

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-69710; File No. SR-MIAX-2013-26)

June 6, 2013

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the MIAX Fee Schedule

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> notice is hereby given that on May 30, 2013, Miami International Securities Exchange LLC (“MIAX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and 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 its 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to waive all transaction fees in Section 1(a)(i) of the MIAX Options Fee Schedule that apply to Market Makers<sup>3</sup> registered on the Exchange for the period beginning June 3, 2013 and ending July 31, 2013.<sup>4</sup> Specifically, during this period, the Exchange will waive the following transaction fees: (i) RMMs \$0.23 per contract for standard options or \$0.023 for Mini Options; (ii) LMMs \$0.20 per contract for standard options or \$0.020 for Mini Options; (iii) DLMMs and PLMMs \$0.18 per contract for standard options or \$0.018 for Mini Options; and (iv) DPLMMs \$0.16 per contract for standard options or \$0.016 for Mini Options.<sup>5</sup>

The proposed fee waiver is designed to both enhance the Exchange's competitiveness with other option exchanges and strengthen its market quality. The Exchange believes that the

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<sup>3</sup> Market Makers may be registered as a Lead Market Maker or as a Registered Market Maker. See Exchange Rule 600(b). Market Makers registered on the Exchange for purposes of the transaction fee waiver and Section 1(a)(i) of the Fee Schedule include: (i) Registered Market Maker ("RMM"); (ii) Lead Market Maker ("LMM"); (iii) Directed Order Lead Market Maker ("DLMM"); (iv) Primary Lead Market Maker ("PLMM"); and Directed Order Primary Lead Market Maker ("DPLMM"). See MIAX Options Fee Schedule, Section 1(a)(i) – Market Maker Transaction Fees.

<sup>4</sup> The fee waiver will only apply to Market Maker transaction fees in Section 1(a)(i) of the MIAX Options Fee Schedule. See MIAX Options Fee Schedule, Section 1(a)(i) – Market Maker Transaction Fees. The Exchange notes that the proposal will have no effect on other fees and dues that may apply to Market Makers including marketing fees, Options Regulatory Fees, market data, and membership application fees. At the end of the period, Market Maker Transaction Fees will return to the prior fee rates unless the Exchange files another 19b-4 Rule Filing to amend its fees.

<sup>5</sup> See MIAX Options Fee Schedule, Section 1(a)(i) – Market Maker Transaction Fees.

proposed change would increase both intermarket and intramarket competition by incenting market participants and market makers on other exchanges to register as Market Makers on the Exchange. In addition, the Exchange believes that waiving transaction fees for Market Makers registered on the Exchange will promote tighter bid-ask spreads by Market Makers, and increase the volume of transactions in order to allow the Exchange to compete more effectively with other options exchanges for such transactions.

The Exchange notes that, while the proposal is not based on that of another exchange, that fee waivers are often used by exchanges to increase their competitiveness.<sup>6</sup>

The proposed rule change will take effect on June 3, 2013.

#### Technical Change

In addition to the changes above, the Exchange proposes a technical change to the Fee Schedule to delete an obsolete date. Specifically, the Exchange proposes to delete the language “Effective April 17, 2013” from the heading in Section 1 of the Fee Schedule. The Exchange believes that including this date in the Fee Schedule in this location is unnecessary going forward.

#### 2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with Section 6(b) of the Act<sup>7</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>8</sup> in

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<sup>6</sup> See e.g., Securities Exchange Act Release Nos. 66427 (February 21, 2012), 77 FR 11608 (February 27, 2012) (SR-BATS-2012-011); 65007 (August 2, 2011), 76 FR 48190 (August 8, 2011) (SR-CBOE-2011-071); 56862 (November 29, 2007), 72 FR 68918 (December 6, 2007) (SR-CBOE-2007-135); 55833 (May 31, 2007), 72 FR 31358 (June 6, 2007) (SR-ISE-2007-28).

