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SECURITIES AND EXCHANGE COMMISSION  
 WASHINGTON, D.C. 20549  
 Form 19b-4

File No.\* SR - 2016 - \* 39

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) \*

Rule

Pilot  Extension of Time Period for Commission Action \*  Date Expires \*   
 19b-4(f)(1)  19b-4(f)(4)  
 19b-4(f)(2)  19b-4(f)(5)  
 19b-4(f)(3)  19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010  
 Section 806(e)(1) \*  Section 806(e)(2) \*   
 Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934  
 Section 3C(b)(2) \*

Exhibit 2 Sent As Paper Document  Exhibit 3 Sent As Paper Document

**Description**

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

Proposed rule change relating to the MIAX Risk Protection Monitor

**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 10/31/2016 Vice President and Senior Counsel  
 By Richard S. Rudolph

(Name \*)

rrudolph@miami-holdings.com

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.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF 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 amend Exchange Rule 519A, Risk Protection Monitor.

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 10, 2015. 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.

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

The Exchange proposes to amend Exchange Rule 519A, Risk Protection Monitor, to mandate the use of the Risk Protection Monitor by Members, and to state clearly in the rule that Members may establish multiple RPM Settings, as defined below.

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

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

### Current Functionality

Currently, using the Risk Protection Monitor, the Exchange's System<sup>3</sup> maintains a counting program ("counting program") for each participating Member that counts the number of orders entered and the number of contracts traded via an order entered by a Member on the Exchange within a specified time period that has been established by the Member (the "specified time period"). The maximum duration of the specified time period is established by the Exchange and announced via a Regulatory Circular. The current maximum duration of the specified time period is a trading session.

Under the current rule, Members may establish an Allowable Order Rate<sup>4</sup> and/or an Allowable Contract Execution Rate.<sup>5</sup> When a Member's order is entered or when an execution of a Member's order occurs, the System will look back over the specified time period to determine whether the order entered or the execution that occurred triggers the Risk Protection Monitor.<sup>6</sup> Members may establish whether the Risk Protection Monitor, when triggered, will (i) prevent the System from receiving any new orders in all series in all classes from the Member; or (ii) prevent the System from receiving any new orders in all series in all classes from the

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<sup>3</sup> The term "System" means the automated trading system used by the Exchange for the trading of securities. See Exchange Rule 100.

<sup>4</sup> The Allowable Order Rate is the number of orders entered during the specific time period that has been established by the Member.

<sup>5</sup> The Allowable Contract Execution Rate is the number of contracts executed during the specific time period that has been established by the Member.

<sup>6</sup> The Exchange notes that the specific time period does not need to be the same for both the Allowable Order Rate and Allowable Contract Execution Rate (i.e., there can be one specified time period for Allowable Order Rate and a different specified time period for Allowable Contract Execution Rate). In order to be consistent in the rule, under the proposal there can also be one Corresponding Specified Time Period (as described below) for both the Allowable Order Rate and a different Corresponding Specified Time Period for Allowable Contract Execution Rate. See proposed Rule 519A(b).

Member and cancel all existing Day orders in all series in all classes from the Member; or (iii) send a notification that the Risk Protection Monitor has been triggered without any further preventative or cancellation action by the System.<sup>7</sup>

When engaged, the Risk Protection Monitor allows the Member to interact with existing orders entered prior to triggering the Risk Protection Monitor and allows the Member to continue to send cancel messages and receive reports of executions resulting from those orders. The Risk Protection Monitor shall remain engaged until the Member communicates with the Exchange staff to enable the acceptance of new orders.<sup>8</sup>

#### The Proposal

First, the Exchange proposes to amend current Rule 519A(a) and (b) by consolidating the two paragraphs into one unified, cohesive paragraph describing the Risk Protection Monitor feature, its functionality, the ability of Members to establish and configure multiple Risk Protection Monitor settings, and the ability of Members to determine one of three alternative actions taken by the Risk Protection Monitor once it is triggered.

