

OMB APPROVAL

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Required fields are shown with yellow backgrounds and asterisks.

Page 1 of \* 21 SECURITIES AND EXCHANGE COMMISSION File No.\* SR - 2015 - \* 61  
 WASHINGTON, D.C. 20549  
 Form 19b-4 Amendment No. (req. for Amendments \*)

Filing by Miami International Securities Exchange, LLC.  
 Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
			Rule		
Pilot	Extension of Time Period for Commission Action *	Date Expires *	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010 Section 806(e)(1) * <input type="checkbox"/> Section 806(e)(2) * <input type="checkbox"/>	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934 Section 3C(b)(2) * <input type="checkbox"/>
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Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**

Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

Proposed rule change relating to Business Continuity and Disaster Recovery testing.

**Contact Information**

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name \* Richard      Last Name \* Rudolph  
 Title \* Vice President and Senior Counsel  
 E-mail \* rrudolph@miami-holdings.com  
 Telephone \* (609) 897-1484      Fax

**Signature**

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title \*)

Date 10/21/2015      Vice President and Senior Counsel  
 By Richard S. Rudolph     

(Name \*)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Persona Not Validated - 1427205277040,

Required fields are shown with yellow backgrounds and asterisks.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

**Form 19b-4 Information \***

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

**1. Text of the Proposed Rule Change**

(a) Miami International Securities Exchange, LLC (“MIAX” or “Exchange”), 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> proposes to adopt Rule 321, Business Continuity and Disaster Recovery Plans Testing Requirements for Designated Members.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1, and the text of the proposed rule change is attached hereto as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

**2. Procedures of the Self-Regulatory Organization**

The proposed rule change was approved by the Chief Executive Officer of the Exchange pursuant to authority delegated by the MIAX Board of Directors on December 11, 2014.

Exchange staff will advise the Board of Directors of any action taken pursuant to delegated authority. No other action by the Exchange is necessary for the filing of the proposed rule change.

Questions and comments on the proposed rule change may be directed to Richard S. Rudolph, Vice President and Senior Counsel, at (609) 897-1484, or Deborah L. Carroll, Senior Vice President – Associate General Counsel, at (609) 897-1447.

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

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

3. **Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

a. Purpose

The Exchange is proposing to adopt new Rule 321 to require MIAX Members designated by the Exchange to participate in certain scheduled testing of the Exchange's business continuity and disaster recovery plans ("BC/DR plans"), as required by Section 1004 of Regulation Systems Compliance and Integrity ("Regulation SCI").<sup>3</sup>

As adopted by the Securities and Exchange Commission ("Commission"), Regulation SCI applies to certain self-regulatory organizations (including the Exchange), alternative trading systems ("ATs"), plan processors, and exempt clearing agencies (collectively, "SCI entities"), and will require these SCI entities to comply with requirements with respect to the automated systems central to the performance of their regulated activities. Among the requirements of Regulation SCI is Rule 1001(a)(2)(v), which requires the Exchange and other SCI entities to maintain "[b]usiness continuity and disaster recovery plans that include maintaining backup and recovery capabilities sufficiently resilient and geographically diverse and that are reasonably designed to achieve next business day resumption of trading and two-hour resumption of critical SCI systems following a wide-scale disruption." The Exchange takes pride in the reliability and availability of its systems. Historically, MIAX systems have been up and available more than 99.999% of the time; yet as a precaution, MIAX has and intends to continue to put extensive time and resources toward planning for system failures and to implement and maintain robust BC/DR plans consistent with the Rule. As set forth below, in

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<sup>3</sup> See Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR 72252 (December 5, 2014) (the "Reg SCI Adopting Release").

connection with Regulation SCI, the Exchange is proposing to require certain Members to participate in testing of the operation of the Exchange's BC/DR plans.

With respect to an SCI entity's BC/DR plans, paragraph (a) of Rule 1004 of Regulation SCI requires each SCI entity to: "[e]stablish standards for the designation of those members or participants that the SCI entity reasonably determines are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of such plans." Paragraph (b) of Rule 1004 further requires each SCI entity to "[d]esignate members or participants pursuant to the standards established in paragraph (a) of [Rule 1004] and require participation by such designated members or participants in scheduled functional and performance testing of the operation of such plans, in the manner and frequency specified by the SCI entity, provided that such frequency shall not be less than once every 12 months." In order to comply with Regulation SCI, the Exchange proposes to adopt Rule 321 governing mandatory participation in testing of Exchange disaster recovery plans and systems, as described below.

