

rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to July 21, 2016.<sup>6</sup> On June 24, 2016, the Exchange submitted a Response Letter and filed Amendment No. 2 to the proposed rule change.<sup>7</sup> On July 27, 2016, the Commission instituted proceedings pursuant to Exchange Act Section 19(b)(2)(B) to determine whether to approve or disapprove the proposed rule change, as modified by Amendment Nos. 1 and 2.<sup>8</sup> The Commission received no additional comments on the proposed rule change.

On September 22, 2016, the Exchange withdrew the proposed rule change, as modified by Amendment Nos. 1 and 2. (SR-NYSE-2016-11).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Robert W. Errett,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-78950; File No. SR-MIAX-2016-33]

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

September 27, 2016.

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 September 15, 2016, Miami International Securities Exchange LLC (“MIAX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit

comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Options Fee Schedule (the “Fee Schedule”). While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on October 1, 2016.

The text of the proposed rule change is available on the Exchange’s Web site at [http://www.miaxoptions.com/filter/wotitle/rule\\_filing](http://www.miaxoptions.com/filter/wotitle/rule_filing), at MIAX’s principal office, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend the MIAX Options Fee Schedule (the “Fee Schedule”) to offer two (2) additional Limited Service MIAX Express Interface (“MEI”) Ports to Market Makers.

Currently, MIAX assesses monthly MEI Port Fees on Market Makers based upon the number of MIAX matching engines<sup>3</sup> used by the Market Maker. Market Makers are allocated two (2) Full Service MEI Ports<sup>4</sup> and two (2) Limited

Service MEI Ports<sup>5</sup> per matching engine to which they connect. The Exchange currently assesses the following MEI Port fees: (i) \$5,000 for Market Maker Assignments in up to 5 option classes or up to 10% of option classes by volume; (ii) \$10,000 for Market Maker Assignments in up to 10 option classes or up to 20% of option classes by volume; (iii) \$14,000 for Market Maker Assignments in up to 40 option classes or up to 35% of option classes by volume; (iv) \$17,500 for Market Maker Assignments in up to 100 option classes or up to 50% of option classes by volume; and (v) \$20,500.00 for Market Maker Assignments in over 100 option classes or over 50% of option classes by volume up to all option classes listed on MIAX.<sup>6</sup> In each of the foregoing categories, the stated fee applies if the less of the two applicable measurements is met. For example, a Market Maker that wishes to make markets in just one symbol would require the two (2) MEI Ports in a single matching engine; a Market Maker wishing to make markets in all symbols traded on MIAX would require the two (2) MEI Ports in each of the Exchange’s matching engines. The Exchange also currently charges \$50 per month for each additional Limited Service MEI Port per matching engine for Market Makers over and above the two (2) Limited Service MEI Ports per matching engine that are allocated with the Full Service MEI Ports. The Full Service MEI Ports, Limited Service MEI Ports, and the additional Limited Service MEI Ports all include access to MIAX’s primary and secondary data centers and its disaster recovery center.

The Exchange originally added the Limited Service MEI Ports to enhance the MEI Port connectivity made available to Market Makers, and subsequently made additional Limited Service MEI Ports available to Market Makers.<sup>7</sup> Limited Service MEI Ports have been well received by Market Makers since their addition. The Exchange now proposes to offer to Market Makers the ability to purchase an additional two (2) Limited Service MEI Ports per matching engine over and

and

Makers are limited to two Full Service MEI Ports per matching engine.

<sup>5</sup> Limited Service MEI Ports provide Market Makers with the ability to send eQuotes and quote purge messages only, but not Market Maker Quotes, to the MIAX System. Limited Service MEI Ports are also capable of receiving administrative information. Market Makers initially receive two Limited Service MEI Ports per matching engine.

<sup>6</sup> See MIAX Fee Schedule, Section 5)d)ii).

<sup>7</sup> See Securities Exchange Act Release No. 70137 (August 8, 2013), 78 FR 49586 (August 14, 2013) (SR-MIAX-2013-39); see also Exchange Act Release No. 70903 (November 20, 2013), 78 FR 228 (November 26, 2013) (SR-MIAX-2013-52).

<sup>6</sup> See Securities Exchange Act Release No. 34-77976 (June 2, 2016), 81 FR 36981.

