

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

Kevin M. O'Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72000; File No. SR-NYSEArca-2014-20]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change, as Modified by Amendment No. 2, To List and Trade Shares of Reality Shares Isolated Dividend Growth ETF Under NYSE Arca Equities Rule 8.600

April 23, 2014.

On February 25, 2014, NYSE Arca, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade shares of Reality Shares Isolated Dividend Growth ETF under NYSE Arca Equities Rule 8.600. On March 7, 2014, the Exchange filed Amendment No. 2 to the proposed rule change, which amended and replaced the proposed rule change in its entirety.³ The proposed rule change, as modified by Amendment No. 2, was published for comment in the **Federal Register** on March 17, 2014.⁴ The Commission received no comments on this proposal.

Section 19(b)(2) of the Act⁵ provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing

is May 1, 2014. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change, which would allow the listing of a new exchange-traded product.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,⁶ designates June 13, 2014 as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change, as modified by Amendment No. 2 (File No. SR-NYSEArca-2014-20).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

Kevin M. O'Neill,
Deputy Secretary.

[FR Doc. 2014-09674 Filed 4-28-14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72008; File No. SR-CBOE-2014-017]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change, as Modified by Amendment 1 Thereto, to Amend Its Rules Related to Complex Orders

April 23, 2014.

On February 19, 2014, Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend its rules relating to complex orders. On March 3, 2014, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change, as modified by Amendment No. 1 thereto, was published for comment in the **Federal Register** on March 10, 2014.³ The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act⁴ provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is April 24, 2014. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change. The proposed rule change, if approved, would require any complex order with three or more legs to participate in the Exchange's complex order auction prior to entering the Exchange's complex order book.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,⁵ designates June 6, 2014, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-CBOE-2014-017).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

Kevin M. O'Neill,
Deputy Secretary.

[FR Doc. 2014-09679 Filed 4-28-14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72009; File No. SR-MIAX-2014-09]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Adopt the MIAX PRIME Price Improvement Mechanism and the MIAX PRIME Solicitation Mechanism

April 23, 2014.

I. Introduction

On February 18, 2014, Miami International Securities Exchange LLC

⁴ 15 U.S.C. 78s(b)(2).

⁵ 15 U.S.C. 78s(b)(2).

⁶ 17 CFR 200.30-3(a)(31).

⁶ 17 CFR 200.30-3(a)(31).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 was filed on March 6, 2014 and withdrawn on March 7, 2014.

⁴ See Securities Exchange Act Release No. 71686 (March 11, 2014), 79 FR 14761.

⁵ 15 U.S.C. 78s(b)(2).

⁶ 15 U.S.C. 78s(b)(2).

⁷ 17 CFR 200.30-3(a)(31).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 71648 (March 5, 2014), 79 FR 13359.

(“MIAX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) ¹ and Rule 19b-4 thereunder, ² a proposed rule change to adopt MIAX Rule 515A to implement the MIAX Price Improvement Mechanism (“PRIME”) and the PRIME Solicitation Mechanism. The proposed rule change was published for comment in the **Federal Register** on March 10, 2014. ³ On April 17, 2014, MIAX filed Amendment No. 1 to the proposal. ⁴ The Commission received no comments regarding the proposal. ⁵ The Commission is publishing this notice to solicit comment on Amendment No. 1 from interested persons and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposal

The Exchange proposes to adopt MIAX Rule 515A to establish the PRIME and PRIME Solicitation Mechanism. ⁶ The PRIME is a process by which a Member (“Initiating Member”) may electronically submit for execution an order it represents as agent (“Agency Order”) against principal interest and/or solicited interest. The PRIME Solicitation Mechanism is a separate process by which a Member that represents agency orders of not less than 500 standard option contracts (or 5,000 mini-option contracts) may

electronically execute such orders against solicited orders.

A. PRIME Price Improvement Auction

The Exchange proposes to implement an electronic auction system called “PRIME” that would expose certain orders electronically in an auction to provide such orders with the opportunity to receive an execution at an improved price. ⁷ The Commission notes that MIAX’s proposed price improvement mechanism is similar to the Automated Improvement Mechanism (“AIM”) offered by the Chicago Board Options Exchange, Incorporated (“CBOE”). ⁸

Eligibility and Auction Process

To be eligible, the Agency Order must be in a class designated as eligible for PRIME as determined by the Exchange and within the designated auction order eligibility size parameters as such size parameters are determined by the Exchange. ⁹ In addition, if the Agency Order is for 50 standard option contracts (or 500 mini-option contracts) or more, the Initiating Member must stop the entire Agency Order as principal or with a solicited order at the better of the National Best Bid or Offer (“NBBO”) or the Agency Order’s limit price (if the order is a limit order). ¹⁰ However, if the Agency Order is for less than 50 standard option contracts (or less than 500 mini-option contracts), the Initiating Member must stop the entire Agency Order as principal or with a solicited order at the better of (i) the NBBO price improved by a \$0.01 increment; or (ii) the Agency Order’s limit price (if the order is a limit order). ¹¹

⁷ Proposed MIAX Rule 515A, Interpretations and Policy .02 provides that the PRIME and PRIME Solicitation Mechanism may only be used to execute bona fide crossing transactions. Using the PRIME and PRIME Solicitation Mechanism for any other means, including but not limited to, market or price manipulation, shall be considered conduct inconsistent with just and equitable principles of trade in accordance with MIAX Rule 301.

⁸ See CBOE Rule 6.74A.

⁹ See proposed MIAX Rule 515A(a)(1)(i). Proposed MIAX Rule 515A, Interpretation and Policy .05 provides that any determinations made by the Exchange pursuant to this MIAX Rule 515A, such as eligible classes and order size parameters, will be communicated in a Regulatory Circular.

¹⁰ See proposed MIAX Rule 515A(a)(1)(ii).

¹¹ See proposed MIAX Rule 515A(a)(1)(iii). The Exchange states that since the Initiating Member is stopping the entire Agency Order at the NBBO price or better at the beginning of the PRIME auction, the execution at the conclusion of the PRIME auction would qualify as an exception to the general prohibition against trade-throughs, pursuant to MIAX Rule 1401(b)(9). See MIAX Rule 1401(b)(9) (providing an exception from trade-through liability in the circumstance when a transaction that constituted the trade-through was the execution of an order that was stopped at a price that did not

To initiate the PRIME auction, the Initiating Member must mark the Agency Order for PRIME processing, and specify either: (i) A single price at which it seeks to cross the Agency Order (with principal interest and/or a solicited order) (“single-price submission”), including whether the Initiating Member elects to have last priority in allocation, or (ii) that it is willing to automatically match (“auto-match”) as principal the price and size of all PRIME responses up to an optional designated limit price. If the Initiating Member chooses to auto-match PRIME responses, the Agency Order will be stopped at the better of the NBBO (if 50 standard option contracts (or 500 mini-option contracts) or greater), \$0.01 increment better than the NBBO (if less than 50 standard option contracts or 500 mini-option contracts), or the Agency Order’s limit price. ¹² For both single price submissions and auto-match, in order to protect resting interest on MIAX’s system (“Book”), whenever the disseminated best bid or offer on the Exchange (“MBBO”) ¹³ on the same side of the market as the Agency Order represents a limit order on the Book, the stop price must be at least \$0.01 increment better than the booked order’s limit price. ¹⁴

For both a single price submission and auto-match, the stop price specified by the Initiating Member on the Agency Order will be the “initiating price” for the PRIME auction. ¹⁵ The Initiating Member may not modify or cancel the submission after it has submitted an Agency Order to the PRIME auction for processing. ¹⁶ Only one PRIME auction may be running at any given time in an option, and PRIME auctions in the same option may not queue or overlap in any manner. ¹⁷

trade through an Eligible Exchange at the time of the stop).

