

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-78222; File No. SR-MIAX-2016-18)

July 1, 2016

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a 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 June 28, 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 and II 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”).

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.

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

¹ 15 U.S.C. 78s(b)(1).

² 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to clarify the circumstances that trigger the assessment of fees to, and billing of, Member or Non-Member users of the Exchange’s System³ for certain non-transactional fees, as set forth below. The Exchange is not proposing any new fees that are not currently charged; the Exchange is simply proposing to clarify that the Exchange will assess the fees only when the Member or Non-Member user is credentialed (as defined below) to use the System in the production environment, thus ensuring that Member and Non-Member users of the System are not billed unnecessarily before they are ready to begin using the System. The Exchange is also proposing several technical clarifying amendments to the Fee Schedule as described below.

New users of the System (and existing users of the System that seek to add connectivity) require testing and certification prior to actual use in the production environment. It has been the Exchange’s experience that such users frequently must engage in internal business and technological decision-making and production processes that extend beyond the timing of their application, testing and certification with the Exchange for use of the System in the production environment. In order to ensure that Member and Non-Member users of the System are not assessed fees and billed unnecessarily during this time, the Exchange is proposing the below changes to the Fee Schedule relating to the timing of such assessment and billing.

³ The term “System” means the automated trading system used by the Exchange for the trading of securities. See Exchange Rule 100.

The Exchange proposes to amend Section 3)a) of the Fee Schedule to provide that MIAX will assess a one-time Membership Application Fee on the earlier of (i) the date the applicant is certified in the membership system, or (ii) once an application for MIAX membership is finally denied.

The Exchange also proposes to amend Section 3)b) of the Fee Schedule to provide that Monthly Trading Permit Fees will be assessed with respect to Electronic Exchange Members (“EEMs”)⁴ (other than Clearing Firms) in any month the EEM is certified in the membership system and the EEM is authorized by the Exchange (hereinafter, “credentialed”) to use one or more Financial Information Exchange (“FIX”) Ports⁵ in the production environment. Further, the Exchange proposes that Monthly Trading Permit Fees will be assessed with respect to EEM-Clearing Firms in any month the Clearing Firm is certified in the membership system to clear transactions on the Exchange. Finally, the Exchange proposes that Monthly Trading Permit Fees will be assessed with respect to Market Makers in any month the Market Maker is certified in the membership system, is credentialed to use one or more MIAX Express Interface (“MEI”)⁶ Ports in the production environment and is assigned to quote in one or more classes.⁷

⁴ 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 Exchange Act. See Exchange Rule 100.

⁵ A FIX Port is an interface with MIAX systems that enables the Port user (typically an Electronic Exchange Member or a Market Maker) to submit orders electronically to MIAX.

⁶ MIAX Express Interface is a connection to MIAX systems that enables Market Makers to submit electronic quotes to MIAX.

⁷ 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 on which the Trading Permit was in effect divided by the total number of trading days in that month multiplied by the monthly rate.

The Exchange also proposes to amend Section 4)a) of the Fee Schedule to state that Application Programming Interface (“API”) Testing and Certification Fees for EEMs (other than Clearing Firms) will be assessed (i) initially per API for FIX, FIX Drop Copy (“FXD”)⁸ and Clearing Trade Drop (“CTD”)⁹ in the month the EEM has been credentialed to use one or more ports in the production environment for the tested API,¹⁰ and (ii) each time an EEM initiates a change to its system that requires testing and certification. The Exchange further proposes that API Testing and Certification Fees for EEM-Clearing Firms will be assessed (i) initially per API in the month the EEM-Clearing Firm has been credentialed to use one or more CTD ports in the production environment, and (ii) each time an EEM-Clearing Firm initiates a change to its system that requires testing and certification. The Exchange additionally proposes that API Testing and Certification Fees for Market Makers will be assessed (i) initially per API for CTD and MEI¹¹ in the month the Market Maker has been credentialed to use one or more ports in the production environment for the tested API and the Market Maker has been assigned to quote in one or more classes, and (ii) each time a Market Maker initiates a change to its system that requires testing and certification. Consistent with the current practice, such fees will not be

⁸ The FIX Drop Copy Port is a messaging interface that will provide a copy of real-time trade execution, trade correction and trade cancellation information to FIX Drop Copy Port users who subscribe to the service.