<sup>7</sup> In Amendment No. 2 the Exchange proposed that Rebroadcasting Users and Transmittal Users would not be charged for their first two Multicast End Users and Unicast End Users, respectively, and offers additional support for the proposal. Amendment No. 2 was noticed in the Commission’s Order Instituting Proceedings and is also available on the Commission’s Web site at <https://www.sec.gov/comments/sr-nyse-2016-11/nyse201611-4.pdf>.

<sup>8</sup> See Securities Exchange Act Release No. 34-78387 (July 21, 2016); 81 FR 49300.

<sup>9</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> A “matching engine” is a part of the MIAX electronic system that processes options quotes and trades on a symbol-by-symbol basis. Some matching engines will process option classes with multiple root symbols, and other matching engines will be dedicated to one single option root symbol (for example, options on SPY will be processed by one single matching engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated matching engine. A particular root symbol may not be assigned to multiple matching engines.

<sup>4</sup> Full Service MEI Ports provide Market Makers with the ability to send Market Maker quotes, eQuotes, and quote purge messages to the MIAX System. Full Service MEI Ports are also capable of receiving administrative information. Market

above the current two (2) additional Limited Service MEI Ports per matching engine that are available for purchase by Market Makers. The Exchange proposes to charge the same amount that it currently charges, \$50 per month, for each extra Limited Service MEI Port per matching engine. The Exchange proposes making a corresponding change to footnote 31 of the Exchange's Fee Schedule to specify that Market Makers will now be limited to purchasing four (4) additional Limited Service MEI Ports per matching engine, for a total of six (6) per matching engine. All other fees related to MEI Ports shall remain unchanged.

The purpose of this amendment to the Fee Schedule is to provide Market Makers with greater and improved technical flexibility to connect additional Limited Service MEI Ports to independent servers that host their eQuote and purge functionality. The Exchange believes that the offering of additional ports will help Market Makers mitigate the risk of using the same server for all of their Market Maker quoting activity. By using the additional Limited Service MEI Ports for risk purposes, Market Makers can place purge functionality on a different server than the Market Maker quoting server (via the Limited Service MEI Ports), which provides them a failsafe for getting out of the market in case they have an issue with the quote server. Market Makers can also use the extra Limited Service MEI Ports to submit eQuotes. Since eQuotes are frequently generated by a different algorithm that determines when to respond to an auction message, the Exchange believes that the offering of additional ports will further enable Market Makers to connect to a different server that processes auctions and eQuotes rather than forcing them to use their Market Maker Standard quote server as a gateway for communicating eQuotes to MIAAX.

## 2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act<sup>8</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>9</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act<sup>10</sup>

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 and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange believes that its proposal is consistent with Section 6(b)(4) of the Act because only Market Makers that decide that they need the extra Limited Service MEI Ports will be charged the additional fee. The Exchange further believes that the availability of the additional Limited Service MEI Ports is equitable and not unfairly discriminatory because it further enhances Market Makers' access to the MIAAX System and consequently enhances the marketplace by helping Market Makers to better manage risk, thus preserving the integrity of the MIAAX markets, all to the benefit of and protection of investors and the public as a whole.

The Exchange also believes that its proposal is consistent with the objectives of Section 6(b)(5) of the Act<sup>11</sup> because the additional Limited Service MEI Ports are available to all Market Makers and the proposed fees assessable for the additional Limited Service MEI Ports apply equally to all Market Makers regardless of type, and access to the Exchange is offered on terms that are not unfairly discriminatory. The Exchange designed the fee rates in order to provide objective criteria for Market Makers of different sizes and business models to be assessed a MEI Port fee and to have technical connectivity that best matches their quoting activity on the Exchange and the offering of additional Limited Service MEI Ports comports with this objective.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposal increases both intermarket and intramarket competition by enabling Market Makers to enhance their connectivity to the Exchange in a manner that is designed to provide Market Makers of different sizes and business models to be assessed a MEI Port fee and to have technical connectivity that best matches their quoting activity on the Exchange and the offering of additional Limited

Service MEI Ports comports with this objective. The Exchange believes that the proposal will increase competition amongst Market Makers of different sizes and business models by encouraging Market Makers to connect additional Limited Service Ports to independent servers that host their eQuote and purge functionality and thereby increase such functionality. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and in order to attract market participants to use its services. The Exchange believes that the proposal reflects this competitive environment because it increases the Exchange's fees in a manner that continues to encourage market participants to register as Market Makers on the Exchange, to provide liquidity, and to attract order flow. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity.

