

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-83577; File No. SR-MIAX-2018-13)

July 2, 2018

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Exchange Rule 602, Appointment of Market Makers

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 26, 2018, Miami International Securities Exchange, LLC (“MIAX Options” or the “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 Rule 602, Appointment of Market Makers, to specify the new method by which Lead Market Makers³ (“LMMs”) and Registered Market Makers⁴ (“RMMs”) request appointments to one or more classes of option contracts traded on the Exchange.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The term “Lead Market Maker” means a Member registered with the Exchange for the purpose of making markets in securities traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter VI of the Exchange’s Rules with respect to Lead Market Makers. See Exchange Rule 100.

⁴ The term “Registered Market Maker” means a Member registered with the Exchange for the purpose of making markets in securities traded on the Exchange, who is not a Lead Market Maker and is vested with the rights and responsibilities specified in Chapter VI of the Exchange’s Rules with respect to Registered Market Makers. See Exchange Rule 100.

The text of the proposed rule change is available on the Exchange's website at <http://www.miaxoptions.com/rule-filings/> at MIAX Options' 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 MIAX Options Rule 602, Appointment of Market Makers, to specify the new method by which LMMs and RMMs would request appointments to (and relinquishment of appointments from) one or more classes of option contracts traded on the Exchange pursuant to Rule 602(a). The Exchange believes this proposal would improve the efficiency of the appointment process for both the Exchange and for these types of Market Makers.⁵ Other option exchanges also specify a method which governs the appointment of market makers to classes of option contracts traded on the exchange, however, these methods, while generally automated, differ somewhat across exchanges.⁶

⁵ The term "Market Makers" refers to "Lead Market Makers," "Primary Lead Market Makers" and "Registered Market Makers" collectively. See Exchange Rule 100.

⁶ See, e.g., Cboe BZX Exchange, Inc. ("Cboe BZX") Rules 22.3(a),(b) (Market Maker Registration); see also Nasdaq PHLX, LLC ("Nasdaq Phlx") Rule 3212(b) (Registration as a Market Maker); Nasdaq Options Market ("NOM"), Chapter VII (Market

Once a Member⁷ has qualified as either an LMM or an RMM, such Market Maker may request an appointment (or, following an appointment, relinquishment from an appointment) in one or more option classes pursuant to Rule 602. Currently, an LMM or RMM may request such an appointment by contacting Exchange staff, either by phone or via email, identifying those classes of option contracts in which the Market Maker is seeking an appointment. A Primary Lead Market Maker (“PLMM”),⁸ however, goes through a different, more extensive appointment process. Accordingly, the Exchange intentionally excluded PLMMs from this proposal. The Exchange believes it is appropriate to exclude PLMMs from this new appointment method because the Board or designated committee appoints only one PLMM to each options class traded on the Exchange, as opposed to the multiple number of LMMs and RMMs, and because of the heightened obligations associated with performing the responsibilities of a PLMM.⁹ Because of the heightened responsibilities of PLMMs, the Exchange believes that it is appropriate to have a different method for PLMMs on the one hand, and LMMs and RMMs on the other hand, with respect to the method by which appointments (and relinquishments of appointments) are requested.

Participants), Section 3(a),(b) (Continuing Market Maker Registration); NYSE American, LLC (“NYSE American”), Rule 923NY (Appointment of Market Makers).

⁷ The term “Member” means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed “members” under the Exchange Act. See Exchange Rule 100.

⁸ A “Primary Lead Market Maker” is a Lead Market Maker appointment by the Exchange to act as the Primary Lead Market Maker for the purpose of making markets in securities traded on the Exchange. The Primary Lead Market Maker is vested with the rights and responsibilities specified in Chapter VI of these Rules with respect to Primary Lead Market Makers. See Exchange Rule 100.

⁹ See, for example, Exchange Rules 603 and 604 for certain heightened obligations of PLMMs.

According to the Exchange’s current practice, with respect to LMMs and RMMs, after the LMM or RMM contacts Exchange staff either by phone or via email, the Exchange staff then delivers that request to the Board or a committee designated by the Board for its approval. Upon the decision of the Board or committee designated by the Board regarding that appointment, Exchange staff then notifies the Market Maker of the determination, with such notification being made the next business day. The Exchange notes that it is not proposing to make any changes to timing of the notification, which will continue to be made the next business day.

Specifically, Rule 602(a) provides that “[t]he Board or a committee designated by the Board shall appoint Market Makers to one or more classes of option contracts traded on the Exchange.”¹⁰ In addition to having the authority to appoint one PLMM to each options class, “[t]he Exchange will impose an upper limit on the aggregate number of Market Makers that may quote in each class of options (“Class Quoting Limit” or “CQL”).” Currently, the CQL is set at fifty (50) Market Makers per option class but the Exchange may “increase the CQL for an existing or new option class if the President determines that it would be appropriate.”¹¹ Further, Rule 602(c)(2) provides that “Market Makers requesting an appointment in a class of options will be considered for the appointment in accordance with paragraphs (a), (b) and (f) of this Rule 602, provided the number of Market Makers appointed in the options class does not exceed the CQL.”

