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SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-74856; File No. SR-MIAX-2015-31)

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

May 1, 2015

Pursuant to the provisions of 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 April 29, 2015, 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](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

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

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

in 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 the monthly Trading Permit fees that apply to Market Makers ("MMs"). Specifically, the Exchange proposes to adopt the following fees: (i) \$7,000 for MM Assignments in up to 10 option classes or up to 20% of option classes by volume; (ii) \$12,000 for MM Assignments in up to 40 option classes or up to 35% of option classes by volume; (iii) \$17,000 for MM Assignments in up to 100 option classes or up to 50% of option classes by volume; and (iv) \$22,000.00 for MM Assignments in over 100 option classes or over 50% of option classes up to all option classes listed on MIAX.

The Exchange issues Trading Permits that confer the ability to transact on the Exchange.<sup>3</sup> Currently, all MMs, whether they are a RMM, LMM or PLMM, are assessed \$15,000 per month for a Trading Permit for an assignment in up to 250 option classes, or \$22,000 per month for a Trading Permit for an assignment in over 250 option classes up to all option classes listed on the Exchange.<sup>4</sup> The Exchange notes that the current monthly Trading Permit fees are within the

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<sup>3</sup> 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. 78(f)(c)(4). For a complete description of MIAX Trading Permits, see MIAX Rule 200.

<sup>4</sup> 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

range of competing options exchanges.<sup>5</sup> The MM permit fee for up to 250 classes is higher than that of NYSE Arca Options.<sup>6</sup> The MM permit fee for all options classes on the exchange is lower than NYSE Amex Options, however it is higher than the fee charged by NYSE Arca Options. The Exchange established the current rates to more closely align with the rates charged by competing options exchanges. Now, the Exchange proposes to modify its Trading Permit fee for MMs to establish the ability for MMs to qualify for lower rates in order to encourage additional market participants to become Members of the Exchange and register as MIAX Market Makers.

The Exchange proposes to modify its Trading Permit fees that apply to MMs. Specifically, the Exchange proposes to adopt the following fees: (i) \$7,000 for MM Assignments in up to 10 option classes or up to 20% of option classes by volume; (ii) \$12,000 for MM Assignments in up to 40 option classes or up to 35% of option classes by volume; (iii) \$17,000 for MM Assignments in up to 100 option classes or up to 50% of option classes by volume; and (iv) \$22,000.00 for MM Assignments in over 100 option classes or over 50% of option classes by volume up to all option classes listed on MIAX. For the calculation of the monthly Trading Permit Fees that apply to MMs, the number of classes is defined as the greatest number of classes the MM was assigned to quote in on any given day within the calendar month

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EEMs and Market Makers reflects the additional review and processing effort needed for Market Maker applications.

<sup>5</sup> See e.g., NYSE Arca Options Fees and Charges, p.1 (assessing market makers \$6,000 for up to 100 option issues, an additional \$5,000 for up to 250 option issues, an additional \$4,000 for up to 750 option issues, and an additional \$3,000 for all option issues on the exchange); NYSE Amex Options Fee Schedule, p. 19 (assessing market makers \$8,000 for up to 60 plus the bottom 45%, an additional \$6,000 for up to 150 plus the bottom 45%, an additional \$5,000 for up to 500 plus the bottom 45%, and additional \$4,000 for up to 1,100 plus the bottom 45%, and an additional \$3,000 for all issues traded on the exchange; plus an addition fee for premium products).

<sup>6</sup> See supra note 5.

and the class volume percentage is based on the total national average daily volume in classes listed on MIAX in the prior calendar quarter.<sup>7</sup> Newly listed option classes are excluded from the calculation of the monthly MM Trading Permit Fee until the calendar quarter following their listing, at which time the newly listed option classes will be included in both the per class count and the percentage of total national average daily volume. The Exchange will assess MMs the monthly Trading Permit Fee based on the greatest number of classes listed on MIAX that the MM was assigned to quote in on any given day within a calendar month and the applicable fee rate that is the lesser of either the per class basis or percentage of total national average daily volume measurement. For example, if MM1 elects to quote the top 40 option classes which consist of 58% of the total national average daily volume in the prior quarter, the Exchange would assess \$12,000 to MM1 for the month which is the lesser of ‘up to 40 classes’ and ‘above 50% of classes by volume up to all classes listed on MIAX’. If MM2 elects to quote the bottom 1000 option classes which consist of 10% of the total national average daily volume in the prior quarter, the Exchange would assess \$7,000 to MM2 for the month which is the lesser of ‘above 100 classes’ and ‘up to 20% of classes by volume’.

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.

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<sup>7</sup> The Exchange will use the following formula to calculate the percentage of total national average daily volume that the MM assignment is for purposes of the MM trading permit fee for a given month.

MM assignment percentage of national average daily volume = [total volume during the prior calendar quarter in a class in which the MM was assigned]/[total national volume in classes listed on MIAX in the prior calendar quarter]

The purpose of the proposed fees is to incentivize 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. The proposed fee levels and criteria are based upon a business determination of current MM assignments and trading volume. The Exchange believes that the proposed fee rates and criteria provide an objective and flexible framework that will encourage MMs to be assigned and quote in option classes with lower total national average daily volume while also equitably allocating the fees in a reasonable manner amongst MM assignments to account for quoting and trading activity.

The Exchange proposes to implement the Trading Permit fees beginning May 1, 2015.

## 2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with section 6(b) of the Act<sup>8</sup> in general, and furthers the objectives of section 6(b)(4) of the Act<sup>9</sup> 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 fees are reasonable, equitable and not unfairly discriminatory. The proposed Trading Permit fees are reasonable in that they are within the range of comparable fees at other competing options exchanges.<sup>10</sup> As such, the proposal is reasonably designed to continue to compete with other options exchange by incentivizing market participants to register as Market Makers on the Exchange in a manner that enables the Exchange to improve its overall competitiveness and strengthen its market quality for

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

<sup>9</sup> 15 U.S.C. 78f(b)(4).

<sup>10</sup> See supra note 5.

all market participants. The proposed fees are fair and equitable and not unreasonably discriminatory because they apply equally to all Market Makers regardless of type and access to the Exchange is offered on terms that are not unfairly discriminatory. The Exchange designed the fee rates in order to provide objective criteria for MMs of different sizes and business models to be assessed a Trading Permit Fee that best matches their quoting activity on the Exchange. The Exchange notes that trading volume and quoting activity in the options market tends to be concentrated in the top ranked options classes; with the vast majority of options classes being thinly quoted and traded. The Exchange believes that the proposed fee rates and criteria provide an objective and flexible framework that will encourage MMs to be assigned and quote in option classes with lower total national average daily volume while also equitably allocating the fees in a reasonable manner amongst MM assignments to account for quoting and trading activity.

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 enabling MMs to qualify for lower Trading Permit fees rates on the Exchange in a manner that is designed to provide objective criteria for MMs of different sizes and business models to be assessed a Trading Permit Fee that best matches their quoting activity on the Exchange yet still be in the range of comparable fees on other exchanges. The Exchange believes that the proposal will increase competition amongst MMs of different sizes and business models by encouraging MMs to be assigned and quote in option classes with lower total national average daily volume. 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 modify 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.<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 Number SR-MIAX-2015-31 on the subject line.

Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-MIAX-2015-31. 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 will also 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-2015-31 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>

Brent J. Fields,  
Secretary.  
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<sup>12</sup> 17 CFR 200.30-3(a)(12).