

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-85148; File No. SR-MIAX-2018-34)

February 15, 2019

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Amend Exchange Rule 519, MIAX Order Monitor; Exchange Rule 519A, Risk Protection Monitor; and Exchange Rule 517, Quote Types Defined

I. Introduction

On November 9, 2018, Miami International Securities Exchange, LLC (“MIAX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to amend Exchange Rules 519 (MIAX Order Monitor), 519A (Risk Protection Monitor), and 517 (Quote Types Defined). The proposed rule change was published for comment in the Federal Register on November 20, 2018.³ On December 20, 2018, the Commission extended the time period for Commission action on the proposed rule change from January 4, 2019, to February 18, 2019.⁴ The Commission has received no comments on the proposal. On February 12, 2019, the Exchange filed Amendment No. 1 to the proposed rule change to modify one provision of its proposal.⁵ The Commission is publishing this notice to

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 84594 (November 14, 2018), 83 FR 58642 (“Notice”).

⁴ See Securities Exchange Act Release No. 84888 (December 20, 2018), 83 FR 67390 (December 28, 2018).

⁵ In Amendment No. 1, the Exchange modified its proposal by removing a provision that would deem an SAO eQuote a “priority quote” for trade allocation purposes in accordance with Exchange Rule 514(e), a provision that was contained in proposed Interpretations and Policies .02 to Exchange Rule 517. The full text of Amendment No. 1 has been placed in the public comment file for SR-MIAX-2018-34 and is available at: <https://www.sec.gov/rules/sro/miax.htm#SR-MIAX-2018-34>.

solicit comment on Amendment No. 1, and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 1⁶

The Exchange recently received Commission approval to list and trade options on the SPIKES™ Index (“Index”), a new index that measures expected 30-day volatility of the SPDR S&P 500 ETF Trust.⁷ To establish the settlement value for the Index, the Exchange conducts a settlement auction (the “SPIKES Special Settlement Auction”), during which the Exchange will accept settlement auction only orders (“SAO Orders”) and settlement auction only eQuotes (“SAO eQuotes” and, collectively with SAO Orders, “SAOs”), in addition to any other order types that may regularly be accepted by the Exchange.⁸ Market participants entering interest for participation in the SPIKES Special Settlement Auction that is related to positions in, or a trading strategy involving, Index options, and that are “SPIKES strategy orders” may be tagged as SAOs.⁹

⁶ For a full description of the proposal, see Notice, supra note **Error! Bookmark not defined.** and Amendment No. 1, supra note 5.

⁷ See Securities Exchange Act Release No. 84417 (October 12, 2018), 83 FR 52865 (October 18, 2018) (SR-MIAX-2018-14) (Order Granting Approval of a Proposed Rule Change by Miami International Securities Exchange, LLC to List and Trade Options on the SPIKES™ Index).

⁸ Id.

⁹ See id. at 52866. See also Exchange Rule 503.03(c) (defining “SPIKES strategy orders,” and stating that the Exchange will generally consider orders to be SPIKES Strategy Orders if the orders possess the following characteristics: (i) they are for options with the expiration that will be used to calculate the exercise or final settlement value of the applicable volatility index option contract; (ii) they are for options spanning the full range of strike prices for the appropriate expiration for options that will be used to calculate the exercise or final settlement value of the applicable volatility index option contract, but not necessarily every available strike price; and (iii) they are for put options with strike prices less than the at-the-money strike price, for call options with strike prices greater than the at-the-money strike price, or for put and call options with at-the-money strike prices). The Exchange notes that it may also deem order types other than those provided

The Exchange anticipates that market participants that actively trade SPIKES options may hedge their positions with SPY option series that will also be used to calculate the SPIKES exercise settlement/final settlement value.¹⁰ The Exchange believes that in order to seek convergence with the SPIKES exercise/final settlement value, these market participants may liquidate their hedges by submitting SPIKES strategy orders in the appropriate SPY option series during the SPIKES Special Settlement Auction on the SPIKES expiration/final settlement date.¹¹ The Exchange proposes to amend its rules to exclude SAOs from certain risk protection features offered by the Exchange. According to the Exchange, given that SAOs are designed for the special purpose of closing a hedged position and are available for use only during the SPIKES Special Settlement Auction, the application of certain risk protection features could diminish the utility of SAO Orders and SAO eQuotes.