First, in paragraph (a) of Rule 321, the Exchange proposes to include language from paragraph (a) of Rule 1004 of Regulation SCI to summarize the Exchange's obligation pursuant to the rule. Specifically, the Exchange proposes to state that "[p]ursuant to Regulation Systems Compliance and Integrity ("Regulation SCI"), 17 CFR 242.1000 et seq. and with respect to the Exchange's business continuity and disaster recovery plans, including its disaster recovery systems, the Exchange is required to establish standards for the designation of Members that the Exchange reasonably determines are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of such plans." The Exchange further proposes that paragraph (a) indicate that "[t]he Exchange has established

standards and will designate Members according to those standards” as set forth in the proposed Rule. In addition, the Exchange proposes to make clear that all Members are permitted to connect to the Exchange’s disaster recovery systems as well as to participate in testing of such systems. Proposed paragraph (a) is consistent with the Commission’s adoption of Regulation SCI, which encouraged “SCI entities to permit non-designated members or participants to participate in the testing of the SCI entity’s BC/DR plans if they request to do so.”<sup>4</sup>

Second, in paragraph (b) of Rule 321, the Exchange proposes to specify the criteria that will result in a Member receiving a designation requiring it to connect to the Exchange’s disaster recovery systems and to participate in functional and performance testing as announced by the Exchange, which shall occur at least once every 12 months. Specifically, proposed paragraph (b) would require all Members that account for a meaningful percentage of the Exchange’s volume to connect to the Exchange’s disaster recovery systems and to participate in functional and performance testing.

The Exchange notes that it encourages all Members to connect to the Exchange’s disaster recovery systems and to participate in testing of such systems. In fact, the Exchange provides logical ports to all Members that connect to Exchange disaster recovery systems without additional charge in order to help reduce the economic burden of maintaining connectivity to Exchange disaster recovery systems. However, in adopting the requirements of Rule 321(b), including both the requirement to maintain connectivity to Exchange disaster recovery systems and to participate in mandatory testing of such systems, the Exchange intends to subject to the Rule only those Members that the Exchange believes are necessary to maintain fair and orderly markets at the Exchange. The Exchange believes that designating Members to participate in

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<sup>4</sup> See id at p.72350.

mandatory testing because they account for a meaningful percentage of the Exchange's overall volume is a reasonable means to ensure the maintenance of a fair and orderly market on the Exchange.

In addition to paragraphs (a) and (b) described above, the Exchange also proposes to adopt Interpretation and Policy .01, which would provide additional detail regarding the notice that will be provided to Members that have been designated pursuant to paragraph (b) of the Rule as well as the Exchange's notice of the applicable measuring calendar quarter and method for measuring the volume threshold. As proposed, Interpretation and Policy .01 would state that for purposes of identifying Members that account for a meaningful percentage of the Exchange's overall volume ("meaningful percentage"), the Exchange will measure volume executed on the Exchange during a calendar quarter to be determined by the Exchange ("measurement quarter") and announced via circular distributed to Members. The meaningful percentage will also be determined by the Exchange and published in a circular distributed to Members. The meaningful percentage applicable in any measurement quarter will be published in advance of such measurement quarter and will not apply retroactively to any measurement quarter completed or in progress. The Exchange will publish the first circular consistent with this proposal prior to the Regulation SCI compliance date of November 3, 2015. The proposed Interpretation and Policy would also require the Exchange to notify individual Members that are subject to proposed paragraph (b) based on the applicable calendar quarter's volume following the completion of such calendar quarter. The Exchange believes the proposed notice requirements will provide Members with proper advance notice in the event they become subject to proposed Rule 321(b) to become compliant with such Rule, including allowing for adequate time to make any necessary

