



8011-01p

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71490; File No. SR-MIAX-2014-04]

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

February 5, 2014.

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 January 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 Substance of the Proposed Rule Change

The Exchange is filing a proposal to modify the Market Maker Trading Permit Fee.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify its Market Maker Trading Permit fee to increase the monthly Trading Permit fee that applies to Registered Market Makers (“RMMs”). Specifically, the Exchange proposes to increase the monthly Trading Permit fee that applies to RMMs by \$1,000, so that it is the same as fees that currently apply to Primary Lead Market Makers (“PLMMs”) and Lead Market Makers (“LMMs”).

The Exchange issues Trading Permits that confer the ability to transact on the Exchange.³ The Exchange assesses monthly fees for Trading Permits depending upon the category of Member that is issued a particular trading permit.⁴ EEMs are assessed a monthly fee of \$1,000 for a Trading Permit. Registered Market Makers (“RMMs”) are assessed \$3,000.00 per month for a Trading Permit for an RMM assignment in up to 100 option classes, \$4,500.00 per month for a Trading Permit for an RMM assignment in up to 250 option classes, or \$6,000.00 per

³ There is no limit on the number of Trading Permits that may be issued by the Exchange; however the Exchange has the authority to limit or decrease the number of Trading Permits it has determined to issue provided it complies with the provisions set forth in Rule 200(a) and Section 6(c)(4) of the Exchange Act. See 15 U.S.C. 78f(c)(4). For a complete description of MIAX Trading Permits, see MIAX Rule 200.

⁴ The monthly Trading Permit Fee is in addition to the one-time application fee for MIAX Membership. The Exchange charges a one-time application fee based upon the applicant’s status as either an Electronic Exchange Member (“EEM”) or as a Market Maker. Applicants for MIAX Membership as an EEM are assessed a one-time Application Fee of \$2,500.00. Applicants for MIAX Membership as a Market Maker are assessed a one-time Application Fee of \$3,000.00. The difference in the fee charged to EEMs and Market Makers reflects the additional review and processing effort needed for Market Maker applications.

month for a Trading Permit for an RMM assignment in all option classes listed on MIAX.⁵

Primary Lead Market Makers (“PLMMs”) and Lead Market Makers (“LMMs”) are assessed the same monthly Trading Permit fees applicable to RMMs described above plus \$1,000.00 per month. Thus, an LMM or PLMM are [sic] be assessed \$4,000.00 per month for a Trading Permit for an LMM or PLMM assignment in up to 100 option classes, \$5,500.00 per month for a Trading Permit for an LMM or PLMM assignment in up to 250 option classes, or \$7,000.00 per month for a Trading Permit for an LMM or PLMM assignment in all option classes listed on MIAX.

The Exchange proposes to increase the monthly Trading Permit fee that applies to RMMs by \$1,000, so that it is the same as fees that currently apply to PLMMs and LMMs. All Market Makers, whether they are a RMM, LMM or PLMM, will be assessed \$4,000.00 per month for a Trading Permit for an assignment in up to 100 option classes, \$5,500.00 per month for a Trading Permit for an assignment in up to 250 option classes, or \$7,000.00 per month for a Trading Permit for an assignment in all option classes listed on the Exchange. The Exchange notes that few Market Makers have registered as RMMs, irrespective of the slightly lower monthly fee. As such, the Exchange believes that it is unnecessary to continue to charge a different Trading Permit fee to RMMs versus LMMs and PLMMs. The Exchange believes that the change will result in a less discriminatory fee structure for Market Maker Trading Permits, pursuant to which all Market Makers will be treated the same based on the number of assignments.

The Exchange notes that the monthly Trading Permit fees are generally lower than monthly trading permit fees in place at CBOE and the NASDAQ OMX PHLX LLC (“PHLX”).

⁵ For the calculation of the monthly RMM Trading Permit Fees, the number of classes is defined as the greatest number of classes the RMM was assigned to quote in on any given day within the calendar month.

The \$1,000 monthly Trading Permit fee assessed to EEMs is lower than the CBOE's monthly electronic access trading permit fee (\$1,600) and the PHLX's monthly permit fee for members (\$2,150). The Monthly Trading Permit Fees assessed to MIAX Market Makers is readily comparable to and lower than the monthly fees in place at PHLX for Remote Streaming Quote Traders (\$5,000 per month for less than 100 classes, \$8,000 per month for more than 100 classes and less than 999 classes, and \$11,000 per month for 1,000 or more classes).

Members receiving Trading Permits during the month will be assessed Trading Permit Fees according to the above schedule, except that 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 occurring after the date on which the Trading Permit was in effect during that first month divided by the total number of trading days in such month multiplied by the monthly rate.

The Exchange proposes to implement the Trading Permit fees beginning February 1, 2014.

2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with Section 6(b) of the Act⁶ in general, and furthers the objectives of Section 6(b)(4) of the Act⁷ in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange believes that the proposed Trading Permit fee is reasonable, equitable and not unfairly discriminatory. The Exchange notes that the Trading Permit fees are lower than comparable fees at other exchanges as described in the Purpose section above. As such, the proposal is reasonably designed because it will incent market participants to register as Market

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4).

Makers on the Exchange in a manner that enables the Exchange to improve its overall competitiveness and strengthen its market quality for all market participants. The proposed fee is fair and equitable and not unreasonably discriminatory because it will enable the Trading Permit fee to apply equally to all Market Makers regardless of type. All similarly situated Market Makers, with the same number of assignments, will be subject to the same Trading Permit fee, and access to the Exchange is offered on terms that are not unfairly discriminatory.

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 the proposal increases both intermarket and intramarket competition by marginally increasing Trading Permit fees for Market Makers on the Exchange in a manner that allows all Market Makers to be subject to the same fee based on the number of assignments regardless of type and yet still be lower than comparable fees on other exchanges. 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 to the Exchange. The Exchange believes that the proposal reflects this competitive environment because it increases the Exchange's fees in a manner that continues to encourage market participants to register as Market Makers on the Exchange, to provide liquidity, and to attract order flow. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity.

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.⁸ 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-2014-04 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.

⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

All submissions should refer to File Number SR-MIAX-2014-04. 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 publicly available.

All submissions should refer to File Number SR-MIAX-2014-04 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.⁹

Kevin M. O'Neill,
Deputy Secretary.

⁹ 17 CFR 200.30-3(a)(12).

[FR Doc. 2014-02878 Filed 02/10/2014 at 8:45 am; Publication Date: 02/11/2014]