Specifically, the Exchange proposes to amend Exchange Rule 519, Interpretations and Policies, to adopt new subsection .03, to provide that the order protections of the MIAX Order Monitor pursuant to sections (b), (c), and (d) of that rule will not apply to SAO Orders, as defined in Interpretations and Policies .03 of Exchange Rule 503. The MIAX Order Monitor is a risk management feature of the Exchange's System. Pursuant to paragraph (a) of Exchange Rule 519, the MIAX Order Monitor prevents certain orders from executing or being placed on the Book¹² at prices outside pre-set standard limits.¹³ Paragraph (b) prevents certain orders from

above as SPIKES Strategy Orders if the Exchange determines that to be the case based on the applicable facts and circumstances. See id.

¹⁰ See Notice, supra note **Error! Bookmark not defined.**, at 56842.

¹¹ See id.

¹² The term "Book" means the electronic book of buy and sell orders and quotes maintained by the System. See Exchange Rule 100.

¹³ See Exchange Rule 519(a).

executing or being placed on the Book if the size of the order exceeds the order size protection designated by the Member;¹⁴ paragraph (c) specifies that the System will reject any orders that exceed the maximum number of open orders held in the System on behalf of a particular Member, as designated by the Member;¹⁵ and paragraph (d) specifies that the System will reject any orders that exceed the maximum number of open contracts represented by orders held in the System on behalf of a particular Member, as designated by the Member.¹⁶ According to the Exchange, the application of the order size protection described in Exchange Rule 519(b) may prevent an SAO order from being placed on the Book and may prevent the Member from effectively hedging or closing a hedged position in SPIKES options.¹⁷ Similarly, the Exchange does not believe that an SAO Order should be subject to the open order protection described in Exchange Rule 519(c) as this protection aggregates open orders held in the System and may inadvertently prevent the Member from hedging or closing a hedged position in SPIKES options by preventing the submission of an SAO Order.¹⁸ Likewise, the Exchange does not believe that an SAO Order should be subject to the open contract protection described in Exchange Rule 519(d), as this protection aggregates the number of open contracts represented by orders held in the System, and including SAO Orders in this protection may inadvertently prevent the Member from hedging or closing a hedged position in SPIKES options by preventing the submission of an SAO Order.¹⁹

¹⁴ See Exchange Rule 519(b).

¹⁵ See Exchange Rule 519(c).

¹⁶ See Exchange Rule 519(d).

¹⁷ See Notice, supra note 3, at 58642-43.

¹⁸ See Notice, supra note 3, at 58643.

¹⁹ See id.

The Exchange similarly proposes to amend Exchange Rule 519A, Interpretations and Policies, to adopt new subsection .02 to state that SAO Orders, as defined in Interpretations and Policies .03 of Exchange Rule 503, are not eligible to participate in the Risk Protection Monitor (“RPM”).²⁰ The RPM is a feature of the MIAX System, which maintains a counting program for each participating Member that will count the number of orders entered and the number of contracts traded via an order entered by a Member on the Exchange within a specified time period that has been established by the Member. The RPM maintains one or more Member-configurable Allowable Order Rate settings and Allowable Contract Execution Rate settings. The Risk Protection Monitor shall remain engaged until the Member communicates with the Help Desk to enable the acceptance of new orders.²¹ According to the Exchange, excepting SAO Orders from participating in the RPM ensures that these orders may be freely submitted to the Exchange and will remain active in the System once accepted.²² As noted, SAO Orders are SPIKES strategy orders used for hedging or closing a hedged position in SPIKES options during the SPIKES Special Settlement Auction which is conducted only once per month. If engaged, the RPM may prevent the Member from submitting SAO Orders to the Exchange until the Member communicates with the Help Desk to enable the acceptance of new orders. The Exchange does not believe it is in the best interest of the Member to introduce this type of delay for SAO Orders, as they are time sensitive and are designed to participate in the SPIKES Special Settlement Auction.²³

²⁰ For a more complete description of the Risk Protection Monitor, see id.

²¹ See Exchange Rule 519A(a).

²² See Notice, supra note 3, at 58643.

²³ See id.