¹² See proposed MIAX Rule 515A(a)(2)(i)(A).

¹³ See MIAX Rule 100.

¹⁴ See proposed MIAX Rule 515A(a)(2)(i)(A).

¹⁵ See *id.* See also Notice, *supra* note 3, 79 FR at 13336 (for examples illustrating the initiating price for various potential Agency Orders).

¹⁶ See proposed MIAX Rule 515A(a)(2)(i)(A).

¹⁷ See proposed MIAX Rule 515A(a)(2). In addition, if managed interest exists on the Exchange’s Book pursuant to MIAX Rule 515(c) for the option on the same side of the market as the Agency Order, the Agency Order will be rejected by the System prior to initiating a PRIME or PRIME Solicitation Mechanism auction. See proposed MIAX Rule 515A, Interpretation and Policy .07. If managed interest exists on the MIAX Book pursuant to MIAX Rule 515(c) for the option on the opposite side of the market as the Agency Order and when the MBBO is equal to the NBBO, the Agency Order will be automatically executed against the managed interest, if the execution would be at a price equal to the initiating price of the Agency Order. If the Agency Order is not fully executed after the

Continued

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 71640 (March 10, 2014), 79 FR 13334 (“Notice”).

⁴ See Letter from Brian O’Neill, Vice President and Senior Counsel, MIAX, to Elizabeth M. Murphy, Secretary, Commission, dated April 17, 2014. In Amendment No. 1, MIAX amended its filing to clarify that its analysis of its proposed mechanisms’ compliance with Section 11(a) of the Act, which referred to both proposed mechanisms collectively as “PRIME,” was applicable to both the PRIME price improvement mechanism as well as the PRIME Solicitation Mechanism.

⁵ To promote the public availability and transparency of its post-notice amendment, MIAX submitted a copy of Amendment No. 1 through the Commission’s electronic public comment letter mechanism. Accordingly, since the Commission received Amendment No. 1 from MIAX, it has been publicly available on the Commission’s Web site at <http://www.sec.gov/rules/sro/miax.shtml>.

⁶ As MIAX explained in its Notice, because of the technology changes associated with this rule proposal, if approved by the Commission, MIAX noted that it would announce the implementation date of the proposal in a Regulatory Circular to be published no later than 90 days after the Commission’s publication of an approval order in the **Federal Register**. In addition, MIAX represented that the implementation date will be no later than 90 days following publication of the Regulatory Circular announcing publication of the approval order in the **Federal Register**. See Notice, *supra* note 3, 79 FR at 13347.

When the Exchange receives a properly designated Agency Order for PRIME auction processing, a request for responses (“RFR”) detailing the option, side, size, and initiating price will be sent to all subscribers of the Exchange’s data feeds.¹⁸ The RFR response period for each PRIME auction will last for 500 milliseconds.¹⁹ During the RFR response period, Members may submit responses to the RFR (specifying prices and sizes).²⁰ RFR responses must be submitted as either an auction or cancel (“AOC”) order or an AOC eQuote.²¹ Responses cannot cross the MBBO on the opposite side of the market from the response.²² RFR responses shall not be visible to other auction participants, and MIAX will not disseminate them to the Options Price Reporting Authority (“OPRA”).²³ The minimum price

managed interest is fully exhausted and is no longer at a price equal to or better than the initiating price of the Agency Order, a PRIME auction will be initiated for the balance of the order. See proposed MIAX Rule 515A, Interpretations and Policies .06.

¹⁸ See proposed MIAX Rule 515A(a)(2)(i)(B). The Exchange will include the RFR from the auction mechanisms in the Exchange’s data feeds at no incremental cost to subscribers. Thus, any subscriber that chooses to receive options data, including any Member subscriber, has the ability to respond to those RFRs.

¹⁹ See proposed MIAX Rule 515A(a)(2)(i)(C). In February 2014, to determine whether the proposed duration of the RFR would provide sufficient time to enter an RFR response, the Exchange asked Members, including Market Makers, whether their firms “could respond to an Auction with a duration of 500 milliseconds.” Of the 8 Members that responded to the question, 100% indicated that their firm could respond in this time frame. See Notice, *supra* note 3, 79 FR at 13337, n.19.

²⁰ See proposed MIAX Rule 515A(a)(2)(i)(D). The Exchange states that any MIAX Member, and any MIAX Member acting as agent for orders, may respond to an RFR in a PRIME auction.

²¹ See *id.* An AOC order is a limit order used to provide liquidity during a specific Exchange process (such as the Opening Imbalance process described in MIAX Rule 503) with a time in force that corresponds with that event. AOC orders are not displayed to any market participant, are not included in the MBBO and therefore are not eligible for trading outside of the event, may not be routed, and may not trade at a price inferior to the away markets. See MIAX Rule 516(b)(4). An AOC eQuote is a quote submitted by a Market Maker to provide liquidity in a specific Exchange process (such as the Opening Imbalance Process described in MIAX Rule 503) with a time in force that corresponds with the duration of that event and will automatically expire at the end of that event. AOC eQuotes are not displayed to any market participant, are not included in the MBBO and therefore are not eligible for trading outside of the event. An AOC eQuote does not automatically cancel or replace the Market Maker’s previous Standard quote or eQuote. See MIAX Rule 517(a)(2)(ii). The Exchange notes that any orders or quotes received by the System during the Auction that are not AOC orders or AOC eQuotes will be treated as unrelated trading interest. In addition, the Exchange notes that an AOC order or an AOC eQuote could trade at a price inferior to the away market if it is a part of an exempt transaction. See MIAX Rule 1402.

²² See proposed MIAX Rule 515A(a)(2)(i)(D).

