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November 18, 2019

VIA EMAIL

Ms. Vanessa Countryman
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

**Re: Commission Statement on Market Structure for Thinly Traded Securities
(File No. S7-18-19)**

Dear Ms. Countryman:

The Miami International Securities Exchange, LLC (“MIAX”), MIAX PEARL, LLC (“MIAX PEARL”), and MIAX Emerald, LLC (“MIAX Emerald,” and collectively with MIAX and MIAX PEARL, the “MIAX Exchange Group”), appreciates the opportunity to submit this comment letter to the Securities and Exchange Commission (“Commission”) regarding its recent Statement on Market Structure for Thinly Traded Securities.¹ The MIAX Exchange Group appreciates the Commission’s focus on improving secondary market trading for equity securities with lower trading volumes (“thinly traded securities”) and agrees that this segment of market structure is ripe for regulatory action.

The Commission’s Statement highlights four potential market structure innovations for thinly traded securities: (1) the suspension or termination of UTP; (2) market maker incentives to assume heightened market making obligations for thinly traded securities; (3) implement periodic intraday auctions; and (4) introduction of non-automated markets for thinly traded securities. The MIAX Exchange Group submits this letter to urge the Commission to strongly scrutinize whether a proposed regulatory action in this area imposes an unnecessary burden on competition, particularly in favor of the incumbent primary listing exchanges. The MIAX Exchange Group strongly believes that prohibiting non-primary exchanges from competing for order flow in thinly

¹ See Securities Exchange Act Release No. 87327 (October 17, 2019), 84 FR 56956 (October 24, 2019) (S7-18-19) (“Commission’s Statement” or “Statement”).

traded securities through the suspension or termination of UTP is monopolistic and would place an unfair competitive burden on non-primary exchanges and new exchange entrants.²

Regulatory change in this area must maintain or enhance the current competitive landscape among exchanges and off exchange trading venues. The Commission acknowledged in its Statement that the suspension or termination of UTP may have effects on intermarket competition and sought comments on this matter.³ In considering any proposal to consolidate trading in thinly traded securities, the benefits of such a proposal must outweigh the harm by preventing non-primary listing exchanges from competing in those securities for any amount of time. The suspension or termination of UTP does not satisfy this standard.

Suspending or terminating UTP would eliminate competition in thinly traded securities amongst primary and non-primary exchanges based on fees, technology, enhanced functionality. It could also provide primary exchanges little to no incentive to develop further proposals to enhance secondary trading in thinly traded securities, since doing so could increase the securities average daily volume (“ADV”) causing UTP to no longer be suspended or terminated.

It was also suggested that only non-primary exchanges be prohibited from competing in thinly traded securities, and off-exchange venues should not be similarly precluded to ensure some level of competition.⁴ A large number of off-exchange venues exist today and account for approximately 40% of the overall trading ADV.⁵ Not precluding off-exchange venues, such as dark pools, will, therefore, not decrease fragmentation. Not prohibiting trading of thinly traded securities on off-exchange venues would also continue to make it difficult to find a counter-party to a trade when such liquidity may be dispersed over a large number of off-exchange venues that do not publicly disseminate their quotes. It would also further exacerbate the competitive unfairness of such a proposal by prohibiting non-primary exchanges from competing against off-exchange venues in addition to primary exchanges.

The MIAX Exchange Group believes there are alternatives to a regulatory prohibition on the trading of thinly traded securities that may serve of the goal of reducing fragmentation. For

² MIAX PEARL intends to file a proposed rule change with the Commission to launch an equity trading platform. See Miami International Holdings Partners with Leading Equities Firms to Launch Cash Equities Exchange (May 17, 2019), available at <https://www.prnewswire.com/news-releases/miami-international-holdings-partners-with-leading-equities-firms-to-launch-cash-equities-exchange-300852401.html>.

³ See Commission’s Statement, *supra* note 1, at n.10.

⁴ See A Financial System That Creates Economic Opportunities: Capital Markets, October 2017, at 59-60, available at <https://www.treasury.gov/press-center/press-releases/Documents/A-Financial-System-Capital-MarketsFINAL-FINAL.pdf>.

⁵ See U.S. Equity Market Summary available at http://markets.cboe.com/us/equities/market_share/ (last visited October 31, 2019).

example, exchange affiliates may voluntarily choose to not trade thinly traded securities in an effort to consolidate trading on their primary exchange. Today, three dominant exchange groups control 12 of the 14 registered national securities exchanges that trade equity securities.⁶ Each of these exchange groups could choose to consolidate trading volumes in the thinly traded securities to their primary listing exchange, but none have done so.⁷ This is currently not prohibited by regulation as no national securities exchange is required to trade all NMS securities.

The MIAX Exchange Group encourages enhancements to the secondary trading market for thinly traded securities that foster competition. Suggested proposals such as an intraday auction and market maker incentive programs do not present the same competitive hurdles on non-primary exchanges as the suspension or termination of UTP. Such proposals would encourage exchanges to innovate while maintaining the ability for non-primary exchanges to compete.

* * * * *

The MIAX Exchange Group appreciates the opportunity to comment on the Commission's Statement and welcomes regulatory action that improves secondary trading market for thinly traded securities. As the Commission noted in its Statement, its focus over past twenty years has been to encourage competition among multiple trading venues for order flow.⁸ The Commission should continue this trend by finding ways to encourage competition amongst trading venues for volume in thinly traded securities.

⁶ The Intercontinental Exchange owns five exchanges: the New York Stock Exchange, Inc., NYSE Arca, Inc., NYSE American LLC, NYSE Chicago, Inc., and NYSE National, Inc. Nasdaq owns three exchanges: The Nasdaq Stock Market LLC, Nasdaq PHLX LLC, and Nasdaq BX LLC. Cboe Global Markets owns four exchanges: Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., and Cboe EDGX Exchange, Inc. The individual independent exchanges are the Investors Exchange LLC and the Long-Term Stock Exchange, Inc.

⁷ A similar solution was previously proposed by the then Bats Exchanges and approved by the Commission but was not implemented due to the other exchange's failing to submit similar proposals. See Securities Exchange Act Release No. 75354 (July 2, 2015), 80 FR 39462 (SR-BATS-2015-37, SR-BYX-2015-25, SR-EDGA-2015-19, SR-EDGX-2015-21) (Order Approving Proposed Rule Changes, as Modified by Amendment No. 1, Relating to Liquidity Requirements for Securities Admitted to Unlisted Trading Privileges).

⁸ See Commission, Division of Trading and Markets, Staff Background Paper on the Market Structure for Thinly Traded Securities (October 17, 2019) at page 3, *available at* <https://www.sec.gov/rules/policy/2019/thinly-traded-securities-tm-background-paper.pdf>.

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Should the Commission or the Staff have any questions, please feel free to contact me at



Sincerely,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke.

Joseph W. Ferraro III
SVP, Deputy General Counsel

cc: Brett Redfearn, Director, Division of Trading and Markets
David Shillman, Associate Director, Division of Trading and Markets
Cristie March, Senior Special Counsel, Division of Trading and Markets
Deborah Flynn, Special Counsel, Division of Trading and Markets
Christopher Chow, Senior Special Counsel, Division of Trading and Markets
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