

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-71704; File No. SR-MIAX-2014-11)

March 12, 2014

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the MIAX 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 February 28, 2014, 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 adopt a MIAX Market Maker sliding scale for transaction fees.

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

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

<sup>2</sup> 17 CFR 240.19b-4.

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 Exchange proposes to amend its Fee Schedule to adopt (i) a MIAX Market Maker<sup>3</sup> sliding scale for transaction fees; and (ii) a \$0.02 fee for Mini Option transactions by a MIAX Market Maker. Consistent with this change, the Exchange will delete the existing transaction fees that apply to MIAX Market Markers.

The new sliding scale for MIAX Market Maker transaction fees is based on the substantially similar fees of the Chicago Board Options Exchange, Incorporated (“CBOE”).<sup>4</sup> Specifically, the Exchange proposes to adopt a program to reduce a MIAX Market Maker’s per contract transaction fee based on the number of contracts the MIAX Market Maker trades in a month, based on the following scale:

Tier	Contracts Per Month	Transaction Fee Per Contract
1	1 - 750,000	\$0.15
2	750,001 – 1,500,000	\$0.10
3	1,500,001 - 3,000,000	\$0.05

<sup>3</sup> “MIAX Market Maker” for purposes of the proposed sliding scale means any MIAX Market Maker including RMM, LMM, PLMM, DLMM, and DPLMM.

<sup>4</sup> See Securities Exchange Act Release Nos. 55193 (January 30, 2007), 72 FR 5476 (February 6, 2007) (SR-CBOE-2006-111); 57191 (January 24, 2008), 73 FR 5611 (January 30, 2008); 58321 (August 6, 2008), 73 FR 46955 (SR-CBOE-2008-78). See also CBOE Fees Schedule, p. 3.

4	3,000,001+	\$0.03
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The sliding scale would apply to all MIAX Market Makers for transactions in all products except Mini Options. A MIAX Market Maker's initial \$0.15 per contract rate will be reduced if the MIAX Market Maker reaches the volume thresholds set forth in the sliding scale in a month. As a MIAX Market Maker's monthly volume increases, its per contract transaction fee would decrease. Under the sliding scale, the first 750,000 contracts traded in a month would be assessed at \$0.15 per contract. The next 750,000 contracts traded (up to 1,500,000 total contracts traded) would be assessed at \$0.10 per contract. The next 1,500,000 contracts traded (up to 3,000,000 total contracts traded) would be assessed at \$0.05 per contract. All contracts above 3,000,000 contracts traded in a month would be assessed at \$0.03 per contract. The Exchange will aggregate the trading activity of separate MIAX Market Maker firms for the purposes of the sliding scale if there is at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A.<sup>5</sup>

The Exchange believes the proposed sliding scale is objective in that the fee reductions are based solely on reaching stated volume thresholds. The Exchange believes that the implementation of a tiered fee schedule may incent firms to display their orders on the Exchange and increase the volume of contracts traded here.

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<sup>5</sup> A MIAX Market Maker's monthly contract volume would be determined at the firm affiliated level. E.g., if five MIAX Market Maker individuals are affiliated with member firm ABC as reflected by Exchange records for the entire month, all the volume from those five individual MIAX Market Makers will count towards firm ABC's sliding scale transaction fees for that month. CBOE also aggregates volume of market maker firms with at least 75% common ownership between the firms. See Securities Exchange Act Release No. 55193 (January 30, 2007), 72 FR 5476 (February 6, 2007) (SR-CBOE-2006-111). See also CBOE Fees Schedule, p. 3.

As mentioned above, the Exchange notes that the proposed sliding fee scale for MIAX Market Makers structured on contract volume thresholds is based on the substantially similar fees of the CBOE.<sup>6</sup> The Exchange also notes that a number of other exchanges have tiered fee schedules which offer different transaction fee rates depending on the monthly ADV of liquidity providing executions on their facilities.<sup>7</sup>

In addition, the Exchange proposes to assess MIAX Market Makers a \$0.02 fee for Mini Option transactions. The new transaction fee for Mini Options is identical to that charged by CBOE.<sup>8</sup> The Exchange notes that it is difficult to compare the proposed \$0.02 amount to the amount assessed to MIAX Market Makers for standard options transactions, as that amount can differ depending on which tier each MIAX Market-Maker reaches in the MIAX Market Maker sliding scale (though it is less than 1/10th [sic] the fee assessed at the first tier of the MIAX Market Maker sliding scale for standard options transactions). The Exchange wishes to assess a \$0.02 fee to MIAX Market Makers in order to encourage them to quote often and aggressively in Mini Options.

