



SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-69997; File No. SR-MIAX-2013-33)

July 17, 2013

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Exchange Rules 521 and 530 Regarding Its Obvious Error Rules

Pursuant to 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 July 3, 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 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 Exchange Rules 521 and 530.

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 purpose of the proposed rule change is to amend Rule 521 to (i) provide that opening purchase transactions that occur when the Exchange has prohibited, restricted or limited such opening purchase transactions are subject to nullification and (ii) allow the Exchange to review transactions that are believed to be erroneous on motion of the Exchange. Additionally, the Exchange proposes mirroring the proposed amendments to Rule 521 in section (j) of Rule 530. The Exchange recently adopted section (j) of Rule 530 to provide how the Exchange handles erroneous options transactions in response to the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS.³ As the Exchange developed Rule 530(j) off the basis of Rule 521, the Exchange believes it appropriate to make the corresponding amendments to Rule 530 as proposed in Rule 521. Lastly, the Exchange proposes a technical change to Rule 530(j)(1)(i) to cite to the correct notification provisions of Rule 530(j).

The proposed change is substantially similar to other exchanges – such as Chicago Board Options Exchange (“CBOE”) for the nullification of prohibited opening transactions and Nasdaq Options Market (“NOM”), NYSE Arca, Inc. (“NYSE Arca”), NYSE MKT LLC (“NYSE MKT”), and NASDAQ OMX PHLX (“PHLX”) for review of erroneous transactions on motion of the Exchange.⁴

³ See Securities Exchange Act Release No. 69342 (April 8, 2013), 78 FR 22017 (April 12, 2013)(SR-MIAX-2013-12).

⁴ See Securities Exchange Act Release No. 61576 (February 23, 2010), 75 FR 9990 (March 4, 2010) (SR-NASDAQ-2010-022). See also CBOE Rule 6.25(a)(6); NOM

Nullifying Prohibited Opening Transactions

The Exchange proposes to add a provision to both Rule 521 and 530(j) allowing for the nullification of opening purchase transactions in option classes or series subject to a prohibition, restriction or limitation on the creation and increase in long positions. Pursuant to Rule 403(a) the Exchange may determine to prohibit opening purchase transactions if, for example, the security underlying an option fails to meet the standards for continued listing and trading on the Exchange, or an option series is listed on the Exchange in violation of the provisions of Rule 404 and such series are unable to be immediately delisted. Such prohibitions curtail the creation and increase in long positions in the option class or series. The proposed rule change would provide the Exchange the ability to nullify any opening transaction prohibited pursuant to Rule 403. Thus, for example in the event that the Exchange withdraws approval for an underlying security previously approved by the Exchange for options transactions pursuant to Rule 403, the Exchange may prohibit any opening purchase transaction in series of options of that class previously listed and traded. Currently, a Member who violates the prohibition on opening purchase transactions can be pursued for such a violation through an appropriate regulatory action. However, there is no rule mechanism in the Rules by which to nullify the trade created by the prohibited opening transaction – thus a violator of the Exchange mandated prohibition, even after being subject to a regulatory action, could nonetheless benefit from the violation by keeping the prohibited opening position.

The Exchange believes that the ability to nullify trades resulting in prohibited opening transactions would eliminate any possible windfall from violating Exchange mandated prohibitions and thus strengthen the Exchange's regulatory program. The proposed rule change

Rules Chapter V Section 6(d)(i); NYSE Arca Rule 6.87(b)(3); NYSE MKT Rule 975NY.(b)(3); and PHLX Rule 1092(e)(i)(B).

would provide the Exchange with an additional regulatory tool to promote compliance with Exchange Rules and the maintenance of a fair and orderly marketplace. Lastly, the Exchange notes that the ability to nullify prohibited opening transactions currently exists at CBOE.⁵

Reviewing Trades on Exchange Motion

The Exchange proposes to adopt a provision which provides that in the interest of maintaining a fair and orderly market and for the protection of investors, the Chief Regulatory Officer of MIAX or his/her designee who is an officer (collectively “Exchange Officer”), may, on his or her own motion or upon request, determine to review any transaction occurring on the Exchange that is believed to be erroneous.⁶ A transaction reviewed pursuant to this provision may be nullified or adjusted only if it is determined by the Exchange Officer that the transaction is erroneous as provided in Rule 521 or 530(j). A transaction would be adjusted or nullified, or just nullified if reviewed under 530(j), in accordance with the provision under which it is deemed an erroneous transaction. The Exchange Officer may be assisted by an Exchange Official that is trained in the application of this Rule for reviewing a transaction(s).

