediately cancelled. An FOK eQuote does not automatically cancel or replace the Market Maker's previous Standard quote or eQuote. An FOK eQuote is not valid during the opening rotation process described in Rule 503.[9]

In Rule 516, Order Types Defined, the Exchange states it will issue a Regulatory Circular listing which order types, among the order types set forth in the Rule, are available.[10] Additionally, the rule provides that Regulatory Circulars will also be issued when an order type that had been in usage on the Exchange will no longer be available for use. Similarly, in Rule 517, Quote Types Defined, the Exchange states it will issue a Regulatory Circular listing which quote types, among those quote types set forth in the Rule, are available.[11] Additionally, the rule provides that Regulatory Circulars will also be issued when a quote type that had been in

usage on the Exchange will no longer be available for use. The Exchange determined that FOK orders and FOK eQuotes were not order types or eQuote types that were being regularly used by Members on the Exchange. In April of 2021, the Exchange issued Regulatory Circulars to announce that FOK orders[12] and FOK eQuotes[13] would no longer be available for use on the Exchange. Prior to undertaking the effort to remove FOK orders and FOK eQuotes completely from the System,[14] the Exchange wanted to ensure that there were no unforeseen consequences from disabling FOK orders and FOK eQuotes, hence the delay between disabling usage via Regulatory Circular and formally removing the order type from use on the Exchange.

The Exchange now proposes to permanently remove the functionality from the Exchange's System and to also remove references to FOK orders and FOK eQuotes from the Exchange's Rulebook. Specifically, the Exchange proposes to eliminate references to FOK orders and FOK eQuotes in the following Exchange Rules: Exchange Rule 308, Exemptions from Position Limits; Rule 515, Execution of Orders and Quotes; Rule 516, Order Types Defined; Rule 517, Quote Types Defined; Rule 529, Order Routing to Other Exchanges; Rule 605, Market Maker Orders; and Rule 612, Aggregate Risk Manager (ARM). In connection with the proposed change to remove references to FOK orders and FOK eQuotes from the Rulebook, the Exchange also proposes to amend cross-references to other rules that need to be updated for accuracy as a result of the removal of FOK orders and FOK eQuotes. These proposed changes are non-substantive edits that are intended to harmonize the Rulebook with the System functionality and provide consistency and clarity throughout the Rulebook.

First, the Exchange proposes to amend Exchange Rule 308(c)(vi)(A), to remove paragraph (A) which contains a reference to a fill-or-kill instruction. The Exchange then proposes to amend subparagraph (c)(vi)(B) to be

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[39] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Rule 516(b)(2).

[4] *See* Exchange Rule 517(a)(2)(v).

[5] *See* Exchange Rule 516.

[6] 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.

[7] *See* Exchange Rule 516(b)(2).

[8] The term "Market-Makers" refers to "Lead Market-Makers", "Primary Lead Market-Makers" and "Registered Market-Makers" collectively. *See* Exchange Rule 100.

[9] *See supra* note 4.

[10] *See* Exchange Rule 516.

[11] *See* Exchange Rule 517.

[12] *See* MIAX Regulatory Circular 2021–20, Fill-or-Kill Orders Will No Longer Be Supported on the MIAX Options Exchange (April 8, 2021), *available at https://www.miaxoptions.com/sites/default/files/circular-files/MIAX_Options_RC_2021_20.pdf.*

[13] *See* MIAX Regulatory Circular 2021–21, Fill-or-Kill eQuotes Will No Longer Be Supported on the MIAX Options Exchange (April 9, 2021), *available at https://www.miaxoptions.com/sites/default/files/circular-files/MIAX_Options_RC_2021_21.pdf.*

[14] The term "System" means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

renumbered to proposed paragraph (c)(vi)(A).

Next, the Exchange proposes to amend Exchange Rule 515, Execution of Orders and Quotes, to remove references to FOK orders in subparagraph (c)(1) and subparagraph (c)(3)(i)(E). Additionally, the Exchange proposes to remove the contents of paragraph (f) in its entirety and mark the paragraph as reserved for future use. Also, within current subparagraph 515(g) the Exchange proposes to amend the cross-reference to Exchange Rule 517(a)(2)(vi) to Rule 517(a)(2)(v). This proposed change reflects the proposed renumbering of Exchange Rule 517, discussed below, after the paragraph pertaining to fill or kill eQuotes is removed.

Next, the Exchange proposes to amend Exchange Rule 516, Order Types Defined, to eliminate subparagraph (b)(2) in its entirety. The Exchange also proposes to adjust the hierarchical numbering order to reflect the removal of current subparagraph (b)(2) by renumbering current subparagraphs (b)(3) and (b)(4) to paragraphs (b)(2) and (b)(3), respectively. The Exchange also proposes to amend Exchange Rule 510, Minimum Price Variations and Minimum Trading Increments, to amend the cross-reference contained in paragraph 510(b) from ''Rule 516(b)(3)'' to ''Rule 516(b)(2)'' to reflect the proposed renumbering of Exchange Rule 516, discussed above.