infrastructure changes to connect to the Exchange's disaster recovery systems for a Member that is not already connected.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>6</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The proposal will ensure that the Members necessary to ensure the maintenance of a fair and orderly market are properly designated consistent with Rule 1004 of Regulation SCI. Specifically, the proposal will adopt criteria with respect to the designation of Members that are required to participate in the testing of the Exchange's BC/DR plans, as well as appropriate notification regarding such designation. As set forth in the SCI Adopting Release, "SROs have the authority, and legal responsibility, under Section 6 of the Exchange Act, to adopt and enforce rules (including rules to comply with Regulation SCI's requirements relating to BC/DR testing) applicable to their members or participants that are designed to, among other things, 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 general, to protect investors and the public

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).



interest.”<sup>7</sup> The Exchange believes that this proposal is consistent with such authority and legal responsibility.

**4. 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 that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the proposal is not a competitive proposal but rather is necessary for the Exchange’s compliance with Regulation SCI.

**5. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others**

No written comments were either solicited or received.

**6. Extension of Time Period for Commission Action**

Not applicable.

**7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)**

Pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(6)<sup>9</sup> thereunder, MIAX has designated this proposal as one that effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five

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<sup>7</sup> See *supra* note 4.

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

The Exchange requests that the Commission waive the 30-day operative delay in order to ensure that Rule 321 will be effective on or before the November 3, 2015 compliance date for implementation of Rule 1004 of Regulation SCI. The Exchange believes that waiver is necessary and appropriate because proposed Rule 321 is required in order to authorize the Exchange to mandate Member participation in MIAX's testing of the operation of its BC/DR plans in order to maintain fair and orderly markets in the event of the activation of such plans.

The Exchange does not believe the proposed rule change will significantly affect the protection of investors or the public interest or impose any significant burden on competition, and the Exchange does not believe that the proposed rule change presents any new, unique or substantive issues. The proposed rule change is simply intended to implement the Exchange's obligations with respect to Member participation in the Exchange's scheduled testing of its BC/DR plans as is required by paragraph (b) of Rule 1004 of Regulation SCI.<sup>10</sup>

For the foregoing reasons, this rule filing qualifies as a "non-controversial" rule change under Rule 19b-4(f)(6), which renders the proposed rule change effective upon filing with the Commission. At any time within 60 days of the filing of this 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 will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

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<sup>10</sup> 17 CFR 242.1004(b).

**8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**

The proposed rule change is based on the filing of another self-regulatory organization.<sup>11</sup>

The proposed rule change is based on the rules of the Commission in that the proposed rule change implements Rule 1004 of Regulation SCI under the Act.<sup>12</sup>

**9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act**

Not applicable.

**10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act**

Not applicable.

**11. Exhibits**

1. Notice of proposed rule for publication in the Federal Register.
5. Text of proposed rule change.

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<sup>11</sup> See Securities Exchange Release No. 76162 (October 15, 2015)(SR-BATS-2015-86) (Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adopt Rule 2.4, Mandatory Participation in Testing of Backup Systems)

<sup>12</sup> 17 CFR 242.1004.

**EXHIBIT 1****SECURITIES AND EXCHANGE COMMISSION**  
(Release No. 34- ; File No. SR-MIAX-2015-61)

October \_\_, 2015

**Self-Regulatory Organizations: Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by Miami International Securities Exchange LLC to Adopt Rule 321 Business Continuity and Disaster Recovery Plans Testing Requirements for Designated Members**

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 October 21, 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 adopt Rule 321, Business Continuity and Disaster Recovery Plans Testing Requirements for Designated Members.

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 is proposing to adopt new Rule 321 to require those MIAX Members designated by the Exchange to participate in certain scheduled testing of the Exchange's business continuity and disaster recovery plans ("BC/DR plans"), as required by Section 1004 of Regulation Systems Compliance and Integrity ("Regulation SCI").<sup>3</sup>