²³ See proposed MIAX Rule 515A(a)(2)(i)(E).

increment for RFR responses and for the Initiating Member’s submission is a \$0.01 increment, regardless of whether the class otherwise trades in a larger price increment.²⁴ MIAX will cap an RFR response with a size greater than the size of the Agency Order at the size of the Agency Order for allocation purposes.²⁵ RFR responses may be cancelled by the Member submitting them.²⁶

1. Conclusion of the PRIME Auction

The PRIME auction will end early, before the end of the RFR response period, under certain enumerated circumstances.²⁷ Specifically, the PRIME will conclude at the sooner of the following: (i) The end of the RFR response period; (ii) upon receipt by MIAX of an unrelated order (in the same option as the Agency Order) on the same side or opposite side of the market from the RFR responses, that is marketable against either the MBBO (when such quote is the NBBO) or the RFR responses; (iii) upon receipt by MIAX of an unrelated limit order (in the same option as the Agency Order and on the opposite side of the market from the Agency Order) that improves any RFR response; (iv) any time an RFR response matches the MBBO on the opposite side of the market from the RFR responses; (v) any time there is a quote lock in the subject option on the Exchange pursuant to MIAX Rule 1402; or (vi) any time there is a trading halt in the option on the Exchange.²⁸

MIAX will consider it to be conduct inconsistent with just and equitable principles of trade, in accordance with MIAX Rule 301, for any Member to enter orders, quotes, Agency Orders, or other responses for the purpose of disrupting or manipulating a PRIME auction. Such conduct includes, but is not limited to, engaging in a pattern or practice of submitting unrelated orders that cause a PRIME auction to conclude

²⁴ See proposed MIAX Rule 515A(a)(2)(i)(F).

²⁵ See proposed MIAX Rule 515A(a)(2)(i)(G). The Exchange states that RFR response sizes are capped at the same size of the Agency Order in order to prevent manipulation and gaming of the pro rata allocation within each origin type and price point. The Commission understands that unrelated trading interest including unrelated orders, quotes, or orders on the Exchange’s Book will not be subject to such a cap, since they are not considered responses to the Auction.

²⁶ See proposed MIAX Rule 515A(a)(2)(i)(H).

²⁷ The Exchange states that the PRIME is designed to maintain priority of all resting quotes and orders and any RFR responses received before the end of the PRIME auction. Thus the PRIME will end early, before the end of the RFR period, as a result of certain events that would otherwise disrupt the priority of the PRIME auction with the Exchange’s Book. See Notice, *supra* note 3, 79 FR at 13338.

²⁸ See proposed MIAX Rule 515A(a)(2)(ii).

before the end of the RFR period and engaging in a pattern of conduct where the Member submitting the Agency Order into the PRIME breaks up the Agency Order into separate orders for two (2) or fewer contracts for the purpose of gaining a higher allocation percentage than the Member would have otherwise received in accordance with the allocation procedures contained in MIAX Rule 515A.²⁹

3. Priority and Allocation of Orders and Quotes

In its Notice, MIAX represented that the priority of allocation at the conclusion of a PRIME auction, described below, will be similar to the standard allocation of orders and quotes on MIAX.³⁰ MIAX Rule 514 describes the priority of allocation of orders and quotes on the Exchange. According to the Exchange, under the pro-rata allocation method, resting quotes and orders on the Book are prioritized according to price. If there are two or more quotes or orders at the best price, then the contracts are allocated proportionally according to size (in a pro-rata fashion) within each origin type. If the executed quantity cannot be evenly allocated, the remaining contracts will be distributed one at a time based upon size-time priority.³¹ When the Priority Customer Overlay is in effect, the highest bid and lowest offer has priority, except that Priority Customer Orders have priority over Professional Interest and all Market Maker interest at the same price. If there are two or more Priority Customer Orders for the same options at the same price, priority is afforded to such Priority Customer Orders in the sequence in which they are received by the System.³² If there is other interest at the NBBO, after all Priority Customer Orders (if any) at that price have been filled, executions at that price will be first allocated to other remaining Market

²⁹ See proposed MIAX Rule 515A, Interpretations and Policies .01.

³⁰ See Notice, *supra* note 3, 79 FR at 13338. According to the Exchange, the allocation of orders and quotes at the conclusion of a PRIME auction will be in priority ranked by price/origin type/pro-rata/time, which is the standard allocation of orders and quotes on MIAX when the pro-rata allocation method and the Priority Customer Overlay is in effect. The key differences between the standard allocation and PRIME allocation are that in PRIME: RFR responses are capped at the total size of the Agency Order which changes the pro-rata calculation when allocating within the same origin type; no participation entitlement will apply to orders executed in the PRIME; and the Initiating Member’s facilitating or solicitation order may receive a participation guarantee at the stop price.

³¹ See MIAX Rule 514(c)(2).

³² See MIAX Rule 514(d)(1).

Maker priority quotes,³³ which have not received a participation entitlement, and have precedence over Professional Interest.³⁴ If, after all Market Maker priority quotes have been filled in accordance with MIAX Rule 514(d)(1), there remains interest at the NBBO, executions will be allocated to all Professional Interest at that price.³⁵

At each price point, orders and quotes will be given priority by type—first to Priority Customers, then Market Makers with priority quotes, and then to Professional Interest. If unrelated orders are received by the Exchange during the period when a PRIME auction is occurring, such orders will be eligible to participate in the auction, subject to the process above. If orders received are not executed in the PRIME auction, the time stamps they received will be used to determine time priority for their execution outside of the auction.

Thus, at the conclusion of the PRIME auction, the Agency Order will be allocated at the best price(s) pursuant to the matching algorithm in effect for the class. Such best prices include non-auction quotes and orders.³⁶ With respect to order execution priority, Priority Customer orders resting on the Book before the auction or that are received during the RFR response period, as well as Priority Customer RFR responses, will collectively have first priority to trade against the Agency Order. The allocation of an Agency Order against any Priority Customer orders resting in the Book, Priority Customer orders received during the RFR response period, and Priority Customer RFR responses shall be in the

sequence in which they are received by the System.³⁷

After the execution of Priority Customer orders and responses, if the best price equals the Initiating Member's single-price submission, then the Initiating Member's single-price submission will be eligible for a "participation guarantee" under which the Initiating Member will receive an allocation of the greater of one contract or a certain percentage of the order, which percentage will be determined by the Exchange and may not be larger than 40% of the Agency Order in total.³⁸ If only one Member's response matches the Initiating Member's single price submission, then the Initiating Member may be allocated up to 50% of the Agency Order.³⁹ If the Initiating Member selected the auto-match option, the Initiating Member will receive an allocation at each auto-matched RFR response price point up to any designated limit price, or until a price point is reached where the balance of the order can be fully executed.⁴⁰ At such final price point, the Initiating Member will be entitled to a "participation guarantee" that will result in the Initiating Member being allocated the greater of one contract or a certain percentage of the remainder of the order, which percentage will be determined by the Exchange and may not be larger than 40% of the contracts remaining at the final price point.⁴¹ However, if the Initiating Member elected to have last priority in allocation when submitting an Agency Order to initiate a PRIME auction against a single-price submission, the Initiating Member will be allocated only the amount of contracts remaining, if any, after the Agency Order is allocated to all

other responses at the single price specified by the Initiating Member.⁴²

Following allocation to any Priority Customer interest and any allocation to the Initiating Member pursuant to its participation guarantee and auto-match (if applicable), Market Maker priority quotes and RFR responses from Market Makers with priority quotes will collectively have the next level of priority. The allocation of Agency Orders against these contra sided quotes and RFR responses will be on a size pro rata basis as defined in MIAX Rule 514(c)(2).⁴³

