

itself require, or result in, a replenishment of Loss Assets.

ICE Clear Europe has stated that under proposed Rule 919(r), the clearing house is not liable to any clearing member, customer or any other person for losses arising from a failure of a payment or security services provider, including a Custodian such as a payment or custody bank, securities depository or securities settlement system.

ICE Clear Europe has stated that it has proposed other related changes to Parts 11, 12 and 16 of its Rules. First, ICE Clear Europe has proposed a change to Rule 1103(e) to allow the Loss Assets to be held together with other clearing house contributions to the guaranty fund (without affecting the limitations in the existing rules and Rule 919 on the use of such assets) and that as a result of this change, each clearing house contribution is no longer required to be held in a separate account, although the three clearing house guaranty fund contributions and the Loss Assets are required to be held separately from other clearing house assets. Second, ICE Clear Europe has proposed conforming changes to definitions relating to custodians in Rule 1201.

ICE Clear Europe has proposed new Rule 1606(b) to address certain matters relating to the investment of customer collateral in the form of cash provided by FCM/BD Clearing Members under applicable CFTC regulations. ICE Clear Europe has stated that the revised rule confirms that such cash can only be invested in U.S. treasury securities in accordance with applicable law and further provides that FCM/BD Clearing Members must direct the clearing house whether to so invest such cash or to leave it uninvested (and deems the clearing member to have instructed the clearing house to invest such collateral if it does not provide direction).

### III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act<sup>5</sup> directs the Commission to approve a proposed rule change of a self-regulatory organization if the Commission finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such self-regulatory organization. Section 17A(b)(3)(F) of the Act<sup>6</sup> requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions

and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and, in general, to protect investors and the public interest.

The Commission finds that the proposed rule change is consistent with Section 17A of the Act<sup>7</sup> and the rules thereunder applicable to ICE Clear Europe. Because the proposed rule change specifies the procedures for allocation and payment of Investment Losses and Non-Default Losses, and provide for pre-funded Loss Assets to address Investment Losses and Non-Default Losses and the ability to call Collateral Offset Obligations from clearing members to address Investment Losses exceeding the Loss Assets, the Commission finds that the proposed rule change will enhance ICE Clear Europe's ability to promptly bear such losses, replenish its financial resources and continue clearing operations following an Investment Loss or Non-Default Loss, thus promoting the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts and transactions and contribute to the safeguarding of securities and funds which are in the custody or control of ICE Clear Europe or for which it is responsible in a manner consistent with the Act and the regulations thereunder applicable to ICE Clear Europe, in particular, Section 17(A)(b)(3)(F).<sup>8</sup>

### IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act<sup>9</sup> and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (File No. SR-ICEEU-2014-06) be, and hereby is, approved.<sup>11</sup>

<sup>7</sup> 15 U.S.C. 78q-1.

<sup>8</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>9</sup> 15 U.S.C. 78q-1.

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

[FR Doc. 2014-16361 Filed 7-11-14; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72565; File No. SR-MIAX-2014-31]

### Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule Regarding the MIAX Market Maker Sliding Scale for Transaction Fees

July 8, 2014.

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 June 25, 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 amend its Fee Schedule.

The text of the proposed rule change is available on the Exchange's Web site 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 Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

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

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

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

<sup>5</sup> 15 U.S.C. 78s(b)(2)(C).

<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

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 amend its current MIAX Market Maker<sup>3</sup> sliding scale for transaction fees to increase the volume thresholds of each tier.<sup>4</sup>

The sliding scale for MIAX Market Maker transaction fees is based on the substantially similar fees of the Chicago Board Options Exchange, Incorporated (“CBOE”).<sup>5</sup> Specifically, the program reduces a MIAX Market Maker’s per contract transaction fee based on the number of contracts the MIAX Market Maker trades in a month, based on the following scale:

Tier	Contracts per month	Transaction fee per contract
1 .....	1–1,000,000	\$0.15
2 .....	1,000,001–2,000,000	0.10
3 .....	2,000,001–4,000,000	0.05
4 .....	4,000,001+	0.03

The sliding scale would apply to all MIAX Market Makers for transactions in all products except Mini Options. A MIAX Market Maker’s initial \$0.15 per contract rate will be reduced if the MIAX Market Maker reaches the volume thresholds set forth in the sliding scale in a month. As a MIAX Market Maker’s monthly volume increases, its per contract transaction fee would decrease. Under the sliding scale, the first 1,000,000 contracts traded in a month would be assessed at \$0.15 per contract. The next 1,000,000 contracts traded (up to 2,000,000 total contracts traded) would be assessed at \$0.10 per contract. The next 2,000,000 contracts traded (up to 4,000,000 total contracts traded) would be assessed at \$0.05 per contract. All contracts above 4,000,000 contracts traded in a month would be assessed at \$0.03 per contract. The Exchange will aggregate the trading activity of separate MIAX Market Maker firms for the purposes of the sliding scale if there is at least 75% common ownership between the firms as reflected on each firm’s Form BD, Schedule A.<sup>6</sup>

The Exchange believes the proposed sliding scale is objective in that the fee reductions are based solely on reaching stated volume thresholds. The specific volume thresholds of the tiers were set based upon business determinations and an analysis of current volume levels. The specific volume thresholds and rates were set in order to encourage

MIAX Market Makers to reach for higher tiers. The Exchange believes that the proposed changes to the tiered fee schedule may incent firms to display their orders on the Exchange and increase the volume of contracts traded here.