As adopted by the Securities and Exchange Commission ("Commission"), Regulation SCI applies to certain self-regulatory organizations (including the Exchange), alternative trading systems ("ATs"), plan processors, and exempt clearing agencies (collectively, "SCI entities"), and will require these SCI entities to comply with requirements with respect to the automated systems central to the performance of their regulated activities. Among the requirements of Regulation SCI is Rule 1001(a)(2)(v), which requires the Exchange and other SCI entities to maintain "[b]usiness continuity and disaster recovery plans that include maintaining backup and recovery capabilities sufficiently resilient and geographically diverse and that are reasonably designed to achieve next business day resumption of trading and two-hour resumption of critical SCI systems following a wide-scale disruption." The Exchange takes pride in the reliability and availability of its systems. Historically, MIAX systems have been up and available more than 99.999% of the time; yet as a precaution, MIAX has and intends to continue to put extensive time and resources toward planning for system failures and

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<sup>3</sup> See Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR 72252 (December 5, 2014) (the "Reg SCI Adopting Release").

to implement and maintain robust BC/DR plans consistent with the Rule. As set forth below, in connection with Regulation SCI, the Exchange is proposing to require certain Members to participate in testing of the operation of the Exchange's BC/DR plans.

With respect to an SCI entity's BC/DR plans, paragraph (a) of Rule 1004 of Regulation SCI requires each SCI entity to: "[e]stablish standards for the designation of those members or participants that the SCI entity reasonably determines are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of such plans." Paragraph (b) of Rule 1004 further requires each SCI entity to "[d]esignate members or participants pursuant to the standards established in paragraph (a) of [Rule 1004] and require participation by such designated members or participants in scheduled functional and performance testing of the operation of such plans, in the manner and frequency specified by the SCI entity, provided that such frequency shall not be less than once every 12 months." In order to comply with Regulation SCI, the Exchange proposes to adopt Rule 321 governing mandatory participation in testing of Exchange disaster recovery plans and systems, as described below.

First, in paragraph (a) of Rule 321, the Exchange proposes to include language from paragraph (a) of Rule 1004 of Regulation SCI to summarize the Exchange's obligation pursuant to the rule. Specifically, the Exchange proposes to state that "[p]ursuant to Regulation Systems Compliance and Integrity ("Regulation SCI"), 17 CFR 242.1000 et seq. and with respect to the Exchange's business continuity and disaster recovery plans, including its disaster recovery systems, the Exchange is required to establish standards for the designation of Members that the Exchange reasonably determines are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of such plans." The Exchange further proposes that paragraph (a) indicate that "[t]he Exchange has established

standards and will designate Members according to those standards” as set forth in the proposed Rule. In addition, the Exchange proposes to make clear that all Members are permitted to connect to the Exchange’s disaster recovery systems as well as to participate in testing of such systems. Proposed paragraph (a) is consistent with the Commission’s adoption of Regulation SCI, which encouraged “SCI entities to permit non-designated members or participants to participate in the testing of the SCI entity’s BC/DR plans if they request to do so.”<sup>4</sup>

Second, in paragraph (b) of Rule 321, the Exchange proposes to specify the criteria that will result in a Member receiving a designation requiring it to connect to the Exchange’s disaster recovery systems and to participate in functional and performance testing as announced by the Exchange, which shall occur at least once every 12 months. Specifically, proposed paragraph (b) would require all Members that account for a meaningful percentage of the Exchange’s volume to connect to the Exchange’s disaster recovery systems and to participate in functional and performance testing.

The Exchange notes that it encourages all Members to connect to the Exchange’s disaster recovery systems and to participate in testing of such systems. In fact, the Exchange provides logical ports to all Members that connect to Exchange disaster recovery systems without additional charge in order to help reduce the economic burden of maintaining connectivity to Exchange disaster recovery systems. However, in adopting the requirements of Rule 321(b), including both the requirement to maintain connectivity to Exchange disaster recovery systems and to participate in mandatory testing of such systems, the Exchange intends to subject to the Rule only those Members that the Exchange believes are necessary to maintain fair and orderly markets at the Exchange. The Exchange believes that designating Members to participate in mandatory testing because they account for a meaningful percentage of the Exchange’s overall

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<sup>4</sup> See *id* at p.72350.

volume is a reasonable means to ensure the maintenance of a fair and orderly market on the Exchange.