Next, Professional Interest orders resting in the Book, Professional Interest orders placed in the Book during the RFR response period, Professional Interest quotes, and Professional Interest RFR responses will collectively have last priority.⁴⁴ The allocation of Agency Orders against these contra sided orders and RFR responses will be on a size pro rata basis as defined in MIAX Rule 514(c)(2).⁴⁵

When allocating the Agency Order, the market maker "participation entitlements" shall not apply to orders executed pursuant to the PRIME rule.⁴⁶ If an unrelated market or marketable limit order on the opposite side of the market as the Agency Order is received during the PRIME auction and ended the auction, such unrelated order will trade against the Agency Order at the midpoint of the best RFR response (or in the absence of an RFR response, the initiating price) and the NBBO on the other side of the market from the RFR responses (rounded towards the disseminated quote when necessary).⁴⁷ If an unrelated non-marketable limit order on the opposite side of the market as the Agency Order is received during the PRIME auction and ended the auction, such unrelated order will trade against the Agency Order at the midpoint of the best RFR response and the unrelated order's limit price (rounded towards the unrelated order's limit price when necessary).⁴⁸

³³ To be considered a priority quote, at the time of execution, each of the following standards must be met: (i) The bid/ask differential of a Market Maker's two-sided quote pair must be valid width (no wider than the bid/ask differentials outlined in MIAX Rule 603(b)(4)); (ii) the initial size of both of the Market Maker's bid and the offer must be in compliance with the requirements of MIAX Rule 604(b)(2); (iii) the bid/ask differential of a Market Maker's two-sided quote pair must meet the priority quote width requirements defined in MIAX Rule 517(b)(1)(ii) for each option; and (iv) either of the following are true: (1) At the time a locking or crossing quote or order enters the System, the Market Maker's two-sided quote pair must be valid width for that option and must have been resting on the Book; or (2) immediately prior to the time the Market Maker enters a new quote that locks or crosses the MBBO, the Market Maker must have had a valid width quote already existing (*i.e.*, exclusive of the Market Maker's new marketable quote or update) among his two-sided quotes for that option. See MIAX Rule 517(b)(1)(i).

³⁴ See MIAX Rule 514(e)(1). The term "Professional Interest" means (i) an order that is for the account of a person or entity that is not a Priority Customer, or (ii) an order or non-priority quote for the account of a Market Maker. See MIAX Rule 100.

³⁵ See MIAX Rule 514(e)(2).

³⁶ See proposed MIAX Rule 515A(a)(2)(iii)(A).

³⁷ See proposed MIAX Rule 515A(a)(2)(iii)(B). The Exchange represents that the priority allocation in PRIME is consistent with the standard priority rules for Priority Customers in MIAX Rule 514(d)(1). The Exchange gives priority to Priority Customer orders whether they were on the Book or received during the RFR response period.

³⁸ See proposed MIAX Rule 515A(a)(2)(iii)(H).
³⁹ See proposed MIAX Rule 515A(a)(2)(iii)(H). It is the Commission's understanding that the Initiating Member would retain a 50% allocation only where the Initiating Member is matched by only one response at the best price. See also Notice, *supra* note 3, 79 FR at 13340 (for examples illustrating the allocation at the end of the PRIME).

⁴⁰ The Exchange notes that the auto-match functionality will only allocate the full size of RFR responses (AOC orders and AOC eQuotes). See proposed MIAX Rule 515A(a)(2)(iii)(I). As noted above, any orders or quotes received by the System during the PRIME that are not AOC orders or AOC eQuotes will be treated as unrelated trading interest; the auto-match functionality will not allocate against such unrelated trading interest. See proposed MIAX Rule 515A(a)(2)(i)(D).

⁴¹ See proposed MIAX Rule 515A(a)(2)(iii)(I).

⁴² See proposed MIAX Rule 515A(a)(2)(iii)(L).

⁴³ See proposed MIAX Rule 515A(a)(2)(iii)(C).

⁴⁴ See MIAX Rule 514(e)(2).

⁴⁵ See proposed MIAX Rule 515A(a)(2)(iii)(D).

⁴⁶ See proposed MIAX Rule 515A(a)(2)(iii)(E). See, *e.g.*, MIAX Rule 514(g) (Primary Lead Market Maker Participation Entitlements), for an example of a market maker "participation entitlement." These market maker "entitlements" are separate and apart from, and do not relate to, the "participation guarantee" that is part of the proposed PRIME mechanism.

⁴⁷ See proposed MIAX Rule 515A(a)(2)(iii)(F). See also Notice, *supra* note 3, 79 FR at 13341 (for examples illustrating the allocation when the PRIME concludes early).

⁴⁸ See proposed MIAX Rule 515A(a)(2)(iii)(G). An unrelated non-marketable limit order on the

If the final auction price locks a Priority Customer order on the Book on the same side of the market as the Agency Order, then the Agency Order will execute against the RFR responses at \$0.01 increment worse than the final PRIME auction price (towards the opposite side of the Agency Order) against the PRIME auction participants that submitted the final price, unless there is sufficient size in the PRIME responses to execute both the Agency Order and the booked Priority Customer order (in which case they will both execute at the final PRIME auction price). Any balance shall trade against the Priority Customer order in the Book at such order's limit price.⁴⁹

Notwithstanding the priority for Market Makers and Professional Interest pursuant to proposed MIAX Rule 515A(a)(2)(iii)(C) and (D), if the PRIME auction does not result in price improvement over the Exchange's disseminated price at the time the PRIME auction began, resting unchanged quotes or orders that were disseminated at the best price before the PRIME auction began will have priority after any Priority Customer order priority and the Initiating Member's participation guarantee have been satisfied.⁵⁰ Any unexecuted balance on the Agency Order will be allocated to RFR responses, provided that those RFR responses will be capped to the size of the original order and that the Initiating Member may not participate on any such balance, unless the Agency Order would otherwise go unfilled.⁵¹

If an unexecuted balance remains on the PRIME auction responses after the Agency Order has been executed in full and such balance in the RFR responses could trade against any unrelated order(s) that caused the PRIME auction to conclude, then the RFR balance will trade against the unrelated order(s) on a size pro rata basis as defined in MIAX Rule 514(c)(2).⁵²

It shall be considered conduct inconsistent with just and equitable

opposite side of the market as the Agency Order would end the PRIME in the situation when that unrelated non-marketable limit order improves any RFR response.

⁴⁹ See proposed MIAX Rule 515A(a)(2)(iii)(K). Thus, the execution price will be \$0.01 increment higher than the final PRIME auction price if the Agency Order is to buy or \$0.01 increment lower than the final PRIME auction price if the Agency Order is to sell.

⁵⁰ See proposed MIAX Rule 515A(a)(2)(iii)(J). The Exchange notes that the priority of such resting unchanged quotes or orders that were disseminated at the best price before the PRIME began will still be subject to the standard priority allocation in effect pursuant to MIAX Rule 514. See Notice, *supra* note 3, 79 FR at 13343.

