

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-70357; File No. SR-MIAX-2013-42)

September 10, 2013

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Exchange Rule 1014

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 30, 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 the Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Rule 1014.

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 amend Exchange Rule 1014, entitled "Imposition of Fines for Minor Rule Violations," by expanding the list of violations eligible for disposition under Exchange Rule 1014 in order to improve the consistency of the Exchange Rule 1014 with the rules of other options exchanges.

Exchange Rule 1014 promotes compliance with select rules and helps reduce the number and extent of violations of those rules committed by Members and associated persons. Exchange Rule 1014 allows the Exchange to promptly impose a limited but meaningful financial penalty soon after a rule violation is detected. The prompt imposition of a financial penalty helps to quickly educate and improve the conduct of Members and associated persons that have engaged in inadvertent or otherwise minor violations of the Exchange's Rules.

The proposed changes would allow the Exchange to impose fines ranging from \$500 to \$5,000. By promptly imposing a meaningful financial penalty for such violations, Exchange Rule 1014 focuses on correcting conduct before it gives rise to more serious enforcement action. As discussed above, Exchange Rule 1014 provides a reasonable means of addressing rule violations that do not necessarily rise to the level of requiring formal disciplinary proceedings, while also providing a greater flexibility in handling certain violations. Adopting a provision that would allow the Exchange to sanction violators under Exchange Rule 1014 by no means minimizes the importance of compliance with these rules. The Exchange believes that the violation of any of its Rules is a serious matter. The addition of a sanction under Exchange Rule 1014 simply serves to add an additional method for disciplining violators of the additional Rules. The Exchange will continue to conduct surveillance with due diligence and make its

determination, on a case by case basis, whether a violation of these additional Rules should be subject to formal disciplinary proceedings.

The Exchange proposes to incorporate five additional violations into Exchange Rule 1014. Specifically, the Exchange proposes to incorporate into Exchange Rule 1014 additional violations regarding: (i) exercise limits; (ii) reports related to position limits; (iii) trading in restricted classes; (iv) Market Maker continuous quoting requirements; and (v) amending Form U4, Form U5, and Form BD.

#### Exercise Limits

MIAX Rule 309 generally prohibits Members from exceeding certain exercise limits.<sup>3</sup> MIAX is proposing to incorporate violations consisting of exceeding such exercise limits into the Exchange Rule 1014 under Proposed Exchange Rule 1014(d)(10).

MIAX is proposing to implement a fine of \$500 for the first violation of Rule 309 within a twenty-four month rolling period. A second violation within the rolling twenty-four month period would be allocated a \$1,000 fine, a third violation a \$2,500 fine, and a fourth violation a \$5,000 fine. Any subsequent violations within the rolling twenty-four month period would be allocated a \$5,000 fine. MIAX notes that this proposal is consistent with rules in place at the Chicago Board Options Exchange, Inc. (“CBOE”).<sup>4</sup>

#### Reports Related to Position Limits

MIAX Rule 310 requires Members to file with the Exchange reports once certain positional thresholds are exceeded.<sup>5</sup> MIAX is proposing to incorporate violations consisting of the failure to file such position limit reports into Exchange Rule 1014 under Proposed Exchange

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<sup>3</sup> See MIAX Rule 309.

<sup>4</sup> See CBOE Rule 17.50(g)(1).

<sup>5</sup> See MIAX Rule 310.

Rule 1014(d)(11). All the options exchanges, including MIAX, have entered into a plan pursuant to Rule 17d-2 of the Act (the “Options Market Surveillance Plan” or the “Plan”) under which the exchanges have agreed to allocate regulatory responsibility for certain rules common to all options exchanges. The common rules relate to compliance with position limits, the use of position limit exemptions and the reporting of large options positions. Adding Rule 310 to Exchange Rule 1014 makes Exchange Rule 1014 more consistent with rules of other self-regulatory organizations, including with respect to rules that are classified as common rules pursuant to the Options Market Surveillance Plan. The Exchange believes that aspects of Exchange Rule 1014 with respect to the handling of violations of rules that are common rules pursuant to the Plan should be consistent with the other options exchanges that are parties to the Plan.

MIAX is proposing to implement a fine of \$500 for the first violation of Rule 310 within a twenty-four month rolling period. A second violation within the rolling twenty-four month period would be allocated a \$1,000 fine and a third violation a \$2,500 fine. Any subsequent violations within the rolling twenty-four month period would be allocated a \$5,000 fine. MIAX notes that this proposal is consistent with the rules in place at the BATS Options Market (“BATS Options”).<sup>6</sup>

#### Trading in Restricted Classes

MIAX Rule 403 provides that MIAX may prohibit any opening purchase transactions in series of options previously opened to the extent it deems such action necessary or appropriate.<sup>7</sup> MIAX is proposing to incorporate violations related to trading in restricted classes into Exchange Rule 1014 under Proposed Exchange Rule 1014(d)(12).

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<sup>6</sup> See BATS Exchange Rule 25.3(b).

<sup>7</sup> See MIAX Rule 403.