In addition to paragraphs (a) and (b) described above, the Exchange also proposes to adopt Interpretation and Policy .01, which would provide additional detail regarding the notice that will be provided to Members that have been designated pursuant to paragraph (b) of the Rule as well as the Exchange's notice of the applicable measuring calendar quarter and method for measuring the volume threshold. As proposed, Interpretation and Policy .01 would state that for purposes of identifying Members that account for a meaningful percentage of the Exchange's overall volume ("meaningful percentage"), the Exchange will measure volume executed on the Exchange during a calendar quarter to be determined by the Exchange ("measurement quarter") and announced via circular distributed to Members. The meaningful percentage will also be determined by the Exchange and published in a circular distributed to Members. The meaningful percentage applicable in any measurement quarter will be published in advance of such measurement quarter and will not apply retroactively to any measurement quarter completed or in progress. The Exchange will publish the first circular consistent with this proposal prior to the Regulation SCI compliance date of November 3, 2015. The proposed Interpretation and Policy would also require the Exchange to notify individual Members that are subject to proposed paragraph (b) based on the applicable calendar quarter's volume following the completion of such calendar quarter. The Exchange believes the proposed notice requirements will provide Members with proper advance notice in the event they become subject to proposed Rule 321(b) to become compliant with such Rule, including allowing for adequate time to make any necessary infrastructure changes to connect to the Exchange's disaster recovery systems for a Member that is not already connected.



## 2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>6</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposal will ensure that the Members necessary to ensure the maintenance of a fair and orderly market are properly designated consistent with Rule 1004 of Regulation SCI. Specifically, the proposal will adopt criteria with respect to the designation of Members that are required to participate in the testing of the Exchange's BC/DR plans, as well as appropriate notification regarding such designation. As set forth in the SCI Adopting Release, "SROs have the authority, and legal responsibility, under Section 6 of the Exchange Act, to adopt and enforce rules (including rules to comply with Regulation SCI's requirements relating to BC/DR testing) applicable to their members or participants that are designed to, among other things, 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 general, to protect investors and the public interest."<sup>7</sup> The Exchange believes that this proposal is consistent with such authority and legal responsibility.

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> See supra note 4.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the proposal is not a competitive proposal but rather is necessary for the Exchange's compliance with Regulation SCI.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(6)<sup>9</sup> thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

Comments may be submitted by any of the following methods:

##### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>);
- or
- Send an e-mail [to rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-MIAX-2015-61 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-2015-61. 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 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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the

Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-MIAX-2015-61 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>10</sup>

Brent J. Fields  
Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

New text is underlined;  
Deleted text is in [brackets]

**MIAMI INTERNATIONAL SECURITIES EXCHANGE, LLC Rules**

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**Rule 321. Business Continuity and Disaster Recovery Plans Testing Requirements for Designated Members**

(a) Pursuant to Regulation Systems Compliance and Integrity (“Regulation SCP”), 17 CFR 242.1000 et seq. and with respect to the Exchange’s business continuity and disaster recovery plans, including its disaster recovery systems, the Exchange is required to establish standards for the designation of Members that the Exchange reasonably determines are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of such plans. The Exchange has established standards and will designate Members according to those standards as set forth below. All Members are permitted to connect to the Exchange’s disaster recovery systems and to participate in testing of such systems.

(b) Certain Members are required to connect to the Exchange’s disaster recovery systems and participate in functional and performance testing as announced by the Exchange, which shall occur at least once every 12 months. The following Members must participate in mandatory testing of the Exchange’s disaster recovery systems: Members that have been determined by the Exchange to contribute a meaningful percentage of the Exchange’s overall volume.

**Interpretations and Policies:**

.01 For purposes of identifying Members that contribute a meaningful percentage of the Exchange’s overall volume (“meaningful percentage”), the Exchange will measure volume executed on the Exchange during a calendar quarter determined by the Exchange (the “measurement quarter”) and published in a circular distributed to Members. The meaningful percentage will be determined by the Exchange and will be published in a circular distributed to Members. The meaningful percentage applicable in any measurement quarter will be published in advance of such measurement quarter and will not apply retroactively to any measurement quarter completed or in progress. The Exchange will also individually notify all Members that will be subject to paragraph (b) based on the meaningful percentage following the completion of the measurement quarter.

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