⁵¹ See proposed MIAX Rule 515A(a)(2)(iii)(J).

⁵² See proposed MIAX Rule 515A(a)(2)(iii)(M).

principles of trade, in accordance with MIAX Rule 301, for any Member to enter orders, quotes, Agency Orders, or other responses for the purpose of disrupting or manipulating the auction. Such conduct includes, but is not limited to, engaging in a pattern of conduct where the Member submitting the Agency Order into the PRIME breaks up the Agency Order into separate orders for two (2) or fewer contracts for the purpose of gaining a higher allocation percentage than the Member would have otherwise received in accordance with the allocation procedures contained in MIAX Rule 515A(a)(2)(iii).⁵³

Finally, in proposed MIAX Rule 515A, Interpretation and Policy .08, the Exchange obligates itself to submit certain data, as requested by the Commission staff, on the operation of the PRIME auction. This data will be used to assist the Exchange as well as the Commission in assessing activity in PRIME auctions including, among other things, the degree of meaningful competition for all size orders within the PRIME auction, whether there is material price improvement for orders executed through the PRIME mechanism, and whether there is an active and liquid market functioning on the Exchange outside of the PRIME mechanism.⁵⁴

B. PRIME Solicitation Mechanism

MIAX also is proposing to adopt a solicitation mechanism that is similar to CBOE's Solicitation Auction Mechanism.⁵⁵ Through this proposed mechanism, a Member that represents Agency Orders may electronically execute them against solicited orders provided that it submits both the Agency Order and solicited orders for electronic execution into the PRIME Solicitation Mechanism pursuant to proposed MIAX Rule 515A(b).⁵⁶

⁵³ See proposed MIAX Rule 515A, Interpretations and Policies .01.

⁵⁴ See proposed MIAX Rule 515A, Interpretation and Policy .08. For the list of the data that the Exchange agreed to provide to the Commission relating to the PRIME, see Exhibit 3 to SR-MIAX-2014-09, which is publicly available on the Exchange's Web site at <http://www.miaxoptions.com>.

⁵⁵ See CBOE Rule 6.74B.

⁵⁶ For executions pursuant to the PRIME Solicitation Mechanism, prior to entering Agency Orders into the PRIME on behalf of customers, Initiating Members must deliver to the customer a written notification informing the customer that his order may be executed using the PRIME. The written notification must disclose the terms and conditions contained in MIAX Rule 515A and be in a form that is approved by the Exchange. See proposed MIAX Rule 515A, Interpretations and Policy .03. In addition, Members may not use the PRIME Solicitation Mechanism to circumvent MIAX Rule 520 limiting principal transactions. This

1. Eligibility and PRIME Solicitation Mechanism Process

The Initiating Member may initiate a PRIME Solicitation Mechanism provided that the Agency Order is in a class designated as eligible for PRIME Solicitation Mechanisms as determined by the Exchange and within the designated PRIME Solicitation Mechanism order eligibility size parameters as such size parameters are determined by the Exchange. The eligible order size may not be less than 500 standard option contracts or 5,000 mini-option contracts.⁵⁷ Also, each order entered into the PRIME Solicitation Mechanism must be designated as all-or-none, and the minimum price increment for an Initiating Member's single price submission will be a \$0.01 increment.⁵⁸

To initiate the PRIME Solicitation Mechanism, the Initiating Member must mark the Agency Order for PRIME Solicitation Mechanism processing and specify a single price at which it seeks to cross the Agency Order with a solicited order, which shall be the initiating price for the PRIME Solicitation Mechanism.⁵⁹ When the Exchange receives a properly designated Agency Order for PRIME Solicitation Mechanism processing, an RFR message indicating the option, side, size, and initiating price⁶⁰ will be sent to all subscribers of the Exchange's data feeds.⁶¹ Any Member may submit responses to the RFR (specifying prices and sizes) during the RFR response period (which, like the PRIME auction,

may include, but is not limited to, Members entering contra orders that are solicited from (i) affiliated broker-dealers or (ii) broker-dealers with which the Member has an arrangement that allows the Member to realize similar economic benefits from the solicited transaction as it would achieve by executing the customer order in whole or in part as principal. Additionally, solicited contra orders entered by Members to trade against Agency Orders may not be for the account of a MIAX Market Maker assigned to the options class. See proposed MIAX Rule 515A, Interpretations and Policies .04.

⁵⁷ Proposed MIAX Rule 515A, Interpretation and Policy .05 provides that any determinations made by the Exchange pursuant to MIAX Rule 515A, such as eligible classes and order size parameters, will be communicated in a Regulatory Circular.

⁵⁸ See proposed MIAX Rule 515A(b)(1).

⁵⁹ See proposed MIAX Rule 515A(b)(2)(i)(A).

⁶⁰ The initiating price for the PRIME Solicitation Mechanism is the single price specified by the Initiating Member at which it seeks to cross the Agency Order with a solicited order. See proposed MIAX Rule 515A(b)(2)(i)(A).

⁶¹ See proposed MIAX Rule 515A(b)(2)(i)(B). As noted above with respect to the PRIME, the Exchange will include the RFR from the auction mechanisms in the Exchange's data feeds at no incremental costs to subscribers. Thus, any subscriber that chooses to receive options data, including any Member subscriber, has the ability to respond to those RFRs.

will be 500 milliseconds).⁶² RFR responses must be either an AOC order or an AOC eQuote.⁶³ The minimum price increment for responses will be \$0.01 increment.⁶⁴ A response with a size greater than the size of the Agency Order will be capped at the size of the Agency Order.⁶⁵ Responses will not be visible to other Solicitation Auction participants, and MIAX will not disseminate them to OPRA.⁶⁶ Members may cancel RFR responses.⁶⁷

2. Conclusion of the PRIME Solicitation Mechanism

The PRIME Solicitation Mechanism will end early, before the end of the RFR response period, under certain circumstances. Specifically, the PRIME Solicitation Mechanism will conclude at the sooner of the following: (i) The end of the RFR response period; (ii) upon receipt by MIAX of an unrelated order (in the same option as the Agency Order) on the same side or opposite side of the market from the RFR responses, that is marketable against either the MBBO (when such quote is the NBBO) or the RFR responses; (iii) upon receipt by MIAX of an unrelated limit order (in the same option as the Agency Order and on the opposite side of the market as the Agency Order) that improves any RFR response; (iv) any time an RFR response matches the MBBO on the opposite side of the market from the RFR responses; (v) any time there is a quote lock on the Exchange pursuant to MIAX Rule 1402; or (vi) any time there is a trading halt in the option on the Exchange.⁶⁸

3. Priority and Allocation

At the conclusion of the Solicitation Auction, the Agency Order will either be automatically executed in full and allocated subject to the following provisions, or will be cancelled. The

Agency Order will be executed against the solicited order at the proposed execution price, provided that:

- The execution price must be equal to or better than the NBBO;⁶⁹
- There are no Priority Customer orders resting in the Book on the opposite side of the Agency Order at the proposed execution price;⁷⁰ and
- There is insufficient size to execute the Agency Order at an improved price.⁷¹