Proposed Rule 519A will continue to include the basic description of the Risk Protection Monitor described above. The proposed amendments will reflect that the Risk Protection Monitor maintains one or more Member-configurable Allowable Order Rate settings and Allowable Contract Execution Rate settings (collectively, "Risk Protection Monitor settings"). The Exchange believes that providing Members with the ability to establish multiple Risk

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<sup>7</sup> See Exchange Rule 519A(a). As discussed below, the Risk Protection Monitor will not cancel any existing Good Til Cancelled ("GTC") orders. GTC Orders will remain in the System available for trading when the Risk Protection Monitor is engaged. See Rule 519A, Interpretations and Policies .02.

<sup>8</sup> See current Exchange Rule 519A(b). The communication from the Member to Exchange staff can either be via email or phone.

Protection Monitor settings enhances Members' ability to account for sudden market movements due to extreme market volatility, and for heightened activity in one particular option or group of options in a particular industry or segment of the market due to news or other factors affecting the activity surrounding such option or options. Members may also simultaneously account for normal or even sluggish activity in less active options by establishing higher Risk Protection Monitor settings and a longer specified time period during which the Risk Protection Monitor engages the counting program.

Amended Rule 519A(a), Voluntary Risk Protection Functionality,<sup>9</sup> will also continue to include a choice of three possible outcomes for the Member once the System triggers the Risk Protection Monitor (i.e., when the Risk Protection Monitor setting has been reached during the specified time period), all of which are contained in the current rule. Specifically, once engaged, the Risk Protection Monitor will then, as determined by the Member: automatically either (A) prevent the System from receiving any new orders in all series in all classes from the Member; (B) prevent the System from receiving any new orders in all series in all classes from the Member and cancel all existing orders with a time-in-force of Day in all series in all classes from the Member; or (C) send a notification to the Member without any further preventative or cancellation action by the System. As under the current rule when engaged, the Risk Protection Monitor will still allow the Member to interact with existing orders entered prior to exceeding the Allowable Order Rate setting or the Allowable Contract Execution Rate setting, including sending cancel order messages and receiving trade executions from those orders. The Risk

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<sup>9</sup> For clarity and ease of reference, the Exchange is proposing to add the heading "Voluntary Risk Protection Functionality" to new Rule 519A(a), and the heading "Mandatory Participation" to new Rule 519A(b).

Protection Monitor will remain engaged until the Member communicates with the Help Desk to enable the acceptance of new orders.

The Exchange believes that the ability of a Member to choose among three outcomes once the Risk Protection Monitor is triggered enhances the risk protections afforded to Members by the Exchange and thus provides a tool by which Members can further use the Risk Protection Monitor, once triggered, by tailoring the outcome to their acceptable risk tolerance levels.

#### Mandatory Use of the Risk Monitor Mechanism

In addition to the consolidation of current Rules 519A(a) and (b) into one paragraph (new paragraph (a)), the Exchange proposes to adopt new Rule 519A(b), Mandatory Participation, to state that Members must establish at least one Allowable Order Rate setting with a corresponding specified time period of not less than one second, and not to exceed ten seconds, as established by the Exchange and communicated to Members via Regulatory Circular (a “Corresponding Specified Time Period”) and at least one Allowable Contract Execution Rate setting (with a Corresponding Specified Time Period). The Exchange believes that establishing the Corresponding Specified Time Period within these parameters will provide minimum and maximum guidelines for Members, making their required use of the Risk Protection Monitor more efficient and streamlined.

The Risk Protection Monitor settings must be configured by the Member such that the Risk Protection Monitor, when triggered, will perform one of two steps set forth in proposed Rule 519A(a): either (A) prevent the System from receiving any new orders in all series in all classes from the Member; or (B) prevent the System from receiving any new orders in all series in all classes from the Member and cancel all existing orders with a time-in-force of Day in all series in all classes from the Member. Under the mandatory provision of proposed Rule

519A(b), the simple Member notification option included in section (C) of proposed Rule 519A(a) would not be available.