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

<sup>8</sup> 15 U.S.C. 78f(b)(4).

particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange believes that the proposed fee waiver is fair, equitable and not unreasonably discriminatory. The proposed fee waiver is reasonable because it waives transaction fees for a limited period in order to enable the Exchange to improve its overall competitiveness and strengthen its market quality for all market participants. The proposed fee waiver is fair and equitable and not unreasonably discriminatory because it will apply equally to all Market Makers. All similarly situated Market Makers are subject to the same fee waiver, and access to the Exchange is offered on terms that are not unfairly discriminatory. The registration as an Exchange Market Maker is equally available to all market participants and Electronic Exchange Members (“EEMs”) that satisfy the requirements of Rule 600. Any market participant may choose to satisfy the additional requirements and obligations of being a Market Maker in order to qualify for the transaction fee waiver.

The proposal to waive the transaction fees for Market Makers, and no other market participants, is equitable and not unfairly discriminatory because Market Makers on the Exchange have enhanced quoting obligations measured in both quantity (% time) and quality (minimum bid-ask differentials) that other market participants do not have.<sup>9</sup> The proposal is reasonably designed to enhance the quality of quoting and volume transactions by limiting the proposal to those market participants that have these enhanced obligations to deliver quality markets. Waiving fees during this period should incent market participants and market makers on other exchanges to register as Market Makers on the Exchange, which will enhance the quality of quoting and increase the volume of contracts traded here. To the extent that this

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<sup>9</sup> See MIAX Rules 603, 604, 605.

purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the anticipated increase in Market Maker activity on the Exchange will benefit all market participants and improve competition on the Exchange.

The Exchange believes that an increase in the number of Market Makers, and an increase in the execution volume from Market Makers, will result in increased revenue from other fees and dues that may apply to Market Makers that may potentially offset a portion of the fee waiver.<sup>10</sup> While the Exchange believes that an increase in the number of Market Makers, and an increase in the execution volume from Market Makers, may potentially result in increased trading activity of other market participants, the Exchange does not believe that the fee waiver will result in other market participants subsidizing the activity of Market Makers during the fee waiver period since the Exchange is not proposing any changes to increase the existing fees of other market participants in order to compensate for the temporary transaction fee waiver.

**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 believes that proposed change would increase both intermarket and intramarket competition by incenting market participants and market makers on other exchanges to register as Market Makers on the Exchange, which will enhance the quality of quoting and increase the volume of contracts traded here. To the extent that there is addition [sic] competitive burden on non-Market Makers, the Exchange believes that this is appropriate because Market Markers

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<sup>10</sup> The Exchange notes that the proposal will have no effect on other fees and dues that may apply to Market Makers including marketing fees, Options Regulatory Fees, market data, and membership application fees.

registered on the Exchange have enhanced quoting obligations measured in both quantity (% time) and quality (minimum bid-ask differentials) that other market participants do not have. Waiving fees during this period should incent market participants and market makers on other exchanges to register as Market Makers on the Exchange, which will enhance the quality of quoting and increase the volume of contracts traded here. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the anticipated increase in Market Maker activity on the Exchange will 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 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 reduces the Exchange's fees in a manner that encourages market participants to register as Market Makers, to provide liquidity, and to attract order flow to the Exchange. Given the robust competition for volume among options markets, many of which offer the same products, implementing a fee waiver program to attract Market Maker volume like the one being proposed in this filing is consistent with the above-mentioned goals of the Act. This is especially true for the smaller options markets, such as MIAX, which is competing for volume with much larger exchanges that dominate the options trading industry. As a new exchange, MIAX has a nominal percentage of the average daily trading volume in options, so it is unlikely that the fee waiver could cause any competitive harm to the options market or to market participants. Rather, the fee waiver is a modest attempt by a small options

market to attract order volume away from larger competitors by adopting an innovative pricing strategy. The Exchange notes that if the fee waiver resulted in a modest percentage increase in the average daily trading volume in options executing on MIAX, while such percentage would represent a large volume increase for MIAX, it would represent a minimal reduction in volume of its larger competitors in the industry. The Exchange believes that the proposal will help further competition, because market participants will have yet another additional option in determining where to execute orders and post liquidity if they factor the benefits of Market Maker transaction fees into the determination.

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 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:

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<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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 No. SR-MIAX-2013-26 on the subject line.

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 No. SR-MIAX-2013-26. 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 No. SR-MIAX-2013-26 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).