As mentioned above, the Exchange notes that the proposed sliding fee scale for MIAX Market Makers structured on contract volume thresholds is based on the substantially similar fees of the CBOE.<sup>7</sup> The Exchange also notes that a number of other exchanges have tiered fee schedules which offer different transaction fee rates depending on the monthly ADV of liquidity providing executions on their facilities.<sup>8</sup>

The proposed changes will become operative on July 1, 2014.

2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with Section 6(b) of the Act<sup>9</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>10</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The proposed volume based discount fee structure is not discriminatory in that all MIAX Market Makers are eligible to submit (or not submit) liquidity, and may do so at their discretion in the daily volumes they choose during the course of the billing

period. All similarly situated MIAX Market Makers are subject to the same fee structure, and access to the Exchange is offered on terms that are not unfairly discriminatory. Volume based discounts have been widely adopted by options and equities markets, and are equitable because they are open to all MIAX Market Makers on an equal basis and provide discounts that are reasonably related to the value of an exchange’s market quality associated with higher volumes. The proposed fee levels and volume thresholds are reasonably designed to be comparable to those of other options exchanges employing similar fee programs, and also to attract additional liquidity and order flow to the Exchange.

*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 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

<sup>3</sup> “MIAX Market Maker” for purposes of the proposed sliding scale means any MIAX Market Maker including RMM, LMM, PLMM, DLMM, and DPLMM.

<sup>4</sup> See Securities Exchange Act Release No. 71704 (March 12, 2014), 79 FR 15183 (March 18, 2014) (SR–MIAX–2014–11).

<sup>5</sup> See Securities Exchange Act Release Nos. 55193 (January 30, 2007), 72 FR 5476 (February 6, 2007) (SR–CBOE–2006–111); 57191 (January 24, 2008), 73 FR 5611 (January 30, 2008); 58321 (August 6, 2008), 73 FR 46955 (SR–CBOE–2008–78). See also CBOE Fees Schedule, p. 3.

<sup>6</sup> A MIAX Market Maker’s monthly contract volume would be determined at the firm affiliated level. E.g., if five MIAX Market Maker individuals are affiliated with member firm ABC as reflected by Exchange records for the entire month, all the volume from those five individual MIAX Market Makers will count towards firm ABC’s sliding scale transaction fees for that month. CBOE also aggregates volume of market maker firms with at least 75% common ownership between the firms. See Securities Exchange Act Release No. 55193 (January 30, 2007), 72 FR 5476 (February 6, 2007)

(SR–CBOE–2006–111). See also CBOE Fees Schedule, p. 3.

<sup>7</sup> See Securities Exchange Act Release Nos. 55193 (January 30, 2007), 72 FR 5476 (February 6, 2007) (SR–CBOE–2006–111); 58321 (August 6, 2008), 73 FR 46955 (SR–CBOE–2008–78); 71295 (January 14, 2014), 79 FR 3443 (January 21, 2014) (SR–CBOE–2013–129).

<sup>8</sup> See, e.g., International Securities Exchange, LLC, Schedule of Fees, Section VI, C; NASDAQ Options Market, Chapter XV, Section 2.

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

<sup>10</sup> 15 U.S.C. 78f(b)(4).

Exchange believes that the proposed rule change reflects this competitive environment because it modifies the Exchange's fees in a manner that encourages market participants to provide liquidity and to send order flow to the Exchange.

*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:

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-MIAX-2014-31 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-2014-31. This file number should be included on the subject line if email 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 Web site (<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 Web site 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 available publicly. All submissions should refer to File Number SR-MIAX-2014-31 and should be submitted on or before August 4, 2014.

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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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-72559; File No. SR-MIAX-2014-36]

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

July 8, 2014.

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 June 25, 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 amend its Fee Schedule. The text of the proposed rule change is available on the Exchange's Web site 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 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 amend the MIAX Top of Market ("ToM") fee that is applicable to External Distributors. Specifically, the Exchange proposes to reduce the fee charged to External Distributors of ToM from \$5,000 to \$1,500 per month.

The Exchange charges monthly fees to Distributors of the ToM market data product that receive a feed of ToM data either directly from MIAX or indirectly through another entity and then distributes it either internally (within that entity) or externally (outside that entity). The monthly Distributor Fee charged depends on whether the Distributor is an "Internal Distributor"<sup>3</sup> or an "External Distributor."<sup>4</sup> The Exchange notes that all Distributors are required to execute a MIAX Distributor Agreement. ToM provides Distributors

<sup>3</sup> An Internal Distributor is an organization that subscribes to the Exchange for the use of ToM, and is permitted by agreement with the Exchange to provide ToM data to internal users (*i.e.*, users within their own organization).

<sup>4</sup> An External Distributor is an organization that subscribes to the Exchange for the use of ToM, and is permitted by agreement with the Exchange to provide ToM data to both internal users and to external users (*i.e.*, users outside of their own organization).

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

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

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

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