The purpose of this proposed provision is to mandate the use of the Risk Protection Monitor so that Members and the investing public are assured that the Risk Protection Monitor is active for all orders submitted to the Exchange. The Exchange notes that other exchanges have similar risk protection tools and one has mandated a Member's use of similar functionality.<sup>10</sup>

Proposed Rule 519A(b) would also state that Members may establish additional Allowable Order Rate settings and additional Allowable Contract Execution Rate settings, and any such additional settings may be configured to perform the step set forth in either (A), or (B) or (C) of Rule 519(a) as described above, upon engagement of the Risk Protection Monitor.

As a technical matter, the Exchange proposes to amend Rule 519A, Interpretations and Policies .01(c), to make it consistent with the proposed amended Rule. The current Rule states that the Risk Protection Monitor will prevent the System from receiving any new orders in all series in all classes from the Member and, if designated by the Member's instructions, cancel all existing Day orders in all series in all classes from the Member. "Day orders" are not defined in the Exchange's rules and therefore the Exchange proposes to replace the term "Day orders" with "orders with a time-in-force of Day."

The purpose of the proposed rule change is to enhance the risk protections afforded to Members by the Exchange by mandating use of the RPM and by permitting Members to

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<sup>10</sup> International Securities Exchange LLC ("ISE") Rule 714(d) mandates the use of its Market Wide Risk Protection tool by establishing default values that apply to members that do not submit the required parameters, but does not establish exchange-mandated minimum or maximum parameters. BATS BZX Exchange ("BZX") Rule 21.16(b)(ii) lists a succession of "Specified Engagement Triggers" that may be set optionally by the BATS User, and thus does not mandate the use of its Risk Monitor Mechanism.

establish multiple RPM Settings which can be tailored to the Member's acceptable risk tolerance levels.

The Exchange anticipates that the proposed new Risk Protection Monitor functionality will be deployed on the Exchange beginning November 7, 2016.

b. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act<sup>11</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>12</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 Exchange believes that Members will benefit from the proposed mandatory use of the Risk Protection Monitor, coupled with the ability of members to tailor their use of the Risk Protection Monitor to their risk tolerance levels. Members are vulnerable to the risk from system or other error or a market event, that may cause them to send a large number of orders or receive multiple, automatic executions before they can adjust their order exposure in the market.

Without adequate risk management tools, such as the Risk Protection Monitor, Members could reduce the amount of order flow and liquidity that they provide to the market. Such actions may undermine the quality of the markets available to customers and other market participants.

Accordingly, the proposed amendments to the Risk Protection Monitor, especially its mandated

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

<sup>12</sup> 15 U.S.C. 78f(b)(5).

use, should instill additional confidence in Members that submit orders to the Exchange that their risk tolerance levels are protected, and thus should encourage such Members to submit additional order flow and liquidity to the Exchange with the understanding that they must have this protection, thereby removing impediments to and perfecting the mechanisms of a free and open market and a national market system and, in general, protecting investors and the public interest.

In addition, providing Members with the ability to establish multiple RPM settings provides Members with more tools to use in managing their specific risks based on their individual risk tolerance levels. This facilitates transactions in securities because, as noted above, the Members will have more confidence that protections are in place that reduce the risks from potential system errors and market events. As a result, the modified functionality, together with the mandated use of the Risk Protection Monitor, has the potential to promote just and equitable principles of trade.

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

MIAX does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. On the contrary, the Exchange believes that the amendments to the Risk Protection Monitor help promote competition by enabling Members to trade more aggressively on the Exchange, with the understanding that there are multiple, configurable risk management tools in place in the System. The Exchange believes the proposed changes will not impose any burden on intra-market competition because the use of the Risk Protection Monitor is now required of all Members.

The Exchange further believes that the proposed mandatory risk protections should promote inter-market competition, and result in more competitive order flow to the Exchange by protecting market participants from system errors or market events that may cause them to send a

large number of orders or receive multiple, automatic executions before they can adjust their order exposure in the market.

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>13</sup> and Rule 19b-4(f)(6)<sup>14</sup> thereunder, the Exchange 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 does not believe that the proposed rule change raises any novel or unique substantive issues. The proposed rule change simply makes use of the RPM risk management tool mandatory thereby limiting further a Member's risk exposure, and makes additional settings available to members. Other exchanges have similar risk protection tools and one has mandated a Member's use of such tool as the Exchange is proposing.<sup>15</sup> It raises no new regulatory issues.