Additionally, the Exchange proposes to amend Exchange Rule 517, Quote Types Defined. Exchange Rule 517(d) currently provides that bids and offers in certain limited time-in-force eQuote types (Auction-or-Cancel, Opening Only, Immediate-or-Cancel, Fill-or-Kill, and Immediate-or-Cancel Intermarket Sweep) will not be disseminated by the Exchange in accordance with Rule 602 of Regulation NMS, and that executions resulting from these eQuote types will not be used by the Exchange's Aggregate Risk Manager ("ARM") to determine whether the Market Maker has exceeded the Allowable Engagement Percentage. As more fully described in Exchange Rule 612, the MIAX System will engage the ARM in a particular option class when the counting program has determined that a Market Maker has traded during the specified time period a number of contracts equal to or above their Allowable Engagement Percentage. The ARM will then automatically remove the Market Maker's Standard Quotations and Day eQuotes from the Exchange's disseminated quotation in all series of that particular option class until the Market Maker sends a notification to the System of the intent to reengage quoting and submits a new revised quotation.²⁴ The Exchange proposes to add SAO eQuote, as defined in Interpretations and Policies .03 of Exchange Rule 503, to the list of eQuotes that are not disseminated by the Exchange in accordance with Rule 602 of Regulation NMS and not subject to the ARM. An SAO eQuote is a special purpose eQuote available only during the SPIKES Special Settlement Auction and as such, the Exchange believes it should be treated similarly to other limited time-in-force eQuote types.²⁵

III. Discussion and Commission Findings

After careful consideration of the proposal, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the

²⁴ See Exchange Rule 612(b)(1).

²⁵ See Notice, supra note 3, at 58643.

rules and regulations thereunder applicable to a national securities exchange,²⁶ and, in particular, the requirements of Section 6 of the Act.²⁷ Specifically, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,²⁸ which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, 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.

The Commission believes that the proposal to remove SAO Orders, which are designed specifically for closing a hedged position and are available for use only during the SPIKES Special Settlement Auction,²⁹ from certain risk protection features offered by the Exchange, as described above, is reasonably designed to mitigate the potential risks associated with preventing market participants from effectively hedging or closing a hedged position in SPIKES options. Specifically, the proposal to exclude SAO Orders from the order size protection, open order protection, and open contract protection of the MIAX Order Monitor is reasonably designed to prevent a market participant from being unable to effectively hedge or close a hedged position in SPIKES options in the event those order protections may inadvertently prevent the submission or posting of an SAO Order.³⁰ The Commission further believes that the proposal to exclude SAO Orders from the RPM is reasonably designed to prevent any unintended delay in the submission

²⁶ In approving this proposed rule change, as modified by Amendment No. 1, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²⁷ 15 U.S.C. 78f.

²⁸ 15 U.S.C. 78f(b)(5).

²⁹ See Notice, supra note 3, at 58642.

³⁰ See id. at 58643.

of SAO Orders, which MIAX states are time sensitive and designed to participate in the SPIKES Special Settlement Auction.³¹

The Commission also believes that the proposal to add SAO eQuotes to the list of eQuotes that are not disseminated by the Exchange in accordance with Rule 602 of Regulation NMS or counted as executions for purposes of the ARM is reasonably designed to promote fair and orderly markets by ensuring that SAO eQuotes, which are only available during the SPIKES Special Settlement Auction, are treated similarly to other limited time-in-force eQuotes.³²

Accordingly, for the reasons discussed above, the Commission believes that the proposed rule change, as modified by Amendment No. 1, is consistent with the Act.

IV. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 1 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-2018-34 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.

³¹ See id.

³² See id.

All submissions should refer to File Number SR-MIAX-2018-34. 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 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-2018-34, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 1 in the Federal Register. As discussed above, in Amendment No. 1, the Exchange is removing from its proposal a provision that would deem an SAO eQuote a "priority quote" for trade allocation purposes in accordance with Exchange Rule 514(e), a provision that was contained in proposed Interpretations and Policies .02 of Exchange Rule 517. The

Commission notes that Amendment No. 1 does not otherwise modify the proposed rule change, which was subject to a full notice-and-comment period during which no comments were received. Amendment No. 1 eliminates one discrete aspect of the original proposal that does not impact the remaining portions of the proposed rule change. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,³³ to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

VI. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,³⁴ that the proposed rule change (SR-MIAX-2018-34), as modified by Amendment No. 1 be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁵

Eduardo A. Aleman
Deputy Secretary

³³ 15 U.S.C. 78s(b)(2).

³⁴ 15 U.S.C. 78s(b)(2).

³⁵ 17 CFR 200.30-3(a)(12).