

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-69739; File No. SR-MIAX-2013-27)

June 12, 2013

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Modify the Definition of “Attributable Order”

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 4, 2013, Miami International Securities Exchange LLC (“Exchange” or “MIAX”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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 516 to modify the definition of “Attributable Order.”

The text of the proposed rule change is available on the Exchange’s website at [http://www.miaxoptions.com/filter/wotitle/rule\\_filing](http://www.miaxoptions.com/filter/wotitle/rule_filing), 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

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

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

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 received approval to be registered as a national securities exchange on December 3, 2012<sup>3</sup> and commenced trading operations on December 7, 2012. At that time, the Exchange included in Exchange Rule 516 definitions of order types that the Exchange intended to use after the commencement of trading on the Exchange. The preamble of Rule 516 notes that not all of the order types listed and described in Rule 516 will be initially available for use on the Exchange. In addition, Rule 516 provides that the Exchange will issue a Regulatory Circular listing which order types, among the order types defined in Rule 516, are available and that additional Regulatory Circulars will be issued as additional order types become available for use on the Exchange.

The Attributable Order type, defined in Rule 514(e), exists as one such order type that was not originally available at the commencement of trading on the Exchange. The Exchange has now developed the necessary technology to support the Attributable Order type and would like to correspondingly modify its definition contained in Rule 516(e) to accommodate the functionality that will be implemented at this time. Pursuant to Rule 516(e), an Attributable Order is a market or limit order which displays the user firm ID for purposes of trading on the Exchange. Use of Attributable Orders is voluntary.<sup>4</sup>

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<sup>3</sup> See Securities Exchange Act Release No. 68341 (December 3, 2012) 77 FR 73089 (December 7, 2012) (File No.10-207).

<sup>4</sup> See MIAX Rule 516(e).

The ability to display information pertaining to a single order depends upon the Exchange's ability to broadcast that information to its members. This is currently accomplished through the Exchange's market data products, which for example includes the MIAX Top of Market (ToM).<sup>5</sup> Thus, the functionality of an Attributable Order is linked to what is technologically feasible through the Exchange's market data products. The Exchange would like to modify the definition of Attributable Order contained in Rule 516(e) to acknowledge this relationship and to allow the functionality of the Attributable Order type to develop and be deployed correspondingly with technical advances related to its market data products. The Exchange proposes adding the following: "Attributable Orders will be available for execution but may not display the user firm ID for all Exchange processes." This concept, which can be found in the definition of Attributable Orders of other options exchanges,<sup>6</sup> will serve to put MIAX members on notice that the functionality of an Attributable Order to display the user firm ID, as it continually develops, may not be available during all Exchange processes. The Exchange proposes adding to Rule 516(e) that the Exchange will inform its members through a Regulatory Circular of the various Exchange processes in which the user firm ID of Attributable Order will be displayed.

The Exchange believes that the proposed additional language in the Rule text will provide the Exchange the necessary flexibility to allow the Attributable Order type to display the user firm ID in additional Exchange processes while the Exchange continues to develop them. For instance, at its initial launch, Attributable Orders may be entered into and rest on the Exchange System and will only display the user firm ID through the Exchange market data

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<sup>5</sup> See Securities Exchange Act Release No. 69007 (February 28, 2013) 78 FR 14617 (March 6, 2013) (SR-MIAX-2013-05).

<sup>6</sup> See C2 Rule 6.10(f); ISE Rule 715(h); NYSE Arca Rule 6.62(x); NYSE MKT Rule 900.3NY(v).

products when the Attributable Order initiates a Liquidity Refresh Pause<sup>7</sup> or a Route Timer.<sup>8</sup> If the Exchange develops the Attributable Order to display the user firm ID in an additional Exchange process, for example during the Opening process, the Exchange will update its members through a Regulatory Circular as proposed in this filing.

## 2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>10</sup> 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 believes that proposal will remove impediments to and perfect the mechanism of a free and open market and a national market system because it would allow firms to better manage order flow by understanding the Attributable Order type functionality available on the Exchange. In addition, the proposed clarifying language will protect investors and the public interest by eliminating potential confusion that could be caused by the current description of order type functionality which may imply that the Attributable Order is available for all Exchange processes. The Exchange notes that the current available processes for the Attributable Order type do not encompass all the potential Exchange processes in which the

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<sup>7</sup> See Rule 515(c)(1)(iii)(A).

<sup>8</sup> See Rule 529(b)(2).

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

Exchange believes would be useful to offer the Attributable Order, such as a price improvement mechanism or complex order mechanism which the Exchange may deploy in the future.

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 believes that the proposal will would provide member organizations with the information required for better use of the Attributable Order type. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues who offer similar functionality. Many competing venues offer similar functionality to market participants. To this end, the Exchange is proposing adding more detail regarding one of its order types and a mechanism, specifically the Regulatory Circular, to provide continuing updates. The Exchange believes the proposed rule change is pro-competitive because the added information regarding the Attributable Order type would enable member organizations to better compare the functionality of the Attributable Order type on the Exchange to that of other exchanges.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>11</sup> and Rule 19b-4(f)(6) thereunder.<sup>12</sup> Because the proposed rule change does not: (i)

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<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>12</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business

significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>13</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>14</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay, noting that doing so will, among other things, protect investors by avoiding potential confusion regarding the availability of Attributable Orders. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. In particular, MIAX's Rule 516 (Order Types Defined) already provides that certain order types would not be available when MIAX initially commenced operations. Specifically, MIAX Rule 516 provides that "...not all of the order types listed and described in this rule will be initially available for use on the Exchange. The Exchange will issue a Regulatory Circular listing which order types, among the order types set forth below, are available." Paragraph (e) of MIAX Rule 516 sets forth the applicable provision on Attributable Orders. In addition to defining that order type and noting that its use is voluntary, Paragraph (e) states that "[t]he Exchange will issue a Regulatory Circular specifying the class(es) of securities

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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.

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> 17 CFR 240.19b-4(f)(6)(iii).

for which the Attributable Order type shall be available.” As such, MIAX currently has the ability to begin to offer the Attributable Order type on its market without submitting a rule change to the Commission. However, this proposed rule change would further clarify Paragraph (e) by stating that Attributable Orders will only display the user firm ID for those exchange processes that are specified by MIAX. MIAX further clarifies that it will issue a Regulatory Circular that specifies the applicable Exchange processes and classes of securities for which Attributable Order types will display the user firm ID. Waiving the 30 day operative delay in this case will allow MIAX to avoid investor confusion by immediately clarifying the applicable rule text to reflect the current state of Attributable Orders on MIAX as it begins to offer this order type to market participants and will allow MIAX to accommodate this order type as it develops the technological capability to fully utilize it through MIAX’s market data products. Accordingly, the Commission hereby grants the Exchange’s request and designates the proposal operative upon filing.<sup>15</sup>

At any time within 60 days of the filing of such 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.

#### 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:

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<sup>15</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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](mailto:rule-comments@sec.gov). Please include File Number SR-MIAX-2013-27 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-MIAX-2013-27. 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 such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer



to File Number SR-MIAX-2013-27 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.<sup>16</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>16</sup> 17 CFR 200.30-3(a)(12).