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<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f)(6).

<sup>15</sup> See Supra note 10.

Accordingly, the Exchange believes that the proposed rule change is eligible for immediately effective treatment under the Commission's current procedures for processing rule filings.

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.

MIAX satisfied this requirement in a previous submission, and respectfully requests that the Commission waive the pre-filing requirement to avoid duplicative activity, and to ensure that the Exchange can deploy the new functionality by the scheduled November 7, 2016 effective date. Furthermore, a proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>16</sup> normally does not become operative for 30 days after the date of its filing. The Exchange respectfully requests that the Commission waive the 30-day operative delay so that Members may benefit from the proposed new functionality and so that the Exchange is able to deploy the functionality on its scheduled deployment date of November 7, 2016.

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.

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

As noted above, other exchanges have similar risk management tools, on which the proposed rule change is partially based.<sup>17</sup>

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<sup>16</sup> 17 CFR 240.19b-4(f)(6).

<sup>17</sup> See Supra note 10.

**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.

**EXHIBIT 1**SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-MIAX-2016-39)

October \_\_, 2016

Self-Regulatory Organizations: Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by Miami International Securities Exchange LLC to Amend Exchange Rule 519A, Risk Protection Monitor

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 31, 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 Exchange Rule 519A, Risk Protection Monitor.

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

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified

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

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

in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to amend Exchange Rule 519A, Risk Protection Monitor, to mandate the use of the Risk Protection Monitor by Members, and to state clearly in the rule that Members may establish multiple RPM Settings, as defined below.

Current Functionality

Currently, using the Risk Protection Monitor, the Exchange's System<sup>3</sup> maintains a counting program ("counting program") for each participating Member that counts the number of orders entered and the number of contracts traded via an order entered by a Member on the Exchange within a specified time period that has been established by the Member (the "specified time period"). The maximum duration of the specified time period is established by the Exchange and announced via a Regulatory Circular. The current maximum duration of the specified time period is a trading session.

Under the current rule, Members may establish an Allowable Order Rate<sup>4</sup> and/or an Allowable Contract Execution Rate.<sup>5</sup> When a Member's order is entered or when an execution of a Member's order occurs, the System will look back over the specified time period to determine whether the order entered or the execution that occurred triggers the Risk Protection

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<sup>3</sup> The term "System" means the automated trading system used by the Exchange for the trading of securities. See Exchange Rule 100.

<sup>4</sup> The Allowable Order Rate is the number of orders entered during the specific time period that has been established by the Member.

<sup>5</sup> The Allowable Contract Execution Rate is the number of contracts executed during the specific time period that has been established by the Member.

Monitor.<sup>6</sup> Members may establish whether the Risk Protection Monitor, when triggered, will (i) prevent the System from receiving any new orders in all series in all classes from the Member; or (ii) prevent the System from receiving any new orders in all series in all classes from the Member and cancel all existing Day orders in all series in all classes from the Member; or (iii) send a notification that the Risk Protection Monitor has been triggered without any further preventative or cancellation action by the System.<sup>7</sup>

When engaged, the Risk Protection Monitor allows the Member to interact with existing orders entered prior to triggering the Risk Protection Monitor and allows the Member to continue to send cancel messages and receive reports of executions resulting from those orders. The Risk Protection Monitor shall remain engaged until the Member communicates with the Exchange staff to enable the acceptance of new orders.<sup>8</sup>

#### The Proposal

First, the Exchange proposes to amend current Rule 519A(a) and (b) by consolidating the two paragraphs into one unified, cohesive paragraph describing the Risk Protection Monitor feature, its functionality, the ability of Members to establish and configure multiple Risk

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<sup>6</sup> The Exchange notes that the specific time period does not need to be the same for both the Allowable Order Rate and Allowable Contract Execution Rate (*i.e.*, there can be one specified time period for Allowable Order Rate and a different specified time period for Allowable Contract Execution Rate). In order to be consistent in the rule, under the proposal there can also be one Corresponding Specified Time Period (as described below) for both the Allowable Order Rate and a different Corresponding Specified Time Period for Allowable Contract Execution Rate. See proposed Rule 519A(b).

