

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-68817; File No. SR-MIAX-2013-03)

February 1, 2013

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the MIAX Options Fee Schedule

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 January 29, 2013, 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 (“Fee Schedule”) to establish fees for the MIAX Clearing Trade Drop Port, a connection to a messaging interface that will provide real-time trade clearing information to the participants to a trade on MIAX and to the participants’ respective clearing firms.

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on February 1, 2013.

The text of the proposed rule change is available on the Exchange’s website at http://www.miaxoptions.com/filter/wotitle/rule_filing, at MIAX’s principal office, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 purpose of the proposed rule change is to establish a single monthly port fee of \$0.0030 per executed contract for the MIAX Clearing Trade Drop ("CTD"), a messaging interface that will provide real-time trade clearing information to the participants to a trade on MIAX and to the participants' respective clearing firms. The Exchange proposes to assess a single per-contract monthly fee to entitled users of the ports, regardless of the number of ports used by a Member or member organization, their clearing firms, and other third-party entities as requested by the Member.

The Exchange originally filed SR-MIAX-2013-03 on January 17, 2013. The instant proposal replaces that filing in its entirety.

MIAX currently assesses fees for Exchange access and services used by Members,

Service Bureaus³ and Extranet Providers.⁴ Such Exchange access is gained through “Ports.” MIAX currently assesses monthly Port Fees for the Financial Information Exchange (“FIX”)⁵ on Electronic Exchange Members (“EEMs”),⁶ based upon the number of FIX Ports used by the EEM submitting orders to MIAX. MIAX also currently assesses monthly Port Fees for the MIAX Express Interface (“MEI”)⁷ on Market Makers, based upon the number of MIAX matching engines⁸ used by the Market Maker, which allows Market Makers to submit electronic quotes to the Exchange.

MIAX proposes to establish a new Port Fee for the MIAX CTD. CTD provides Exchange Members, their clearing firms, and other third-party entities as requested by the Member with real-time clearing trade updates. The updates contain the Member’s clearing trade

³ A Service Bureau is a technology provider that offers and supplies technology and technology services to a trading firm that does not have its own proprietary system. The technology and technology services supplied by Service Bureaus includes both software applications and connectivity, thus Service Bureaus are subject to both API testing and certification and Network testing and certification.

⁴ An Extranet Provider is a technology provider that connects with MIAX systems and in turn provides such connectivity to MIAX participants that do not connect directly with MIAX. Extranet Providers do not provide software interfaces with MIAX software applications, thus Extranet Providers are not subject to API testing and certification.

⁵ A FIX Port allows EEMs Members to electronically send orders in all products traded on the Exchange.

⁶ The term “Electronic Exchange Member” means the holder of a Trading Permit who is not a Market Maker. Electronic Exchange Members are deemed “members” under the Act. See Exchange Rule 100.

⁷ MEI is a connection to MIAX systems that enables Market Makers to submit electronic quotes to MIAX.

⁸ A “matching engine” is a part of the MIAX electronic system that processes options quotes and trades on a symbol-by-symbol basis. Some matching engines will process option classes with multiple root symbols, and other matching engines will be dedicated to one single option root symbol (for example, options on SPY will be processed by one single matching engine that is dedicated only to SPY options). A particular root symbol may only be assigned to a single designated matching engine. A particular root symbol may not be assigned to multiple matching engines.

messages on a low latency, real-time basis. The trade messages are routed to a CTD connection containing certain information. The information includes, among other things, the following: (i) trade date and time; (ii) symbol information; (iii) trade price/size information; (iv) member type (for example, and without limitation, Market Maker, Electronic Exchange Member, Broker-Dealer); and (v) Exchange Member Participant Identifier (“MPID”) for each side of the transaction, including clearing member MPID.

MIAX will assess a CTD fee of \$0.0030 per executed contract side for real-time clearing information that is transmitted to one or more CTD ports to which users of such CTD ports are entitled. The executing Member or member organization, their clearing firms, and other third-party entities as requested by the Member are entitled to the use of the CTD port(s) by way of using the executing or clearing member’s MPID, OCC Numbers, and/or CMTA Number.

Unlike FIX and MEI Port Fees, the CTD Port Fee will not be based on the number of Ports or connections a Member or member organization has; instead, the CTD Port Fee will be assessed monthly, based upon the number of contracts executed and cleared in the affected month that are sent through the CTD port(s) used by the entitled executing or clearing Member or member organization, their clearing firms, and other third-party entities as requested by the Member, regardless of the number of ports or connections used by the Member or member organization. The Exchange intends to assess the fee for the data and information used in trading options contracts and ongoing entitlement management and configuration, and not for the amount of connectivity to which the Member or member organization subscribes.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act⁹ in general, and furthers the objectives of Section 6(b)(4) of the Act¹⁰ in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange believes that this amendment is equitable and not unfairly discriminatory because the Exchange is uniformly assessing the CTD fees on all members and member organizations that wish to subscribe to it.

The Exchange believes that the proposed CTD Port Fee is reasonable because it is within the range of similar fees charged by other exchanges, as cited below, and because the CTD data is offered as an optional service for members and member organizations who wish to obtain the data on a real-time basis.

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

MIAX 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. Unilateral action by MIAX in establishing fees for services provided to its Members and others using its facilities will not have an impact on competition. As a new entrant in the already highly competitive environment for equity options trading, MIAX does not have the market power necessary to set prices for services that are unreasonable or unfairly discriminatory in violation

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(4).

of the Act. MIAX's proposed CTD Port Fee, as described herein, is comparable to fees charged by other options exchanges for the same or similar services.¹¹

Additionally, the CTD Port is offered as an additional service for members and member organizations at a price that is equal to or within the range of prices for similar ports offered by other exchanges, and therefore the Exchange believes that the price of the port fee does not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were neither solicited or 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.¹² 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.

¹¹ For example, NASDAQ OMX PHLX LLC ("PHLX") charges a Real-time Risk Management Fee of \$.0030 per contract for members and member organizations receiving information on a real-time basis up to a maximum of two ports. See PHLX Pricing Schedule, Section VII(B). The MIAX proposal is also to assess a \$.0030 per contract fee for real-time information to CTD users, regardless of, and with no limitation on, the number of CTD Ports used.

¹² 15 U.S.C. 78s(b)(3)(A)(ii).

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 e-mail to rule-comments@sec.gov. Please include File Number SR-MIAX-2013-03 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-2013-03. 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, D.C. 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 offices 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 available publicly. All submissions should refer to File Number SR-MIAX-2013-03, 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.¹³

Kevin M. O'Neill
Deputy Secretary

¹³ 17 CFR 200.30-3(a)(12).