

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-85147; File No. SR-MIAX-2018-35)

February 15, 2019

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1, to Amend Exchange Rule 100 (Definitions); Rule 515 (Execution of Orders and Quotes); and Rule 503 (Openings on the Exchange)

I. Introduction

On November 9, 2018, Miami International Securities Exchange, LLC (“Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend Exchange Rules 100 (Definitions), 515 (Execution of Orders and Quotes), and 503 (Openings on the Exchange). The proposed rule change was published for comment in the Federal Register on November 20, 2018.<sup>3</sup> On December 20, 2018, the Commission extended the time period for Commission action on the proposed rule change from January 4, 2019, to February 18, 2019.<sup>4</sup> The Commission received no comments on the proposal.

On February 13, 2019, the Exchange filed Amendment No. 1 to make a clarifying change to the proposal.<sup>5</sup> The Commission is publishing this notice to solicit comment on Amendment

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

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

<sup>3</sup> See Securities Exchange Act Release No. 84589 (Nov. 14, 2018), 83 FR 58633 (“Notice”).

<sup>4</sup> See Securities Exchange Act Release No. 84900 (December 20, 2018), 83 FR 67394 (December 28, 2018).

<sup>5</sup> In Amendment No. 1, the Exchange modified its proposal to clarify that the term “Proprietary Product” refers to an options product that is listed exclusively on the Exchange, and is not multiply listed. The full text of Amendment No. 1 has been placed

No. 1, and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposal, as Modified by Amendment No. 1

As more fully set forth in the Notice and Amendment No. 1, the Exchange proposes to amend its rules to address how price protection will apply to non-multi listed option products that are proprietary to the Exchange. More specifically, the Exchange proposes to amend (i) Exchange Rule 100 (Definitions), to adopt definitions for the terms “Proprietary Product” and “Non-Proprietary Product;” (ii) Exchange Rule 515 (Execution of Orders and Quotes), to specify how the Exchange will provide price protection to eligible non-Market Orders for Proprietary Products; and (iii) Exchange Rule 503 (Openings on the Exchange), to specify how certain orders for Proprietary Products will be handled at the conclusion of the Opening Process.

The Exchange proposes to amend Exchange Rule 100 (Definitions), to adopt definitions for the terms “Proprietary Product” and “Non-Proprietary Product,” to provide clarity and ease of reference in Exchange rules.<sup>6</sup> The proposed definition of a Proprietary Product is “a class of options that is listed exclusively on the Exchange,” and the proposed definition of a Non-Proprietary Product is “a class of options that is not a Proprietary Product.”<sup>7</sup>

The Exchange further proposes to amend Exchange Rule 515 (Execution of Orders and Quotes). Currently, Rule 515(c)(1) describes a price protection process for certain non-Market

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in the public comment file for SR-MIAX-2018-35 and is available at:  
<https://www.sec.gov/rules/sro/miax.htm#SR-MIAX-2018-35>.

<sup>6</sup> See Notice, supra note 3, at 58634.

<sup>7</sup> See proposed Exchange Rule 100 and supra note 5.

Maker orders received during a trading session.<sup>8</sup> This price protection process prevents certain orders from being executed beyond the price designated in the order’s price protection instructions (the “price protection limit”). When triggered, this price protection process will cancel an order or the remaining contracts of an order. The Exchange proposes to amend the heading of Rule 515(c)(1) to read “Price Protection on Non-Market Maker Orders in Non-Proprietary Products,”<sup>9</sup> and add new subsection (c)(2) to Exchange Rule 515 to address and distinguish how price protection would apply to Proprietary Products.

Proposed Exchange Rule 515(c)(2) would establish a price protection process for eligible non-Market Maker orders in Proprietary Products received during a regular trading session that are larger than, and priced through, the opposite side NBBO.<sup>10</sup> The proposed price protection process provides for exposure of such orders and a limited time (i.e., a liquidity exposure period or “LEP”) during which market participants may respond to provide liquidity, subject to certain parameters, in lieu of the Exchange canceling the order back to the Member. The price protection limit for applicable orders in Proprietary Products will be calculated by the System<sup>11</sup> as follows: by adding (subtracting) a set number of MPVs<sup>12</sup> if the order is a buy (sell) to: (i) the

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<sup>8</sup> See Exchange Rule 515(c)(1). This price protection process does not apply to Intermarket Sweep Orders (“ISO”), Immediate or Cancel (“IOC”) orders, or Fill-or-Kill (“FOK”) orders.

<sup>9</sup> See Notice, supra note 3, at 58634.

<sup>10</sup> The term “NBBO” means the national best bid or offer as calculated by the Exchange based on market information received by the Exchange from OPRA. See Exchange Rule 100. The proposed new price protection process would apply to non-Market Maker orders in Proprietary Products, excluding ISOs and Auction or Cancel orders. See Notice, supra note 3, at 58634.

<sup>11</sup> The term “System” means the automated trading system used by the Exchange for the trading of securities. See Exchange Rule 100.

opposite side NBBO, or (ii) the previous price protection limit,<sup>13</sup> or (iii) in certain circumstances, the limit price of same side joining interest after the expiration of the liquidity exposure process timer.<sup>14</sup>

The proposed LEP applies to over-sized non-Market Maker eligible orders in Proprietary Products. More specifically, interest that would be posted or managed, or that would trade at a price more aggressive than the order's protected price (also referred to as the "Book price") will be subject to the LEP. To begin the LEP, the System will broadcast a liquidity exposure message to all subscribers of the Exchange's data feeds which will include the symbol, side of the market, quantity of matched contracts, the imbalance quantity, "must fill" quantity, and price. Additionally, the System will start an LEP timer, not to exceed three seconds, as determined by the Exchange and announced via Regulatory Circular. All market participants may respond to the liquidity exposure broadcast message. The System will evaluate interest received during the LEP based on price and the side of the market relative to the side of the market of the initiating order.