⁹ CTD provides Exchange members with real-time clearing trade updates. The updates include the member’s clearing trade messages on a low latency, real-time basis. The trade messages are routed to a member's 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.

¹⁰ FIX, FXD and CTD are types of APIs.

¹¹ MEI is a type of API.

assessed in situations where the Exchange initiates a change to its System requiring testing and certification by Members of the Exchange. The Exchange is proposing to clarify that the fees will not be assessed when the Exchange-initiated change is mandatory.

The Exchange also proposes to amend Section 4)b) of the Fee Schedule to provide that API Testing and Certification Fees for Third Party Vendors, Service Bureaus and other non-Members will be assessed (i) initially per API for FIX, FXD, CTD and MEI in the month the Non-Member has been credentialed to use one or more ports in the production environment for the tested API, and (ii) each time a Third Party Vendor, Service Bureau, or other non-Member initiates a change to its system that requires testing and certification. The Exchange also proposes that such fees will not be assessed in situations where the Exchange initiates a mandatory change to its System requiring testing and certification by Non-Members of the Exchange.

The Exchange additionally proposes to amend Section 4)c) of the Fee Schedule to provide that Member Network Connectivity Testing and Certification Fees will be assessed (i) initially per connection in the month the Individual Firm has been credentialed to use any API or Market Data feeds in the production environment utilizing the tested network connection, and (ii) each time an Individual Firm initiates a change to its system that requires network connectivity testing and certification. The Exchange also proposes that such fees will not be assessed in situations where the Exchange initiates a mandatory change to its System requiring testing and certification by Members of the Exchange.

The Exchange proposes to amend Section 4)d) of the Fee Schedule to provide that Non-Member Network Connectivity Testing and Certification Fees will be assessed (i) initially per connection in the month the Service Bureau, Extranet Provider or other Non-Member has been

credentialed to use any API or Market Data feeds in the production environment using the tested network connection, and (ii) each time a Service Bureau, Extranet Provider or other non-Member initiates a change to its system that requires network connectivity testing and certification. The Exchange also proposes that such fees will not be assessed in situations where the Exchange initiates a mandatory change to its System requiring testing and certification by Members of the Exchange.

The Exchange proposes to amend Section 5)a) of the Fee Schedule to provide that Monthly Member Network Connectivity Fees for the applicable connectivity will be assessed in any month the Member is credentialed to use any of the MIAX APIs or Market Data feeds in the production environment and will be pro-rated when a Member makes a change to the connectivity (by adding or deleting connections) with such pro-rated fees based on the number of trading days that the Member has been credentialed to use any of the MIAX APIs or Market Data feeds in the production environment through such connection, divided by the total number of trading days in such month multiplied by the applicable monthly rate.

The Exchange proposes to amend Section 5)b) of the Fee Schedule to provide that Monthly Non-Member Network Connectivity Fees for the applicable connectivity will be assessed in each month the Non-Member has been credentialed to use any of the MIAX APIs or Market Data feeds in the production environment and will be pro-rated when a Non-Member makes a change to the connectivity (by adding or deleting connections) with such pro-rated fees based on the number of trading days that the Non-Member has been credentialed to use any of the MIAX APIs or Market Data feeds via the network connection in the production environment through such connection, divided by the total number of trading days in such month multiplied by the applicable monthly rate.

The Exchange proposes to amend Section 5)d)i) of the Fee Schedule to provide that MIAX will assess monthly FIX Port Fees on Members in each month the Member is credentialed to use a FIX Port in the production environment and based upon the number of credentialed FIX Ports.

The Exchange further proposes to amend Section 5)d)ii) of the Fee Schedule to provide that MIAX will assess monthly MEI Port Fees on Market Makers in each month the Member has been credentialed to use the MEI Port in the production environment and has been assigned to quote in at least one class. The amount of the monthly MEI Port Fee will be based upon the number of classes in which the Market Maker was assigned to quote in any given day within the calendar month, and upon the class volume percentages set forth in the MEI Port Fee table in Section 5)d)ii). The class volume percentage is based on the total national average daily volume in classes listed on MIAX in the prior calendar quarter.

The Exchange also proposes to amend Section 5)d)iii) of the Fee Schedule to provide that CTD Port Fees will be assessed in any month the Member is credentialed to use the CTD Port in the production environment.

The Exchange also proposes to amend Section 5)d)iv) of the Fee Schedule to provide that FXD Port Fees will be assessed in any month the Member is credentialed to use the FXD Port in the production environment.

