

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-78781; File No. SR-MIAX-2016-30)

September 7, 2016

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 August 25, 2016, 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 (the “Fee Schedule”).

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 is proposing to modify the current list of options for which the Exchange assesses the \$0.12 per contract Posted Liquidity Marketing Fee (described below), which applies to options overlying DIA, EEM, FB, GDX, GLD, IWM, QQQ, SLV, SPY, USO, UVXY, and VXX (the “designated symbols”), as listed in the Fee Schedule. The Exchange is also proposing to modify the current list of designated symbols for which the Exchange assesses the \$0.50 per contract transaction fee applicable to orders executed for the account of non-MIAX market makers in options overlying the designated symbols, and the discounted \$0.48 per contract transaction fee with respect to the designated symbols applicable to any Member or its Affiliate that qualifies for Priority Customer Rebate Program volume tiers 3 or higher, as discussed below. The Exchange proposes to remove some of the current designated symbols from both the Posted Liquidity Marketing Fee and the non-MIAX market maker transaction fees beginning with transactions occurring on or after the proposed September 1, 2016 effective date of this proposed rule change, and to continue to assess the Posted Liquidity Marketing Fee and the non-MIAX market maker transaction fees for the remaining symbols for transactions occurring on or after September 1, 2016 and extending through October 31, 2016.<sup>3</sup>

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<sup>3</sup> The Commission notes that in August 2016, the Exchange expanded the Posted Liquidity Marketing Fee to include 7 additional symbols. See File No. SR-MIAX-2016-22 (withdrawn) and Securities Exchange Act Release No. 78681 (August 25, 2016), 81 FR 60077 (August 31, 2016) (SR-MIAX-2016-28). In the present filing, MIAX has removed those seven additional symbols effective September 1, 2016. Further, the Exchange has proposed to remove the five original symbols after October 31, 2016, which will result in

Posted Liquidity Marketing Fee

Marketing Fees are currently assessed on certain transactions of all MIAX Market Makers.<sup>4</sup> Currently, Section 1)b) of the Fee Schedule provides that the Exchange will assess a Marketing Fee to all Market Makers for contracts, including mini options, they execute in their assigned classes when the contra-party to the execution is a Priority Customer. MIAX does not assess a Marketing Fee to Market Makers for contracts executed as a PRIME Agency Order, Contra-side Order, Qualified Contingent Cross Order, PRIME Participating Quote or Order, or a PRIME AOC Response in the PRIME Auction, unless it executes against an unrelated order.

The Exchange assesses an additional \$0.12 per contract Posted Liquidity Marketing Fee to all Market Makers for any standard options overlying the designated symbols that Market Makers execute in their assigned class when the contra-party to the execution is a Priority Customer and the Priority Customer order was posted on the MIAX Book at the time of the execution.<sup>5</sup> The Posted Liquidity Marketing Fee is assessed in addition to the current Marketing Fee of \$0.25 per contract for standard options overlying the designated symbols that Market Makers execute in their assigned class when the contra-party to the execution is a Priority Customer.<sup>6</sup>

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no symbols being subject to the additional \$0.12 per contract Posted Liquidity Marketing Fee. With this change, the Commission notes that net transaction fees for removing liquidity on MIAX that are assessed on market makers (i.e., the transaction fee together with the marketing fee and Posted Liquidity Marketing Fee) will no longer exceed \$0.50 per contract in classes in the Penny Pilot Program.

<sup>4</sup> See MIAX Fee Schedule, Section 1)b), entitled “Marketing Fee” for more detail regarding the Marketing Fee.

<sup>5</sup> For a complete description of the Posted Liquidity Marketing Fee, see Securities Exchange Act Release No. 73848 (December 16, 2014), 79 FR 76421 (December 22, 2014) (SR-MIAX-2014-62).

<sup>6</sup> See id.

The Exchange is proposing to remove options overlying DIA, FB, GDX, SLV, USO, UVXY, and VXX from the current Posted Liquidity Marketing Fee. For transactions that occur on or after September 1, 2016 and extending through October 31, 2016, MIAX will continue to assess the Posted Liquidity Marketing Fee for transactions in options overlying EEM, GLD, IWM, QQQ, and SPY.