During the LEP, if the Exchange receives interest on the opposite side of the market from the initiating order that locks or crosses the Book price of the interest subject to the LEP, the interest will trade, with resting liquidity executed prior to joining liquidity. During the LEP, if the Exchange receives interest on the same side of the market as the initiating order that is priced more aggressively than the Book price of the interest subject to the LEP that also locks or crosses

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<sup>12</sup> The term "MPV" means Minimum Price Variation. See Exchange Rule 510. The number of MPVs will be determined by the Exchange and announced to Members through a Regulatory Circular, provided that the minimum shall be no less than two MPVs and the maximum shall be no more than twenty MPVs. See proposed Exchange Rule 515(c)(2).

<sup>13</sup> See proposed Exchange Rule 515(c)(2)(i)(iv).

<sup>14</sup> See proposed Exchange Rule 515(c)(2)(i)(v).

the opposite side NBBO, the System will immediately terminate the timer and treat the new interest as joining liquidity for allocation purposes.

Proposed Exchange Rule 515(c)(2)(i)(B) provides that at the end of the timer, the initiating order, resting liquidity, and any same side joining interest will (i) be handled in accordance to Exchange Rule 515, Execution of Orders and Quotes, or (ii) trade against opposite side interest in the following sequence: resting interest will be filled first, followed by joining interest in the order it was received; and opposite side interest will be allocated in accordance with the Exchange's standard allocation, as described in Exchange Rule 514, Priority of Quotes and Orders.

The Exchange also proposes to amend subsection (f)(2)(vii)(B)(5) of Exchange Rule 503 (Openings on the Exchange), which currently provides that if there is an opening transaction, any unexecuted contracts from the imbalance not traded or routed will be cancelled back to the entering Member if the price for those contracts crosses the opening price, unless the Member that submitted the original order has instructed the Exchange in writing to re-enter the remaining size, in which case the remaining size will be automatically submitted as a new order. The Exchange proposes to amend the rule to adopt a new provision to state that unexecuted contracts that are from a non-Market Maker order in a Proprietary Product will be placed on the Book with a protected price equal to the opening price, and the LEP will begin immediately after the Opening Process is complete.

### III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with Section 6(b) of the

Act.<sup>15</sup> In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,<sup>16</sup> which requires, among other things, that the rules of a national securities exchange be 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that adopting definitions for the terms Proprietary Product and Non-Proprietary Product on the Exchange adds additional detail and promotes transparency and clarity in the Exchange's rules. The proposed definitions allow the Exchange to distinguish between two separate and distinct classes of options listed on the Exchange and to describe rules that may be applicable to one class and not the other.

As described above, the Exchange proposes a new price protection and order handling mechanism for Proprietary Products that is similar to drill-through protection currently offered by other exchanges, and offers an opportunity for an investor's order in a Proprietary Product to be filled rather than cancelled.<sup>17</sup> The Commission believes that the proposed price protection and liquidity exposure process for eligible non-Market Maker orders in Proprietary Products is reasonably designed to facilitate the execution of orders larger than and priced-through the opposite side NBBO, as it offers a mechanism to seek and potentially provide liquidity to a

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<sup>15</sup> 15 U.S.C. 78f(b). In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>16</sup> 15 U.S.C. 78f(b)(5).

<sup>17</sup> See Notice, supra note 3, at 58636.

Member, subject to specified parameters, in lieu of canceling back an order for which there are no other venues to seek an execution.

In addition, the Exchange proposes that if there are unexecuted contracts from an eligible non-Market Maker order in a Proprietary Product at the conclusion of the Opening Process, the remaining contracts will be placed on the Book with a protected price equal to the opening price, and the LEP will begin immediately after the Opening Process is complete. The Commission believes that this aspect of the proposal similarly provides an additional opportunity for price discovery and a mechanism by which an investor's order in a Proprietary Product may ultimately be filled.

For the foregoing reasons, the Commission finds the proposal, as modified by Amendment No. 1, to be consistent with the Act.

#### IV. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 1 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-2018-35 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-2018-35. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MIAX-2018-35, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 1 in the Federal Register. In Amendment No. 1, the Exchange modified its proposal to specify that the term "Proprietary Product" refers to an options product that is listed exclusively on the Exchange. The Commission notes that Amendment No. 1 does not otherwise modify the proposed rule change, which was subject to a full notice-and-comment period during

which no comments were received. Amendment No. 1 narrows the scope of the original proposal by limiting the extent of products that may meet the Exchange’s proposed definition of “Proprietary Product,” and harmonizes the definition with the rationale for the proposal, which is to provide price protection for products that do not trade on other execution venues.

Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>18</sup> to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

VI. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>19</sup> that the proposed rule change (SR-MIAX-2018-35), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

Eduardo A. Aleman  
Deputy Secretary

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<sup>18</sup> 15 U.S.C. 78s(b)(2).

<sup>19</sup> 15 U.S.C. 78s(b)(2).

<sup>20</sup> 17 CFR 200.30-3(a)(12).