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

Written comments were neither solicited nor received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>12</sup> and Rule 19b-4(f)(2)<sup>13</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.

## 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.

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

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

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>13</sup> 17 CFR 240.19b-4(f)(2).

Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-MIAX-2016-33 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-2016-33. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MIAX-2016-33 and should be submitted on or before October 24, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-78952; File No. SR-NYSEArca-2016-19]

### **Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Withdrawal of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To Establish Certain End User Fees, Amend the Definition of Affiliate, and Amend the Co-Location Section of the Fee Schedule To Reflect the Changes**

September 27, 2016.

On April 4, 2016, NYSE Arca, Inc. (the "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")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend the co-location section of the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services and the NYSE Arca Options Fee Schedule to establish fees relating to end users of certain co-location Users in the Exchange's data center and to amend the definition of "Affiliate." The Commission published the proposed rule change for comment in the **Federal Register** on April 22, 2016.<sup>3</sup> On April 29, 2016, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>4</sup> The Commission received no comments on the proposed rule change.<sup>5</sup> On June 8, 2016, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to July 21, 2016.<sup>6</sup> On June 24, 2016, the

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

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

<sup>3</sup> See Securities Exchange Act Release No. 34-77641 (April 18, 2016), 81 FR 23773 ("Notice").

<sup>4</sup> Amendment No. 1 made technical changes relating to the General Notes numbering and references in the Co-location section of the Fee Schedules. Amendment No. 1 is available on the Commission's Web site at <https://www.sec.gov/comments/sr-nysearca-2016-19/nysearca201619-1.pdf>.

<sup>5</sup> The Commission received two comment letters on a companion filing, NYSE-2016-11 (the "NYSE companion filing"), filed by the Exchange's affiliate, the New York Stock Exchange LLC ("NYSE"). See Letter from Michael Friedman, General Counsel and Chief Compliance Officer, Trillium, to Brent J. Fields, Secretary, Securities and Exchange Commission, dated May 13, 2016 ("Friedman Letter"), and Letter from Eero Pikat to Brent J. Fields, Secretary, Securities and Exchange Commission, dated, May 13, 2016 ("Pikat Letter") (together, the "Comment Letters,").

In response to the Comment Letters, the NYSE submitted a response and filed Amendment No. 2 to the NYSE companion filing.

<sup>6</sup> See Securities Exchange Act Release No. 34-77977 (June 2, 2016), 81 FR 36967.

Exchange filed Amendment No. 2 to the proposed rule change.<sup>7</sup> On July 27, 2016, the Commission instituted proceedings pursuant to Exchange Act Section 19(b)(2)(B) to determine whether to approve or disapprove the proposed rule change, as modified by Amendment Nos. 1 and 2.<sup>8</sup> The Commission received no comments in response.

On September 22, 2016, the Exchange withdrew the proposed rule change, as modified by Amendment Nos. 1 and 2. (SR-NYSEArca-2016-19).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

[FR Doc. 2016-23753 Filed 9-30-16; 8:45 am]

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-78951; File No. SR-NYSEMKT-2016-15]

### **Self-Regulatory Organizations; NYSE MKT LLC; Notice of Withdrawal of a Proposed Change, as Modified by Amendment Nos. 1 and 2, Establishing Fees Relating to End Users and Amending the Definition of "Affiliate," as Well as Amending the NYSE MKT Equities Price List and the NYSE Amex Options Fee Schedule To Reflect the Changes**

September 27, 2016.

On April 4, 2016, NYSE MKT LLC (the "Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend the co-location section of the NYSE MKT Equities Price List and the NYSE Amex Options Fee Schedule to establish fees relating to end users of certain co-location Users in the Exchange's data center and to amend the definition of "Affiliate." The Commission published the proposed

<sup>7</sup> In Amendment No. 2 the Exchange proposed that Rebroadcasting Users and Transmittal Users would not be charged for their first two Multicast End Users and Unicast End Users, respectively, and offers additional support for the proposal. Amendment No. 2 was noticed at part of the Commission's Order Instituting Proceedings and is also available on the Commission's Web site at <https://www.sec.gov/comments/sr-nysearca-2016-19/nysearca201619-2.pdf>.

<sup>8</sup> See Securities Exchange Act Release No. 34-78388; (July 21, 2016); 81 FR 49332.

<sup>9</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>14</sup> 17 CFR 200.30-3(a)(12).