

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-74632; File No. SR-MIAX-2015-24)

April 2, 2015

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

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 31, 2015, 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 the Substance of the Proposed Rule Change

The Exchange is filing a proposal to modify the Market Maker Trading Permit Fee.

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 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.

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

<sup>2</sup> 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 modify its Trading Permit fees to increase the monthly Trading Permit fees that apply to Market Makers (“MMs”). Specifically, the Exchange proposes to: (i) increase the monthly Trading Permit fee that applies to MMs for MM Assignments in up to 250 options classes from \$5,500 to \$15,000; (ii) increase the monthly Trading Permit fee that applies to MMs for MM Assignments in all classes from \$7,000 to \$22,000; (iii) eliminate the Trading Permit fee that applies to MMs for MM Assignments in up to 100 options classes; and (iv) add some clarifying language to the Fee Schedule regarding the fee applicable to MM Assignments above 250.

The Exchange issues Trading Permits that confer the ability to transact on the Exchange.<sup>3</sup> Currently, all MMs, whether they are a RMM, LMM or PLMM, are assessed \$4,000 per month for a Trading Permit for an assignment in up to 100 option classes, \$5,500 per month for a Trading Permit for an assignment in up to 250 option classes, or \$7,000 per month for a Trading Permit for an assignment in all option classes listed on the Exchange.<sup>4</sup> The Exchange notes that the current monthly Trading Permit fees are in some instances substantially lower than monthly

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<sup>3</sup> There is no limit on the number of Trading Permits that may be issued by the Exchange; however the Exchange has the authority to limit or decrease the number of Trading Permits it has determined to issue provided it complies with the provisions set forth in Rule 200(a) and Section 6(c)(4) of the Exchange Act. See 15 U.S.C. 78(f)(c)(4). For a complete description of MIAX Trading Permits, see MIAX Rule 200.

<sup>4</sup> The monthly Trading Permit Fee is in addition to the one-time application fee for MIAX Membership. The Exchange charges a one-time application fee based upon the applicant's status as either an Electronic Exchange Member (“EEM”) or as a Market Maker. Applicants for MIAX Membership as an EEM are assessed a one-time Application Fee of \$2,500.00. Applicants for MIAX Membership as a Market Maker are assessed a one-time Application Fee of \$3,000.00. The difference in the fee charged to EEMs and Market Makers reflects the additional review and processing effort needed for Market Maker applications.

trading permit fees in place at other competing options exchanges.<sup>5</sup> The Exchange established these lower rates in order to encourage additional market participants to become Members of the Exchange and register as MIAX Market Makers. Now that the Exchange has grown its market share and membership base, the Exchange proposes to modify its Trading Permit fee for MMs so that it is more aligned with the rates charged by competing options exchanges.

The Exchange proposes to modify its MM Trading Permit fee to increase the monthly Trading Permit fee that applies to MMs. Specifically, the Exchange proposes to: (i) increase the monthly Trading Permit fee that applies to MMs for MM Assignments in up to 250 options classes from \$5,500 to \$15,000; (ii) increase the monthly Trading Permit fee that applies to MMs for MM Assignments in all classes from \$7,000 to \$22,000; and (iii) eliminate the Trading Permit fee that applies to MMs for MM Assignments in up to 100 options classes.

Members receiving Trading Permits during the month will be assessed Trading Permit Fees according to the above schedule, except that the calculation of the Trading Permit fee for the first month in which the Trading Permit is issued will be pro-rated based on the number of trading days occurring after the date on which the Trading Permit was in effect during that first month divided by the total number of trading days in such month multiplied by the monthly rate.

Finally, the Exchange proposes to add some clarifying language to the Fee Schedule in order to specify that the \$22,000 Trading Permit Fee applies to MMs Assignments over 250 up to all options classes listed on MIAX. The Exchange believes that the proposed change will help

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<sup>5</sup> See e.g., NYSE Arca Options Fees and Charges, p.1 (assessing market makers \$6,000 for up to 100 option issues, an additional \$5,000 for up to 250 option issues, an additional \$4,000 for up to 750 option issues, and an additional \$3,000 for all option issues on the exchange); NYSE Amex Options Fee Schedule, p. 19 (assessing market makers \$8,000 for up to 60 plus the bottom 45%, an additional \$6,000 for up to 150 plus the bottom 45%, an additional \$5,000 for up to 500 plus the bottom 45%, and additional \$4,000 for up to 1,000 [sic] plus the bottom 45%, and an additional \$3,000 for all issues traded on the exchange).

avoid the potential for confusion on behalf of MMs as to which fee level applies to MMs Assignments over 250 options classes.

The Exchange proposes to implement the Trading Permit fees beginning April 1, 2015.

## 2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with Section 6(b) of the Act<sup>6</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>7</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange believes that the proposed Trading Permit fee is reasonable, equitable and not unfairly discriminatory. The proposed Trading Permit fees are reasonable in that they are within the range of comparable fees at other competing options exchanges.<sup>8</sup> As such, the proposal is reasonably designed to continue to compete with other options exchange by incentivizing market participants to register as Market Makers on the Exchange in a manner that enables the Exchange to improve its overall competitiveness and strengthen its market quality for all market participants. The proposed fee is fair and equitable and not unreasonably discriminatory because it applies equally to all Market Makers regardless of type. All similarly situated Market Makers, with the same number of assignments, will be subject to the same Trading Permit fee, and access to the Exchange is offered on terms that are not unfairly discriminatory.

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<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> See supra note 5. NYSE Arca Options charges \$11,000 for up to 250 option issues and \$18,000 for all options issues on the exchange. NYSE Amex Options charges \$26,000 for all option issues on the exchange.

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 increases both intermarket and intramarket competition by increasing Trading Permit fees for Market Makers on the Exchange in a manner that allows all Market Makers to be subject to the same fee based on the number of assignments regardless of type and yet still be in the range of comparable fees on other exchanges. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. The Exchange believes that the proposal reflects this competitive environment because it increases the Exchange's fees in a manner that continues to encourage market participants to register as Market Makers on the Exchange, to provide liquidity, and to attract order flow. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity.

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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>9</sup> 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

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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.

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-MIAX-2015-24 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-MIAX-2015-24. 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 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 available publicly. All submissions should refer to File Number SR-MIAX-2015-24, 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>10</sup>

Brent J. Fields  
Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).