<sup>7</sup> See Exchange Rule 519A(a). As discussed below, the Risk Protection Monitor will not cancel any existing Good Til Cancelled (“GTC”) orders. GTC Orders will remain in the System available for trading when the Risk Protection Monitor is engaged. See Rule 519A, Interpretations and Policies .02.

<sup>8</sup> See current Exchange Rule 519A(b). The communication from the Member to Exchange staff can either be via email or phone.

Protection Monitor settings, and the ability of Members to determine one of three alternative actions taken by the Risk Protection Monitor once it is triggered.

Proposed Rule 519A will continue to include the basic description of the Risk Protection Monitor described above. The proposed amendments will reflect that the Risk Protection Monitor maintains one or more Member-configurable Allowable Order Rate settings and Allowable Contract Execution Rate settings (collectively, “Risk Protection Monitor settings”). The Exchange believes that providing Members with the ability to establish multiple Risk Protection Monitor settings enhances Members’ ability to account for sudden market movements due to extreme market volatility, and for heightened activity in one particular option or group of options in a particular industry or segment of the market due to news or other factors affecting the activity surrounding such option or options. Members may also simultaneously account for normal or even sluggish activity in less active options by establishing higher Risk Protection Monitor settings and a longer specified time period during which the Risk Protection Monitor engages the counting program.

Amended Rule 519A(a), Voluntary Risk Protection Functionality,<sup>9</sup> will also continue to include a choice of three possible outcomes for the Member once the System triggers the Risk Protection Monitor (i.e., when the Risk Protection Monitor setting has been reached during the specified time period), all of which are contained in the current rule. Specifically, once engaged, the Risk Protection Monitor will then, as determined by the Member: automatically either (A) prevent the System from receiving any new orders in all series in all classes from the Member; (B) prevent the System from receiving any new orders in all series in all classes from the Member and cancel all existing orders with a time-in-force of Day in all series in all classes from

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<sup>9</sup> For clarity and ease of reference, the Exchange is proposing to add the heading “Voluntary Risk protection Functionality” to new Rule 519A(a), and the heading “Mandatory Participation” to new Rule 519A(b).

the Member; or (C) send a notification to the Member without any further preventative or cancellation action by the System. As under the current rule when engaged, the Risk Protection Monitor will still allow the Member to interact with existing orders entered prior to exceeding the Allowable Order Rate setting or the Allowable Contract Execution Rate setting, including sending cancel order messages and receiving trade executions from those orders. The Risk Protection Monitor will remain engaged until the Member communicates with the Help Desk to enable the acceptance of new orders.

The Exchange believes that the ability of a Member to choose among three outcomes once the Risk Protection Monitor is triggered enhances the risk protections afforded to Members by the Exchange and thus provides a tool by which Members can further use the Risk Protection Monitor, once triggered, by tailoring the outcome to their acceptable risk tolerance levels.

#### Mandatory Use of the Risk Monitor Mechanism

In addition to the consolidation of current Rules 519A(a) and (b) into one paragraph (new paragraph (a)), the Exchange proposes to adopt new Rule 519A(b), Mandatory Participation, to state that Members must establish at least one Allowable Order Rate setting with a corresponding specified time period of not less than one second, and not to exceed ten seconds, as established by the Exchange and communicated to Members via Regulatory Circular (a “Corresponding Specified Time Period”) and at least one Allowable Contract Execution Rate setting (with a Corresponding Specified Time Period). The Exchange believes that establishing the Corresponding Specified Time Period within these parameters will provide minimum and maximum guidelines for Members, making their required use of the Risk Protection Monitor more efficient and streamlined.

The Risk Protection Monitor settings must be configured by the Member such that the Risk Protection Monitor, when triggered, will perform one of two steps set forth in proposed

Rule 519A(a): either (A) prevent the System from receiving any new orders in all series in all classes from the Member; or (B) prevent the System from receiving any new orders in all series in all classes from the Member and cancel all existing orders with a time-in-force of Day in all series in all classes from the Member. Under the mandatory provision of proposed Rule 519A(b), the simple Member notification option included in section (C) of proposed Rule 519A(a) would not be available.