The Exchange is also proposing to remove options overlying DIA, FB, GDX, SLV, USO, UVXY, and VXX from the list of symbols for which the Exchange assesses a \$0.50 per contract transaction fee that currently applies to options overlying the designated symbols executed by non-MIAX market makers, as set forth in Section 1)a)ii) of the Fee Schedule at footnote 8<sup>7</sup> The Exchange is proposing to continue to assess the \$0.50 per contract non-MIAX market maker transaction fee for transactions in in options overlying EEM, GLD, IWM, QQQ, and SPY that occur on or after September 1, 2016 and extending through October 31, 2016.

Additionally, with respect to contracts executed by non-MIAX market makers, the Exchange proposes to modify the list of symbols for which the Exchange currently assesses transaction fees to any Member or its Affiliate that qualifies for Priority Customer Rebate Program<sup>8</sup> volume tier 3 or higher. Members or Affiliates in Priority Customer Rebate Program

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<sup>7</sup> See Securities Exchange Act Release No. 73850 (December 16, 2014), 79 FR 76424 (December 22, 2014) (SR-MIAX-2014-63)(adopting the Posted Liquidity Marketing Fee and \$0.50 per contract non-MIAX market maker transaction fee for certain symbols).

<sup>8</sup> MIAX credits each Member the per contract amount resulting from each Priority Customer order transmitted by that Member which is executed electronically on the Exchange in all multiply-listed option classes (excluding QCC Orders, mini-options, Priority Customer-to-Priority Customer Orders, PRIME AOC Responses, PRIME Contra-side Orders, PRIME Orders for which both the Agency and Contra-side Order are Priority Customers, and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in MIAX Rule 1400), provided the Member meets certain percentage thresholds in a month as described in the Priority Customer Rebate Program table. See Fee Schedule, Section 1)a)iii).

volume tier 3 or higher are currently assessed a discounted transaction fee of \$0.45 per contract for standard options in all options classes except for options overlying the designated symbols, for which Members and their Affiliates are assessed a \$0.48 per contract transaction fee. The Exchange is proposing to remove options overlying DIA, FB, GDX, SLV, USO, UVXY, and VXX from the list of designated symbols for which the Exchange assesses the \$0.48 per contract transaction fee. The Exchange is proposing to continue to assess the \$0.48 per contract transaction fee to Members or Affiliates in Priority Customer Rebate Program volume tier 3 or higher for transactions in in options overlying EEM, GLD, IWM, QQQ, and SPY that occur on or after September 1, 2016 and extending through October 31, 2016.

The current transaction fee of \$0.47 per contract for standard options, discounted to \$0.45 per contract for any Member or its Affiliate that qualifies for Priority Customer Rebate Program volume tiers 3 or higher (and \$0.045 per contract for mini options)<sup>9</sup> assessed to non-MIAX market makers will apply to options overlying symbols that are deleted from the designated symbols. The proposed rule change is scheduled to become effective September 1, 2016.

## 2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act<sup>10</sup> in general, and in particular, furthers the objectives of Section 6(b)(4) of the Act,<sup>11</sup> in that it is an equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities, and 6(b)(5) of the Act,<sup>12</sup> in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster

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<sup>9</sup> See Fee Schedule Section 1)a)ii.

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

<sup>11</sup> 15 U.S.C. 78f(b)(4).

<sup>12</sup> 15 U.S.C. 78f(b)(1) and (b)(5).

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 proposed modification of the Posted Liquidity Marketing Fee is fair, equitable, and not unreasonably discriminatory because it will apply equally to all Market Makers that execute against Priority Customer orders in options overlying the current designated symbols that are resting on the Exchange's Book. All similarly situated Market Makers that execute against Priority Customer orders in options overlying the current designated symbols that are resting on the Exchange's Book are subject to the same marketing fees, and access to the Exchange is offered on terms that are not unfairly discriminatory.

Further, the Exchange's proposed modification of the list of symbols for which the Exchange assesses the \$0.50 per contract transaction fee for non-MIAX market makers in options overlying the current designated symbols, and the \$0.48 per contract transaction fee for Members or Affiliates in Priority Customer Rebate Program volume tier 3 or higher for options overlying the current designated symbols, is reasonable because the fees and the modification of the list of symbols will apply equally to all non-MIAX market makers submitting orders to the Exchange.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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 proposed rule change reflects this competitive environment because it applies equally to all similarly situated MIAX participants.

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>13</sup> and Rule 19b-4(f)(2)<sup>14</sup> thereunder. 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.

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-2016-30 on the subject line.

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<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>14</sup> 17 CFR 240.19b-4(f)(2).

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-2016-30. 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 available publicly. All submissions should refer



to File Number SR-MIAX-2016-30, 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>15</sup>

Brent J. Fields  
Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).