The Exchange also proposes to amend Exchange Rule 517, Quote Types Defined, to remove subparagraph (a)(2)(v) in its entirety. Also, as a result of the removal of this paragraph, the Exchange proposes to renumber current subparagraph (a)(2)(vi) to proposed subparagraph (a)(2)(v). Further, the Exchange proposes to eliminate subparagraph (d)(4) in its entirety. The Exchange then proposes to amend current subparagraphs (d)(5) and (d)(6) to renumber as proposed paragraphs (d)(4) and (d)(5), respectively.

The Exchange proposes to amend Exchange Rule 529, Order Routing to Other Exchanges, to remove the references to FOK orders and FOK eQuotes contained within subparagraph 529(b)(2)(iii).

The Exchange proposes to amend Exchange Rule 604(b)(1) by amending a cross-reference to current Rule 516(b)(3), non-displayed penny orders, to proposed Rule 516(b)(2). This amendment reflects the proposed re-numbering changes to the Rulebook resulting from removal of FOK orders as described above.

The Exchange also proposes to amend Exchange Rule 605, Market Maker Orders, by deleting the reference to fill-or-kill orders within Rule 605(a).

Lastly, the Exchange proposes to amend Exchange Rule 612, Aggregate Risk Manager (ARM), by removing references to FOK eQuotes within Interpretations and Policies .02(c).

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act [15] in general, and furthers the objectives of Section 6(b)(5) of the Act [16] 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 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 the proposed change promotes just and equitable principles of trade and removes impediments to and perfects the mechanism of a free and open market and a national market system as the proposal removes an order type and a quote type infrequently used by the Exchange's Members. Removal of infrequently used functionality simplifies the operation of the Exchange's System, as the Exchange does not need to support and maintain order types and quote types that are not regularly used. Additionally, removing the reference to FOK orders and FOK eQuotes in the Exchange's Rulebook provides consistency and clarity throughout the Rulebook. Clarity and precision in the Exchange's Rulebook protects investors and the public by clearly enumerating the order types and eQuote types available for use on the Exchange.

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

The Exchange does not believe that the proposed rule changes 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 Exchange originally disabled FOK orders and FOK eQuotes via a Regulatory Circular.[17] The Exchange now proposes to remove the functionality completely from the Exchange's System and to update the Exchange's Rulebook accordingly. The Exchange does not believe its proposal will impose any burden on intra-market competition as all Members are equally affected as these order types and quote types were infrequently used and have been unavailable for use on the Exchange since being disabled via Regulatory Circular.

The Exchange does not believe the proposal will impose any burden on inter-market competition as not every option exchange offers FOK orders.[18] However, for those Members that wish to use the FOK order type there are exchanges that will accept and process this order type.[19]

*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 Act [20] and Rule 19b–4(f)(6) [21] 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.

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[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] *See supra* notes 12 and 13.

[18] BOX Options Exchange offers a Fill and Kill (FAK) order instruction but not fill-or-kill. *See* Box Options Exchange Rule 7110(e)(ii).

[19] *See* Cboe Exchange Rule 5.6, and NYSE Arca Exchange Rule 6.91–O.

[20] 15 U.S.C. 78s(b)(3)(A).

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

## 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.* Please include File Number SR– MIAX–2022–40 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–2022–40. 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–2022–40, and should be submitted on or before November 28, 2022.

²² 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–96198; File No. SR–MIAX– 2022–38]**

**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**

November 1, 2022.

Pursuant to 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 October 12, 2022, 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").

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.

¹ 15 U.S.C. 78s(b)(1).
² 17 CFR 240.19b–4.

*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 amend footnote "*" of the MIAX Price Improvement Mechanism ("PRIME") Fees table³ to increase the enhanced PRIME Break-up credit of $0.69 to $0.73 for EEMs that submit a Priority Customer PRIME Order in Non-Penny Classes that is submitted to the PRIME Auction that trades with PRIME AOC Reponses and/ or PRIME Participating Quotes or Orders, if the PRIME Order experiences a break-up of greater than forty percent (40%). The Exchange initially filed this proposal on September 30, 2022 (SR– MIAX–2022–34). On October 12, 2022, the Exchange withdrew SR–MIAX– 2022–34 and resubmitted the proposal (SR–MIAX–2022–36). On October 19, 2022, the Exchange withdrew SR– MIAX–2022–36 and resubmitted this proposal (SR–MIAX–2022–38).

The proposed changes are immediately effective.

Background

The MIAX Price Improvement Mechanism ("PRIME") is a process by which a Member⁴ 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").⁵ When the Exchange receives a properly designated Agency Order for Auction processing, a request for response ("RFR") detailing the option, side, size and initiating price is broadcasted to MIAX participants up to an optional designated limit price.⁶ Members may submit responses to the RFR, which can be either an Auction or Cancel ("AOC") order⁷ or an AOC

³ *See* Section 1)a)v) of the Exchange's Fee Schedule on its public website (available at *www.miaxoptions.com/fees*).

⁴ 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.

⁵ *See* Exchange Rule 515A(a).

⁶ *See* Exchange Rule 515A(a)(2)(B).

⁷ An Auction-or-Cancel or "AOC" 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