MIAX is proposing to implement a fine of \$500 for the first violation within a twenty-four month rolling period. A second violation within the rolling twenty-four month period would be allocated a \$2,500 fine and a third violation a \$5,000 fine. Any subsequent violations within the rolling twenty-four month period would become subject to formal disciplinary action under Exchange Rule 1003 or 1004. MIAX notes that this proposal is consistent with rules in place at the CBOE, NYSE Arca, Inc. (“NYSE Arca”), and NYSE MKT, Inc. (“NYSE MKT”).<sup>8</sup>

#### Market Maker Continuous Quoting Obligations

MIAX Rule 604(e) requires each class of Market Maker to meet a specific continuous quoting threshold.<sup>9</sup> MIAX is proposing to incorporate violations of these continuous quoting obligations into Exchange Rule 1014 under Exchange Rule 1014(d)(13).

MIAX is proposing to issue a Letter of Caution for the first violation within a twenty-four month rolling period. Any subsequent offense would be subject to a \$300 fine charged per day. MIAX notes that this proposal is consistent with rules in place at the NASDAQ Options Market (“NOM”), NASDAQ OMX BX, Inc. Market (“BX Options”), and BATS Options.<sup>10</sup>

#### Amending Form U4, Form U5, and Form BD

Under the Securities and Exchange Act of 1934<sup>11</sup>, and the rules promulgated thereunder, and applicable Exchange Rules, Members are required to file and amend to keep current the applicable Form U4,<sup>12</sup> Form U5,<sup>13</sup> or Form BD.<sup>14</sup> Amendments shall be made no later than

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<sup>8</sup> See CBOE Rule 17.50(g)(11); NYSE Arca Rule 10.12(h)(22); NYSE MKT Rule 476A Supp. Mat. Part 1C(i)(37).

<sup>9</sup> See MIAX Rule 604(e).

<sup>10</sup> See Chapter X, Section 7(c) of NOM Rules; Chapter X, Section 7(c) of BX Options Rules; and BATS Exchange Rule 25.3(d).

<sup>11</sup> See 15 U.S.C. 78o.

<sup>12</sup> See MIAX Rules 1301(b) and 1302(c).

thirty (30) days after the filer knew or should have known of the need for the amendment. MIAX is proposing to incorporate the failure to make a timely amendment to the applicable Form U4, Form U5, or Form BD into Exchange Rule 1014 under Proposed Exchange Rule 1014(d)(14).

MIAX is proposing to implement a fine of \$500 for the first violation within a twelve month rolling period. A second violation within the rolling twelve month period would be allocated a \$1,000 fine and a third violation a \$2,000 fine. Any subsequent violations within the rolling twelve month period would become subject to formal disciplinary action under Exchange Rule 1003 or 1004. MIAX notes that this proposal is consistent with rules in place at the NOM, BX Options, and BOX Options Exchange LLC (“BOX Options”).<sup>15</sup>

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>16</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>17</sup> in particular, because 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, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The proposed rule change is consistent with the statute in that it directly addresses fraudulent and manipulative acts and practices by MIAX Members. The Exchange believes that the proposed rule changes furthers the objectives

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<sup>13</sup> See MIAX Rules 1301(c) and 1303.

<sup>14</sup> See 15 U.S.C. 78o.

<sup>15</sup> See Chapter X, Section 7(k) of NOM Rules; Chapter X, Section 7(k) of BX Options Rules; BOX Options Rule 12140(d)(8).

<sup>16</sup> 15 U.S.C. 78f(b).

<sup>17</sup> 15 U.S.C. 78f(b)(5).

of Section 6(b)(1)<sup>18</sup> of the Act to enforce compliance by its Members to the Exchange's Rules, Section 6(b)(6)<sup>19</sup> of the Act to appropriately discipline Members of the Exchange's Rules, and Section 6(b)(7)<sup>20</sup> of the Act to provide a fair procedure of disciplining Members as the proposal will strengthen its ability to carry out its oversight responsibilities as a self-regulatory organization and reinforce its surveillance and enforcement functions. Additionally, this proposed rule change will promote consistency with rules of other exchanges.

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 proposal relates to the Exchange's role and responsibilities as a self-regulatory organization and the manner in which it disciplines its Members and associated persons for violations of its Rules. In the unlikely event that Members will determine where to send options orders based on the type of disciplinary program in place at an options exchange, the expansion of Exchange Rule 1014 will lessen the impact on competition by making Exchange Rule 1014 more consistent with rules at the other options 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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition;

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<sup>18</sup> 15 U.S.C. 78f(b)(1).

<sup>19</sup> 15 U.S.C. 78f(b)(6).

<sup>20</sup> 15 U.S.C. 78f(b)(7).

and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act<sup>21</sup> and Rule 19b-4(f)(6)<sup>22</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-2013-42 on the subject line.

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<sup>21</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>22</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business 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.



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-2013-42. 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 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-2013-42, 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>23</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>23</sup> 17 CFR 200.30-3(a)(12).