If the execution would otherwise take place outside the NBBO, the Agency Order and solicited order will be cancelled.⁷²

If there are Priority Customer orders resting in the Book on the opposite side as the Agency Order and there is sufficient size (considering all resting orders, quotes, and RFR responses) to execute the Agency Order, then the Agency Order will be executed against this interest, and the solicited order will be cancelled. In such case, the Agency Order will be allocated at the best price(s) pursuant to the matching algorithm in effect for the class.⁷³ However, if there are Priority Customer orders resting in the Book on the opposite side as the Agency Order and there is not sufficient size (considering all resting orders, quotes, and RFR responses) to fill the entire Agency Order, then both the Agency Order and the solicited order will be cancelled.⁷⁴

If there is sufficient size (considering all resting orders, quotes, and RFR responses) to execute the Agency Order in full at an improved price or prices that is equal or better than the NBBO, then the Agency Order will execute at such improved price(s) and the solicited order will be cancelled. In such case, the Agency Order will be allocated at the best price(s) pursuant to the matching algorithm in effect for the class.⁷⁵

C. Order Exposure Rule

MIAX Rule 520 prohibits Members from acting as principal on any orders they represent as agent unless (i) agency orders are first exposed on the Exchange for at least one (1) second, and (ii) the Member has been bidding or offering on the Exchange for at least one (1) second prior to receiving an agency order that is executable against such bid or offer. In addition, Members may not execute orders they represent as agent on the Exchange against orders solicited from Members and non-member broker-dealers to transact with such orders unless the unsolicited order is first exposed on the Exchange for at least one (1) second.

The Exchange proposes to amend MIAX Rule 520 to permit a Member to execute against as principal orders it represents as agent if the Member utilizes the PRIME price improvement mechanism. Similarly, the Exchange proposes to amend MIAX Rule 520 to permit a Member to execute orders it represents as agent against orders it has solicited if the Member utilizes the PRIME price improvement mechanism or PRIME Solicitation Mechanism. Accordingly if those mechanisms were used, such Agency Orders submitted into them would not be subject to the one second order exposure requirement of MIAX Rule 520.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with Section 6(b) of the Act.⁷⁶ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁷⁷ which requires, among other things, that the rules of a national securities exchange be 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in

Priority Customers, Market Makers with priority quotes, and Professional Interest.

⁷⁶ 15 U.S.C. 78f(b). In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁷⁷ 15 U.S.C. 78f(b)(5).

⁶² See proposed MIAX Rule 515A(b)(2)(i)(C). In February 2014, to determine whether the proposed duration of the RFR would provide sufficient time to enter an RFR response, the Exchange asked Members, including Market Makers, whether their firms "could respond to an Auction with a duration of 500 milliseconds." Of the 8 Members that responded to the question, 100% indicated that their firm could respond in this time frame. Thus, the Exchange notes its belief that the proposed duration for the RFR of 500 milliseconds, would provide a meaningful opportunity for participants on MIAX to respond to an RFR while at the same time facilitating the prompt execution of orders. See Notice, *supra* note 3, 79 FR at 13343, n. 62.

⁶³ See proposed MIAX Rule 515A(b)(2)(i)(C). Any MIAX Member may respond to the RFR in the PRIME Solicitation Mechanism. See Notice, *supra* note 3, 79 FR at 13344, n.63.

⁶⁴ See proposed MIAX Rule 515A(b)(2)(i)(E).

⁶⁵ See proposed MIAX Rule 515A(b)(2)(i)(F).

⁶⁶ See proposed MIAX Rule 515A(b)(2)(i)(D).

⁶⁷ See proposed MIAX Rule 515A(b)(2)(i)(G).

⁶⁸ See proposed MIAX Rule 515A(b)(2)(ii).

⁶⁹ See proposed MIAX Rule 515A(b)(2)(iii)(A).

⁷⁰ See proposed MIAX Rule 515A(b)(2)(iii)(B)(1).

⁷¹ See proposed MIAX Rule 515A(b)(2)(iii)(C). See also Notice, *supra* note 3, 79 FR at 13344 (for examples illustrating the allocation at the end of the PRIME Solicitation Mechanism).

⁷² See proposed MIAX Rule 515A(b)(2)(iii)(A).

⁷³ See proposed MIAX Rule 515A(b)(2)(iii)(B)(1). The Agency Order will be allocated at the best price(s) pursuant to the matching algorithm in effect for the class. The Exchange states that this will ensure that the Agency Order is allocated in a manner consistent with the standard priority of allocation of the Exchange rules that distinguish between Priority Customers, Market Makers with priority quotes, and Professional Interest.

⁷⁴ See proposed MIAX Rule 515A(b)(2)(iii)(B)(2).

⁷⁵ See proposed MIAX Rule 515A(b)(2)(iii)(C)(1). The Exchange proposes to specify that the Agency Order will be allocated pursuant to the matching algorithm in effect for the class. This will ensure that the Agency Order is allocated in a manner consistent with the standard priority of allocation of the Exchange rules that distinguish between

general, to protect customers, issuers, brokers and dealers. The Commission believes that approving the Exchange's proposal to establish the PRIME price improvement mechanism and the PRIME Solicitation Mechanism may increase competition among those options exchanges that offer similar mechanisms. The Commission further believes that allowing MIAX Members to enter orders into the PRIME price improvement mechanism and the PRIME Solicitation Mechanism could provide additional opportunities for such orders, notably orders from Priority Customers, to receive price improvement over the NBBO.

MIAX's proposed PRIME price improvement mechanism is similar to existing functionality at other options exchanges and does not raise any novel issues.⁷⁸ In particular, for orders of fewer than 50 standard options contracts or 500 mini-option contracts, the PRIME price improvement mechanism requires the Initiating Member to stop the Agency Order at the better of the NBBO price improved by a \$0.01 increment or the Agency Order's limit price.⁷⁹ Once an Agency Order has been submitted, the submission may not be modified or cancelled. The Commission notes that such smaller orders are thus effectively guaranteed some level of price improvement if they are submitted into the PRIME price improvement mechanism. Orders of 50 or greater contracts are guaranteed an execution price of at least the NBBO and, moreover, are given the opportunity for price improvement beyond the NBBO by being exposed to Members during the PRIME auction. In addition, MIAX's proposal protects resting interest on its Book as the stop price must be at least \$0.01 increment better than any booked order's limit price on the same side of the market as the Agency Order.

The PRIME price improvement mechanism also permits members to submit responses to the RFR on behalf of all types of interest.⁸⁰ The Commission believes that this requirement provides the potential for an Agency Order to be exposed to a competitive auction. Further, when the Exchange receives a properly designated

Agency Order for PRIME auction processing, it will send to all subscribers of its data feeds an RFR detailing the option, side, size, and initiating price. This message, available to any subscriber, is designed to help attract responses to a PRIME auction and may result in competitive PRIME auctions and ultimately better prices for the Agency Order to the extent it is successful in attracting competitive responses to a PRIME auction.