As proposed, the Exchange Officer shall act pursuant to this paragraph as soon as possible after receiving notification of the transaction, and ordinarily would be expected to act on the same day as the transaction occurred. However, because a transaction under review may have occurred near the close of trading or due to unusual circumstances, the proposed Rule provides that the Exchange Officer shall act no later than 9:30 a.m. (ET) on the next trading day following the date of the transaction in question. A party affected by a determination to nullify or adjust a transaction pursuant to this provision may appeal such determination in accordance

⁵ See CBOE Rule 6.25(a)(6).

⁶ In the event a party to a transaction requests that the Exchange review a transaction, the Exchange Officer nonetheless would need to determine, on his or her own motion, whether to review the transaction.

with Rule 521 or 530(j); however, a determination by an Exchange Officer not to review a transaction, or a determination not to nullify or adjust a transaction for which a review was requested or conducted, is not appealable. The Exchange believes it is appropriate to limit review on appeal to only those situations in which a transaction is actually nullified or adjusted.

This provision is not intended to replace a party's obligation to request a review, within the required time periods under Rules 521 and 530(j) of any transaction that it believes meets the criteria for an obvious error. And, if a transaction is reviewed and a determination has been rendered pursuant to Rule 521 no additional relief may be granted under this new provision. Moreover, the Exchange does not anticipate exercising this new authority in every situation in which a party fails to make a timely request for review of this transaction pursuant to Rule 521 or 530(j). The Exchange believes this provision should help to protect the integrity of its marketplace by vesting an Exchange Officer with the authority to review a transaction that may be erroneous, in those situations where a party failed to make a timely request for a review.

The Exchange believes that the provision would also be useful in situations where some parties, but not all, to trades around the same time have requested a review. Under the Rule, reviews are currently request-based. Under the proposal, in this situation, the Exchange would be able to invoke this provision to review a series of trades, whether or not all parties requested it.

Lastly, the Exchange notes that the ability to review erroneous transactions on motion of the Exchange currently exists at NOM, NYSE Arca, NYSE MKT, and PHLX.⁷

⁷ See NOM Rules Chapter V Section 6(d)(i); NYSE Arca Rule 6.87(b)(3); NYSE MKT Rule 975NY.(b)(3); and PHLX Rule 1092(e)(i)(B).

Technical Correction to Rule 530(j)(1)(i)

Rule 530(j)(1)(i) provides that any review pursuant to Rule 530(j) occur within the time frame provided by the Rule. However, the Rule currently incorrectly cites to a nonexistent provision – Rule 530(j)(5)(i). The Exchange proposes correcting the Rule citation so that the time frame contained in proposed Rule 530(j)(2)(i)(A) is properly cited instead.

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act⁸ in general, and furthers the objectives of Section 6(b)(5) of the Act⁹ in particular, 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 addition regarding the nullification of opening transactions in options classes or series in which the Exchange has prohibited opening transactions promotes just and equitable principles of trade by allowing for the nullification of opening transactions in options overlying securities for which the Exchange has withdrawn options trading eligibility. The nullification of such opening transactions eliminates the possibility of unjust enrichment on the part of one participant in the transaction at the expense of the contra party, all to the benefit of the marketplace as a whole. Additionally, the proposed rule change would provide the Exchange

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

with an additional regulatory tool to promote compliance with Exchange Rules and the maintenance of a fair and orderly marketplace.

Proposed Rule 521(e)(1)(ii), which would allow an Exchange Officer to adjust or nullify a transaction on his or her motion in the interest of maintaining a fair and orderly market, protects investors and the public interest by authorizing such Exchange Officer to take affirmative action when a transaction appears erroneous. Investors and the public would have assurances that an Exchange Officer may nullify their erroneous transaction without their own notification. This extra layer of protection in Rule 521 would benefit options investors on the Exchange and the marketplace in general. Additionally, a transaction reviewed pursuant to this proposal may be nullified or adjusted only if it is determined by the Exchange Officer that the transaction is erroneous as provided in Rule 521 or 530(j).

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. Specifically, the Exchange believes the proposed changes will not impose any burden on intra-market competition because it applies to all MIAX participants equally. In addition, the Exchange does not believe the proposal will impose any burden on inter-market competition as the proposal is intended to protect investors by adopting an additional safeguard that is available on several competing exchanges. The Exchange notes the proposed changes to its Rules 521 and 530 do not go outside of the scope of the rules of other competing options exchanges. Additionally, consistency among the national securities exchanges regarding the handling of obvious errors reduces the possibility of any regulatory arbitrage on the part of a market participant seeking a forum with a lower regulatory requirement.

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 Act¹⁰ and Rule 19b-4(f)(6)¹¹ 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:

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 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.

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 No. SR-MIAX-2013-33 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-2013-33. 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-2013-33 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.¹²

Kevin M. O'Neill
Deputy Secretary

[FR Doc. 2013-17595 Filed 07/22/2013 at 8:45 am; Publication Date: 07/23/2013]

¹² 17 CFR 200.30-3(a)(12).