The Exchange notes that Mini Options have a smaller exercise and assignment value due to the reduced number of shares they deliver as compared to standard option contracts. Despite the smaller exercise and assignment value of a Mini Option, the cost to the Exchange to process quotes and orders in Mini Options, perform regulatory surveillance and retain quotes and orders

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<sup>6</sup> See Securities Exchange Act Release Nos. 55193 (January 30, 2007), 72 FR 5476 (February 6, 2007) (SR-CBOE-2006-111); 58321 (August 6, 2008), 73 FR 46955 (SR-CBOE-2008-78); 71295 (January 14, 2014), 79 FR 3443 (January 21, 2014) (SR-CBOE-2013-129).

<sup>7</sup> See, e.g., International Securities Exchange, LLC, Schedule of Fees, Section VI, C; NASDAQ Options Market, Chapter XV, Section 2.

<sup>8</sup> See Securities Exchange Act Release No. 69258 (March 29, 2013), 78 FR 69258 (April 4, 2013) (SR-CBOE-2013-038). See also CBOE Fees Schedule, p. 2.

for archival purposes is the same as for a standard contract. This leaves the Exchange in a position of trying to strike the right balance of fees applicable to Mini Options – too low and the costs of processing Mini Option quotes and orders will necessarily cause the Exchange to either raise fees for everyone or only for participants trading Mini Options; too high and participants may be deterred from trading Mini Options, leaving the Exchange less able to recoup costs associated with development of the product, which is designed to offer investors a way to take less risk in high-dollar securities. The Exchange, therefore, believes that adopting fees for Mini Options that are in some cases lower than fees for standard contracts, is appropriate, not unreasonable, not unfairly discriminatory and not burdensome on competition between participants, or between the Exchange and other exchanges in the listed options marketplace.

Consistent with the adoption of the new sliding fee scale and the \$0.02 fee for transactions in Mini Options for MIAX Market Makers, the Exchange proposes to delete the existing transaction fees that currently apply to MIAX Market Markers. Specifically, the Exchange will no longer charge: (i) RMMs \$0.08 per contract for standard options or \$0.008 for Mini Options; (ii) LMMs \$0.08 per contract for standard options or \$0.008 for Mini Options; (iii) DLMMs and PLMMs \$0.08 per contract for standard options or \$0.008 for Mini Options; and (iv) DPLMMs \$0.08 per contract for standard options or \$0.008 for Mini Options. The Exchange notes that the new sliding scale for MIAX Market Makers will increase transaction fees for all Market Markers for the first 1,500,000 contracts traded per month in standard option contracts. The Exchange also notes that the new Mini Option fee for MIAX Market Makers will increase transaction fees for all Market Makers in Mini Options.

The proposed changes will become operative on March 1, 2014.

## 2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with Section 6(b) of the Act<sup>9</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>10</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The proposed volume based discount fee structure is not discriminatory in that all MIAX Market Makers are eligible to submit (or not submit) liquidity, and may do so at their discretion in the daily volumes they choose during the course of the billing period. All similarly situated MIAX Market Makers are subject to the same fee structure, and access to the Exchange is offered on terms that are not unfairly discriminatory. Volume based discounts have been widely adopted by options and equities markets, and are equitable because they are open to all MIAX Market Makers on an equal basis and provide discounts that are reasonably related to the value of an exchange's market quality associated with higher volumes. The proposed fee levels and volume thresholds are reasonably designed to be comparable to those of other options exchanges and to attract additional liquidity and order flow to the Exchange.

The Exchange believes that the proposal to assess MIAX Market Makers a \$0.02 fee for Mini Option transactions is reasonable. It is difficult to compare the proposed \$0.02 amount to the amount assessed to MIAX Market Makers for standard options transactions, as that amount can differ depending on which tier each MIAX Market Maker reaches in the MIAX Market Maker sliding scale. However, \$0.02 is less than 1/10<sup>th</sup> [sic] the fee assessed at the first tier of the MIAX Market Maker sliding scale for standard options transactions. The Exchange believes that these MIAX Market Maker Mini Option fees are equitable and not unfairly discriminatory

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<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(4).

for a number of reasons. First, they will apply equally to all MIAX Market Makers. Second, the Exchange believes that it is equitable and not unfairly discriminatory to assess lower fee amounts to MIAX Market Makers than to some other market participants because MIAX Market Makers have obligations, such as quoting obligations, that other market participants do not possess. Further, these lower fees are intended to encourage Market Makers to quote aggressively and more often, which provides more trading opportunities for all market participants.

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 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. The Exchange believes that the proposed rule change reflects this competitive environment because it modifies the Exchange's fees in a manner that encourages market participants to provide liquidity and to send order flow to the Exchange.

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>11</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>11</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-2014-11 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.

All submissions should refer to File Number SR-MIAX-2014-11. 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-2014-11, 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>12</sup>

Kevin M. O'Neill  
Deputy Secretary

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