The RFR (for both the PRIME auction and PRIME Solicitation Mechanism) will last for 500 milliseconds. In February 2014, to determine whether the proposed duration of the RFR would provide sufficient time to enter an RFR response, the Exchange asked its Members, including Market Makers, whether their firms "could respond to an Auction with a duration of 500 milliseconds." Of the 8 Members that responded to the question, 100% indicated that their firm could respond in this time frame.⁸¹ Based on MIAX's statements, the Commission believes that 500 milliseconds could facilitate the prompt execution of Agency Orders in the PRIME auction (and PRIME Solicitation Mechanism), while providing market participants with an opportunity to compete for exposed bids and offers. The Commission notes that another exchange's price improvement mechanism also provides a 500 millisecond auction response period.⁸²

At the conclusion of a PRIME auction, Priority Customer orders and RFR responses representing Priority Customer interest have first priority to trade against the Agency Order. After execution of Priority Customer responses and orders, the Initiating Member may be allocated a limited percentage of the Agency Order, not to exceed 40% of the contracts at the applicable price point (however, if only one response matches the Initiating Member's single price submission at the best price, then the Initiating Member may be allocated up to 50% of the order). Market Maker priority quotes and RFR responses from Market Makers with priority quotes have next priority. Quotes, orders, and RFR responses representing Professional Interest have final priority. The Commission believes that the proposed matching algorithm set forth in MIAX's PRIME rule is sufficiently clear regarding how orders are to be allocated in the PRIME auction and does not raise any novel issues.

The Exchange has represented its commitment to submit certain data on PRIME auctions at the request of Commission staff. The Commission expects such data to be used, by both the Exchange and the Commission staff, to assess the performance of PRIME auctions, including, among other things, to study whether there is meaningful competition for all size orders with the PRIME, the degree of price improvement for all orders executed through the PRIME mechanism, whether there is an active and liquid market functioning on the Exchange outside of the PRIME, and the situations in which a PRIME auction is terminated before the end of the RFR response period. The data provided will enable the Commission, as well as the Exchange itself, to evaluate the PRIME auction to determine its performance and impact on options market structure and the degree to which it is beneficial to customers and to the options market as a whole.

The Commission further believes that the proposal to establish the PRIME Solicitation Mechanism may allow for greater flexibility in executing large-sized orders, and is not novel or otherwise raise any issues of first impression.⁸³ The Commission believes that the proposal includes appropriate conditions to assure that the Agency Order is exposed to Members for the possibility of price improvement over the NBBO and that Priority Customer orders on the Exchange are protected. At the conclusion of a PRIME Solicitation Mechanism auction, the Agency Order would either be executed in full or cancelled. The Agency Order will be executed against the solicited order at the proposed executed price if (i) the execution price is equal to or better than the NBBO; (ii) there are no Priority Customer Orders resting in the book on the opposite side of the Agency Order at the proposed execution price; and (iii) there is insufficient size to execute the Agency Order at an improved price. If there are Priority Customer orders and there is sufficient size to execute the Agency Order (considering all eligible interest), the Agency Order will be executed against these interests and the solicited order will be cancelled. If, however, there are Priority Customer Orders but there is not sufficient size to execute the Agency Order in full, then both the Agency Order and the solicited order will be cancelled. Finally, if there is sufficient size to execute the Agency Order in full at an improved price equal

⁷⁸ See CBOE Rule 6.74A (CBOE's AIM).

⁷⁹ The Commission notes that this aspect of MIAX's proposal (*i.e.*, to stop an Agency Order of fewer than 50 contracts at a price-improved price) is similar to requirements set forth in CBOE's AIM. See CBOE Rule 6.74A(a)(3).

⁸⁰ *Cf.* CBOE Rule 6.74A(b)(1)(D)-(E) (only CBOE Market Makers with an appointment in the relevant option class, and CBOE Members acting as agent for orders resting at the top of the CBOE book opposite the Agency Order, may submit responses to the AIM RFR).

⁸¹ See Notice, *supra* note 3, 79 FR at 13337, n. 19 and 13343, n. 62.

⁸² See International Securities Exchange Rule 723(c)(5).

⁸³ The Commission also notes that the proposal is similar to requirements set forth in the CBOE Solicitation Auction Mechanism. See CBOE Rule 6.74B.

to or better than the NBBO, the Agency Order will execute at the improved price and the solicited order will be cancelled. The Commission believes that the priority and allocation rules for the PRIME Solicitation Mechanism, which are based on a similar mechanism on another exchange, are reasonable and consistent with the Act.

IV. Section 11(a) of the Act

Section 11(a)(1) of the Act⁸⁴ prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises discretion (collectively, “covered accounts”) unless an exception applies. Rule 11a2–2(T) under the Act,⁸⁵ known as the “effect versus execute” rule, provides exchange members with an exemption from the Section 11(a)(1) prohibition. Rule 11a2–2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute transactions on the exchange. To comply with Rule 11a2–2(T)’s conditions, a member: (i) Must transmit the order from off the exchange floor; (ii) may not participate in the execution of the transaction once it has been transmitted to the member performing the execution;⁸⁶ (iii) may not be affiliated with the executing member; and (iv) with respect to an account over which the member has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule. For the reasons set forth below, the Commission believes that Exchange members entering orders into the PRIME and PRIME Solicitation Mechanism would satisfy the requirements of Rule 11a2–2(T).

The Rule’s first condition is that orders for covered accounts be transmitted from off the exchange floor. In the context of automated trading systems, the Commission has found that the off-floor transmission requirement is met if a covered account order is transmitted from a remote location directly to an exchange’s floor by electronic means.⁸⁷ MIA X has

represented that the MIA X trading system and the proposed PRIME and PRIME Solicitation Mechanism receive all orders electronically through remote terminals or computer-to-computer interfaces. The Exchange also represents that orders for covered accounts from Members will be transmitted from a remote location directly to the proposed PRIME and PRIME Solicitation Mechanism by electronic means. Because no Exchange members may submit orders into the PRIME and PRIME Solicitation Mechanism from on the floor of the Exchange, the Commission believes that the PRIME and PRIME Solicitation Mechanism satisfy the off-floor transmission requirement.

Second, the Rule requires that the member not participate in the execution of its order. The Exchange represents that at no time following the submission of an order is a member organization able to acquire control or influence over the result or timing of an order’s execution.⁸⁸ According to the Exchange, the execution of an order is determined by what other orders are present and the priority of those orders.⁸⁹ Accordingly, the Commission believes that a member does not participate in the execution of an order submitted to the PRIME and PRIME Solicitation Mechanism.

Third, Rule 11a2–2(T) requires that the order be executed by an exchange member who is unaffiliated with the member initiating the order. The Commission has stated that this requirement is satisfied when

BSE); 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080) (approving NOM options trading); 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131) (approving The Nasdaq Stock Market LLC); 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR–PCX–00–25) (approving Archipelago Exchange); 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (SR–NYSE–90–52 and SR–NYSE–90–53) (approving NYSE’s Off-Hours Trading Facility); and 15533 (January 29, 1979), 44 FR 6084 (January 31, 1979) (“1979 Release”).