The Exchange proposes to amend Section 5)e) of the Fee Schedule to provide that MIAX Member Participant Identifier (“MPID”) Fees will be assessed in each month the Member is credentialed to use such MPIDs in the production environment.

The Exchange additionally proposes to amend Section 6 of the Fee Schedule to provide that, with respect to each of the Exchange’s data feeds including MIAX Top of Market (“ToM”),

Administrative Information Subscriber (“AIS”) and MIAX Order Feed (“MOR”), MIAX will assess Market Data Fees applicable to such data feed on Internal and External Distributors in each month the Distributor is credentialed to use such data feed in the production environment.

The purpose of the proposed rule change is to provide all users of the Exchange with greater transparency as to when non-transactional fees will be assessed to such users. The Exchange believes that defining the timing in the Fee Schedule will benefit all market participants by assisting them in the decision-making process for the timing of their readiness to use the Exchange’s System. Moreover, establishing in the fee schedule the timing of certain non-transaction fees enhances transparency on the Exchange and lets all market participants know that they will not be assessed such fees until such time as they are credentialed to use and avail themselves of the Exchange’s System.

The Exchange is also proposing minor technical amendments to the Fee Schedule throughout the Fee Schedule (e.g., replacing the term “MM” with the term “Market Maker” and capitalizing the word “Member”) to make consistent defined terms used throughout the Fee Schedule. These changes are intended for clarity and ease of reference.

The proposed rule change will become effective July 1, 2016.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act¹² in general, and furthers the objectives of Sections 6(b)(4) of the Act,¹³ in that it is an equitable allocation of reasonable fees and other charges among Exchange Members and other

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(4).

persons using its facilities, and Section 6(b)(5) of the Act,¹⁴ in that 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, 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 rule change furthers the objectives of Section 6(b)(4) of the Act¹⁵ because it will apply equally to all MIAX participants within the various categories set forth in the proposed rule change. The Exchange further believes that it is equitable and reasonable to amend the Fee Schedule to charge participants for these non-transaction fees only when they are credentialed to use the facilities of the Exchange, and not before that time.

The proposed rule change is consistent with Section 6(b)(5) of the Act,¹⁶ in that it is designed to protect investors and the public interest and to promote just and equitable principles of trade by adding transparency to the Exchange's marketplace and by broadening the description of non-transactional fees to include the timing of assessment of such fees, and by ensuring that these fees will only be assessed on MIAX participants when they are credentialed to use the facilities of 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 that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed changes would increase both intermarket and intramarket competition by defining the timing of non-transactional fee assessments for all users of the

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ 15 U.S.C. 78f(b)(4).

¹⁶ 15 U.S.C. 78f(b)(5).

Exchange, thereby creating greater clarity around the Exchange's assessment of such fees for participants that wish to begin and continue using the Exchange's facilities, and enabling them to assess the competitive nature of the fees. This should benefit all market participants and improve competition on the Exchange.

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 and rebates to remain competitive with other exchanges and to attract order flow to the Exchange. The Exchange believes that the proposal will enhance competition, because market participants will have more clarity surrounding when they will be assessed non-transactional fees and will also understand that they will not be assessed such fees until such time as they are ready to use 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

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; 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 Act¹⁷ and Rule 19b-4(f)(6)¹⁸ thereunder.

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ 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,

A proposed rule change filed under Rule 19b-4(f)(6)¹⁹ normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii),²⁰ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative by July 1, 2016. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to clarify the circumstances that trigger the assessment of fees to, and billing of Member and Non-Member users of the Exchange's System so as to assess existing non-transactional fees only on Member and Non-Member users that are credentialed to use the System. The Commission notes that the Exchange is not proposing any new fees, but is clarifying that the Exchange will only assess certain non-transaction fees when the Member or non-Member user is credentialed to use the Exchange's system. Thus, the proposed rule change which will ensure that users will not be billed until they are ready to begin using the Exchange system. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.²¹

or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁹ 17 CFR 240.19b-4(f)(6).

²⁰ 17 CFR 240.19b-4(f)(6)(iii).

²¹ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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. Please include File Number SR-MIAX-2016-18 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-2016-18. 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 the 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-2016-18, 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.²²

Brent J. Fields
Secretary

²² 17 CFR 200.30-3(a)(12).