The purpose of this proposed provision is to mandate the use of the Risk Protection Monitor so that Members and the investing public are assured that the Risk Protection Monitor is active for all orders submitted to the Exchange. The Exchange notes that other exchanges have similar risk protection tools and one has mandated a Member's use of similar functionality.<sup>10</sup>

Proposed Rule 519A(b) would also state that Members may establish additional Allowable Order Rate settings and additional Allowable Contract Execution Rate settings, and any such additional settings may be configured to perform the step set forth in either (A), (B), or (C) of Rule 519(a) as described above, upon engagement of the Risk Protection Monitor.

As a technical matter, the Exchange proposes to amend Rule 519A, Interpretations and Policies .01(c), to make it consistent with the proposed amended Rule. The current Rule states that the Risk Protection Monitor will prevent the System from receiving any new orders in all series in all classes from the Member and, if designated by the Member's instructions, cancel all existing Day orders in all series in all classes from the Member. "Day orders" are not defined in

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<sup>10</sup> International Securities Exchange LLC ("ISE") Rule 714(d) mandates the use of its Market Wide Risk Protection tool by establishing default values that apply to members that do not submit the required parameters, but does not establish exchange-mandated minimum or maximum parameters. BATS BZX Exchange ("BZX") Rule 21.16(b)(ii) lists a succession of "Specified Engagement Triggers" that may be set optionally by the BATS User, and thus does not mandate the use of its Risk Monitor Mechanism.

the Exchange's rules and therefore the Exchange proposes to replace the term "Day orders" with "orders with a time-in-force of Day."

The purpose of the proposed rule change is to enhance the risk protections afforded to Members by the Exchange by mandating use of the RPM and by permitting Members to establish multiple RPM Settings which can be tailored to the Member's acceptable risk tolerance levels.

The Exchange anticipates that the proposed new Risk Protection Monitor functionality will be deployed on the Exchange beginning November 7, 2016.

## 2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act<sup>11</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>12</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 Exchange believes that Members will benefit from the proposed mandatory use of the Risk Protection Monitor, coupled with the ability of members to tailor their use of the Risk Protection Monitor to their risk tolerance levels. Members are vulnerable to the risk from system or other error or a market event, that may cause them to send a large number of orders or receive multiple, automatic executions before they can adjust their order exposure in the market.

Without adequate risk management tools, such as the Risk Protection Monitor, Members could

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

<sup>12</sup> 15 U.S.C. 78f(b)(5).

reduce the amount of order flow and liquidity that they provide to the market. Such actions may undermine the quality of the markets available to customers and other market participants.

Accordingly, the proposed amendments to the Risk Protection Monitor, especially its mandated use, should instill additional confidence in Members that submit orders to the Exchange that their risk tolerance levels are protected, and thus should encourage such Members to submit additional order flow and liquidity to the Exchange with the understanding that they must have this protection, thereby removing impediments to and perfecting the mechanisms of a free and open market and a national market system and, in general, protecting investors and the public interest.

In addition, providing Members with the ability to establish multiple RPM settings provides Members with more tools to use in managing their specific risks based on their individual risk tolerance levels. This facilitates transactions in securities because, as noted above, the Members will have more confidence that protections are in place that reduce the risks from potential system errors and market events. As a result, the modified functionality, together with the mandated use of the Risk Protection Monitor, has the potential to promote just and equitable principles of trade.

**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. On the contrary, the Exchange believes that the amendments to the Risk Protection Monitor help promote competition by enabling Members to trade more aggressively on the Exchange, with the understanding that there are multiple, configurable risk management tools in place in the System. The Exchange believes the proposed changes will not impose any burden on intra-market competition because the use of the Risk Protection Monitor is now required of all Members.

The Exchange further believes that the proposed mandatory risk protections should promote inter-market competition, and result in more competitive order flow to the Exchange by protecting market participants from system errors or market events that may cause them to send a large number of orders or receive multiple, automatic executions before they can adjust their order exposure in the market.