⁸⁸ See Notice, *supra* note 3, 79 FR at 13347. See also Amendment No. 1, *supra* note 4 and accompanying text.

⁸⁹ See *id.* The Exchange notes that a Member may cancel or modify the order, or modify the instructions for executing the order, but that such instructions would be transmitted from off the floor of the Exchange. The Commission has stated that the non-participation requirement is satisfied under such circumstances so long as such modifications or cancellations are also transmitted from off the floor. See Securities Exchange Act Release No. 14563 (March 14, 1978), 43 FR 11542 (March 17, 1978) (“1978 Release”) (stating that the “non-participation requirement does not prevent initiating members from canceling or modifying orders (or the instructions pursuant to which the initiating member wishes to be executed) after the orders have been transmitted to the executing member, provided that any such instructions are also transmitted from off the floor”).

automated systems, such as the PRIME and PRIME Solicitation Mechanism, are used, as long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange.⁹⁰ MIA X has represented that the PRIME and PRIME Solicitation Mechanism are designed so that no Member has any special or unique trading advantage in the handling of its orders after transmitting its orders to the mechanisms.⁹¹ Based on the Exchange’s representation, the Commission believes that PRIME and PRIME Solicitation Mechanism satisfy this requirement.

Fourth, in the case of a transaction effected for an account with respect to which the initiating member or an associated person thereof exercises investment discretion, neither the initiating member nor any associated person thereof may retain any compensation in connection with effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to Section 11(a) of the Act and Rule 11a2–2(T) thereunder.⁹² MIA X represents that Members relying on Rule 11a2–2(T) for transactions effected through the PRIME and PRIME Solicitation Mechanism must comply with this condition of the Rule.⁹³

⁹⁰ In considering the operation of automated execution systems operated by an exchange, the Commission noted that, while there is not an independent executing exchange member, the execution of an order is automatic once it has been transmitted into the system. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2–2(T). See 1979 Release, *supra* note 87.

⁹¹ See Notice, *supra* note 3, 79 FR at 13347. See also Amendment No. 1, *supra* note 4 and accompanying text.

⁹² See 17 CFR 240.11a2–2(T)(a)(2)(iv). In addition, Rule 11a2–2(T)(d) requires a member or associated person authorized by written contract to retain compensation, in connection with effecting transactions for covered accounts over which such member or associated persons thereof exercises investment discretion, to furnish at least annually to the person authorized to transact business for the account a statement setting forth the total amount of compensation retained by the member in connection with effecting transactions for the account during the period covered by the statement. See 17 CFR 240.11a2–2(T)(d). See also 1978 Release, *supra* note 89 (stating “[t]he contractual and disclosure requirements are designed to assure that accounts electing to permit transaction-related compensation do so only after deciding that such arrangements are suitable to their interests”).

⁹³ See Notice, *supra* note 3, 79 FR at 13347. See also Amendment No. 1, *supra* note 4 and accompanying text.

⁸⁴ 15 U.S.C. 78k(a)(1).

⁸⁵ 17 CFR 240.11a2–2(T).

⁸⁶ The member may, however, participate in clearing and settling the transaction.

⁸⁷ See, e.g., Securities Exchange Act Release Nos. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR–BATS–2009–031) (approving BATS options trading); 59154 (December 23, 2008), 73 FR 80468 (December 31, 2008) (SR–BSE–2008–48) (approving equity securities listing and trading on

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 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. Please include File Number SR-MIAX-2014-09 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-2014-09. 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 20549-1090, 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-2014-09 and should be submitted on or before May 20, 2014.

VI. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

As discussed above, the Exchange submitted Amendment No. 1 to clarify representations it made in its original

filing concerning the applicability of and compliance of its proposed PRIME mechanisms with Section 11(a) of the Act.⁹⁴ Specifically, MIAX clarified that it intended its references to "PRIME" in its Section 11(a) analysis to apply to both the PRIME price improvement mechanism as well as the PRIME Solicitation Mechanism. Thus, the content of Amendment No. 1, which merely clarifies a potential ambiguity in the filing, does not raise any novel issues and instead provides additional clarifying information to support MIAX's analysis of how its proposal is consistent with the Act and thus facilitates the Commission's ability to make the requisite findings set forth above and ultimately approve the proposal. In addition, the Commission notes that it published the original proposal in the **Federal Register** and did not receive any comments on MIAX's Section 11(a) analysis or any other parts of the proposal.⁹⁵ Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,⁹⁶ to approve the filing, as modified by Amendment No. 1, on an accelerated basis prior to the 30th day after the date of the publication in the **Federal Register** of notice of Amendment No. 1 to the filing.

VII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁹⁷ that the proposed rule change (SR-MIAX-2014-09), as modified by Amendment No. 1, be and hereby is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹⁸

Kevin M. O'Neill,

Deputy Secretary.

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⁹⁴ See Amendment No. 1, *supra* note 4.

⁹⁵ The Commission also notes that, in order to promote the public availability and transparency of MIAX's post-notice amendment, MIAX submitted a copy of Amendment No. 1 through the Commission's electronic public comment letter mechanism on the same day that it filed Amendment No. 1 with the Commission. See *supra* note 5.

⁹⁶ 15 U.S.C. 78s(b)(2).

⁹⁷ 15 U.S.C. 78s(b)(2).

⁹⁸ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71999; File No. SR-NYSEArca-2014-19]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 2 and 3, to List and Trade Shares of the iShares Core Allocation Conservative ETF, iShares Core Allocation Moderate ETF, iShares Core Allocation Moderate Growth ETF, and iShares Core Allocation Growth ETF Under NYSE Arca Equities Rule 8.600

April 23, 2014.

I. Introduction

On February 25, 2014, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade shares ("Shares") of the iShares Core Allocation Conservative ETF, iShares Core Allocation Moderate ETF, iShares Core Allocation Moderate Growth ETF, and iShares Core Allocation Growth ETF (each a "Fund," and collectively "Funds") under NYSE Arca Equities Rule 8.600. On March 10, 2014, the Exchange filed Amendment No. 2 to the proposed rule change, which amended and replaced the proposed rule change in its entirety.³ The proposed rule change was published for comment in the **Federal Register** on March 18, 2014.⁴ On March 19, 2014, the Exchange filed Amendment No. 3 to the proposed rule change.⁵ The Commission received no comments on the proposed rule change. The Commission is publishing this notice to solicit comments on Amendment No. 3 from interested persons, and is approving the proposed rule change, as modified by Amendment Nos. 2 and 3, on an accelerated basis.

II. Description of the Proposed Rule Change

The Exchange proposes to list and trade the Shares under NYSE Arca

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Exchange filed Amendment No. 1 on March 7, 2014 and withdrew it on March 11, 2014.

⁴ See Securities Exchange Act Release No. 71702 (March 12, 2014), 79 FR 15191 ("Notice").

⁵ In Amendment No. 3, the Exchange describes more clearly and specifically the "short-term instruments" in which the Funds may invest.