In making appointments of Market Makers to one or more classes of option contracts traded on the Exchange, the Board or designated committee shall consider the financial resources available to the Market Maker; the Market Maker’s experience and expertise in

¹⁰ See Rule 602(a).

¹¹ See Rule 602(c).

market making or options trading; the preferences of the Market Maker to receive appointment(s) in specific option class(es); and the maintenance and enhancement of competition among Market Makers in each class of option contracts to which they are appointed.¹² Rule 602(c)(2) also states that, when the number of Market Makers appointed in the options class equals the CQL, all other Market Makers requesting to be appointed in that options class will be wait-listed in the order in which they submitted their request.¹³

Under the current Rule, “[t]he Board or designated committee may suspend or terminate any appointment of a Market Maker under this Rule [602] and may make additional appointments or change the option classes included in a Market Maker’s appointed classes whenever, in the Board’s or designated committee’s judgment, the interests of a fair and orderly market are best served by such action.”¹⁴ Moreover, the Exchange “shall periodically conduct an evaluation of Market Makers to determine whether they have fulfilled performance standards relating to, among other things, quality of markets, competition among Market Makers, observance of ethical standards, and administrative factors. The Exchange may consider any relevant information, including but not limited to the results of a Market Maker evaluation questionnaire, trading data, a Market Maker’s regulatory history and such other factors and data as may be pertinent in the circumstances.”¹⁵ If the Exchange finds that a Market Maker has not met the performance standards, the Exchange may take

¹² See Rule 602(a).

¹³ See Rule 602(c)(2).

¹⁴ See Rule 602(e).

¹⁵ See Rule 602(f).

action, including suspending, terminating or restricting a Market Maker's appointment or registration.¹⁶

The Exchange proposes to amend MIAX Options Rule 602 solely to specify the new method by which LMMs and RMMs would request appointments to (or relinquishment of appointments from) one or more classes of option contracts traded on the Exchange pursuant to Rule 602(a). In particular, the Exchange proposes to adopt Interpretations & Policies .02 to Rule 602 to provide that, "Lead Market Makers and Registered Market Makers shall request appointments to (and relinquishment of appointments from) one or more classes of option contracts traded on the Exchange pursuant to Rule 602(a) via an Exchange approved electronic interface, which request must be submitted prior to 6:00 p.m. Eastern Time of the business day immediately preceding the next trading day. The Exchange approved electronic interface will also ensure that, before any appointment request (or relinquishment of an appointment) is approved, the CQL established by Rule 602 has not been exceeded. Appointments (and relinquishments of appointments) shall become effective on the day after the request is submitted, provided that it has been approved. Approvals and denials of appointments (and relinquishment of appointments) shall be communicated by the Exchange via the same Exchange approved electronic interface through which the request was made."

The Exchange believes that requiring LMMs and RMMs to use an Exchange approved electronic interface to request appointments to one or more classes of option contracts would enable LMMs and RMMs to streamline the process by which they request appointments (and relinquishment of appointments) and get notified of approvals or denials related to such requests, which, in turn, would reduce the time and resources expended by such Market Makers and the Exchange on the appointment process.

¹⁶ See id.

The Exchange also believes this proposal would provide LMMs and RMMs with more efficient access to the securities in which they want to make markets and disseminate competitive quotations, which would provide additional liquidity and enhance competition in those securities. The Exchange would retain the ability to suspend or terminate any appointment of a Market Maker if necessary to maintain a fair and orderly market.¹⁷ The Exchange also notes that the proposed changes to Rule 602 are similar in some respects to the rules of other exchanges¹⁸ and therefore raises no new or novel issues. Furthermore, the Exchange notes that it is only proposing to specify the new method by which LMMs and RMMs would request appointments to (and relinquishment of appointments from) one or more classes of option contracts traded on the Exchange pursuant to Rule 602(a), and would not change the substantive provisions of the rules including the CQL, quoting requirements, or the Exchange's ability to make additional appointments or change the option classes included in a Market Maker's requested appointment whenever, in the Board's or designated committee's judgment, the interests of a fair and orderly market are best served by such action.

¹⁷ See Rule 602(e).