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>13</sup> and Rule 19b-4(f)(6)<sup>14</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>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</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-2016-39 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-2016-39. 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-2016-39 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>15</sup>

Brent J. Fields  
Secretary

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<sup>15</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 519A. Risk Protection Monitor**

(a) **Voluntary Risk Protection Functionality.** The MIAX System will maintain a counting program (“counting program”) for each participating Member that will count the number of orders entered and the number of contracts traded via an order entered by a Member on the Exchange within a specified time period that has been established by the Member (the “specified time period”). The maximum duration of the specified time period will be established by the Exchange and announced via a Regulatory Circular. The Risk Protection Monitor maintains one or more Member-configurable [Members may establish an] Allowable Order Rate settings and[/or an] Allowable Contract Execution Rate settings. When a Member’s order is entered or when an execution of a Member’s order occurs, the System will look back over the specified time period to determine if the Member has:

[whether the order entered or the execution that occurred triggers the Risk Protection Monitor. Members may establish whether the Risk Protection Monitor, when triggered, will (i) prevent the System from receiving any new orders in all series in all classes from the Member; or (ii) prevent the System from receiving any new orders in all series in all classes from the Member and cancel all existing Day orders in all series in all classes from the Member; or (iii) send a notification that the Risk Protection Monitor has been triggered without any further preventative or cancellation action by the System.

(b) The System will trigger the Risk Protection Monitor when the counting program has determined either (i) that a Member has] (i) entered during the specified time period a number of orders exceeding their Allowable Order Rate setting(s), or (ii) [that a Member has] executed during the specified time period a number of contracts exceeding their Allowable Contract Execution Rate setting(s). Once engaged, the Risk Protection Monitor will then, as determined by the Member: automatically either (A) prevent the System from receiving any new orders in all series in all classes from the Member;[,] (B) prevent the System from receiving any new orders in all series in all classes from the Member and cancel all existing orders with a time-in-force of Day in all series in all classes from the Member; or (C)[and cancel all existing Day orders in all series in all classes from the Member (if designated by the Member’s instructions), or] send a notification to the Member without any further preventative or cancellation action by the System. When engaged, the Risk Protection Monitor will still allow the Member to interact with existing orders entered prior to exceeding the Allowable Order Rate setting or the Allowable Contract Execution Rate setting, including sending cancel order messages and receiving trade executions

from those orders. The Risk Protection Monitor shall remain engaged until the Member communicates with the Help Desk to enable the acceptance of new orders.

**(b) Mandatory Participation.** Members must establish at least one Allowable Order Rate setting, with a corresponding specified time period of not less than one second, and not to exceed ten seconds, as established by the Exchange and communicated to Members via Regulatory Circular (a “Corresponding Specified Time Period”) and at least one Allowable Contract Execution Rate setting (with a Corresponding Specified Time Period), both of which must be configured to perform the step set forth in either (A) or (B) of subparagraph (a) of this Rule above, upon engagement of the Risk Protection Monitor. Members may establish additional Allowable Order Rate settings and additional Allowable Contract Execution Rate settings, and any such additional settings may be configured to perform the step set forth in either (A), (B), or (C) of subparagraph (a) of this Rule above, upon engagement of the Risk Protection Monitor.

### **Interpretations and Policies:**

.01 Member Grouping.

(a) – (b) No change.

(c) The Risk Protection Monitor for groups will operate in the same manner as described in paragraphs (a) and (b) of Rule 519A, except that: (i) the counting program will count the number of orders entered and the number of contracts traded resulting from an order entered by all MPIDs in the group collectively; (ii) the System will trigger the Risk Protection Monitor when the group collectively exceeds either the Allowable Order Rate or Allowable Contract Execution Rate for the group; (iii) once engaged, the Risk Protection Monitor will then either automatically prevent the System from receiving any new orders in all series in all classes from each MPID in the group, and, if designated by the group owner’s instructions, cancel all [existing Day] orders with a time in force of Day in all series in all classes from the group, or send a notification without any further preventative or cancellation action by the System; and (iv) only the designated group owner may request through the Help Desk to enable the acceptance of new orders for all the Members of the group.

.02 - .05 No change.

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