¹⁸ See e.g., Phlx Rule 3212(b) ("A PSX Market Maker may become registered in an issue by entering a registration request via an Exchange approved electronic interface with PSX's systems or by contacting PSX Market Operations. Registration shall become effective on the day the registration request is entered"); Phlx Rule 3220(a) ("A market maker may voluntarily terminate its registration in a security by withdrawing its two-sided quotation from PSX. A PSX Market Maker that voluntarily terminates its registration in a security may not re-register as a market maker for one (1) business day."). See also BZX Options Rules 22.3(b) ("An Options Market Maker may become registered in a series by entering a registration request via an Exchange approved electronic interface with the Exchange's systems by 9:00 a.m. Eastern time. Registration shall become effective on the day the registration request is entered"); NOM, Chapter VII, Section 3(b) ("An Options Market Maker may become registered in an option by entering a registration request via a Nasdaq approved electronic interface with Nasdaq's systems. Registration shall become effective on the day the registration request is entered.").

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act¹⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act²⁰ 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.

The Exchange believes that the proposed rule change removes impediments to a free and open market because it would streamline the process by which LMMs and RMMs request appointments to (and relinquishment of appointments from) one or more classes of option contracts traded on the Exchange and offer LMMs and RMMs the ability to manage their appointments in a more efficient manner, through use of an automated tool. The Exchange believes the proposed change would reduce the burden on both LMMs and RMMs, and Exchange staff, which would result in a fair and reasonable use of resources to the benefit of all market participants. In particular, the proposal to require LMMs and RMMs to use an Exchange approved electronic interface to request to be appointed to a class, and to make changes thereto, is consistent with Act because it would provide LMMs and RMMs with more efficient access to the securities in which they want to make markets. The Exchange also believes that allowing LMMs and RMMs to request relinquishment from appointments using the same process used by LMMs and RMMs to request appointments, would serve to promote just and equitable principles of trade and benefit investors and the public interest by

¹⁹ 15 U.S.C. 78f(b).

²⁰ 15 U.S.C. 78f(b)(5).

establishing a more systematic way for LMMs and RMMs to manage their appointments and provide more clarity with respect to the process.

In addition, the Exchange believes that improving the efficiency of the process by which LMMs and RMMs request appointments and relinquishment of appointments on an automated basis without having to manually contact Exchange staff is likewise consistent with the Act. First, the Board or a designated committee will continue to have responsibility for approving the appointments requested by LMMs and RMMs in one or more classes of options contracts traded on the Exchange. The Board or a designated committee would continue to consider the relevant factors and conduct an evaluation of Market Makers prior to their appointment.²¹ In addition, as noted above, the Exchange would continue to have authority to suspend or terminate any Market Maker appointment in the interest of a fair and orderly market, including, if necessary to prevent fraudulent and manipulative acts and practices and protect investors, or if a Market Maker does not satisfy its obligations with respect to an appointment.²² Furthermore, the Exchange approved electronic interface utilized by LMMs and RMMs to request an appointment will ensure that, before any additions to a Market Maker's appointment are approved, the CQL established by Rule 602 has not been exceeded. Accordingly, the Exchange believes this proposal is consistent with Section 6(b) of the Exchange Act.²³

The proposed rule change would not result in unfair discrimination, as it applies to all LMMs and RMMs equally. As noted above, the Exchange intentionally excluded PLMMs from

²¹ See supra notes 10-14.

²² See Rule 602(e). See also Rule 600(c) (regarding the Exchange's ability to suspend or terminate a Market Maker's registration based on "a determination that such Member has failed to properly perform as a Market Maker.").

²³ 15 U.S.C. 78f(b).

this proposal. The Exchange believes it isn't unfairly discriminatory to exclude PLMMs from this new appointment method because the Board or designated committee appoints only one PLMM to each options class traded on the Exchange, as opposed to the multiple number of LMMs and RMMs, and because of the heightened obligations associated with performing the responsibilities of a PLMM.²⁴ Because of these heightened responsibilities of PLMMs, the Exchange believes that it is not unfairly discriminatory to treat PLMMs differently from LMMs and RMMs with respect to the method by which appointments (and relinquishments of appointments) are requested.

Further, the proposed rule change would reduce the burden on LMMs and RMMs to manage their appointments, and thus provide greater liquidity to the Exchange while reducing the time and resources expended by such Market Makers and the Exchange on the appointment process. Nevertheless, Market Makers would still be required to comply with certain obligations to maintain their status as a Market Maker, including that they provide continuous, two-sided quotations in their appointed securities.²⁵

Finally, as noted above, specifying the method of the appointment process would also align the rules of the Exchange with the rules of other options exchanges, where Market Makers presently have the ability to select and make changes to their appointments and registrations via an exchange-approved electronic interface.²⁶ The Exchange believes this consistency across exchanges would remove impediments to and perfect the mechanism of a free and open market by ensuring that members, regulators and the public can more easily navigate the Exchange's rulebook and better understand the appointment process.

²⁴ See supra note 9.

²⁵ See Rule 604.

²⁶ See supra notes 6 and 18.

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

MIAX Options 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 because it provides the same enhancement to a group of similarly situated market participants – LMMs and RMMs. The proposed rule change would reduce the burden on these Market Makers to manage their appointments and thus provide greater liquidity to the Exchange while reducing the time and resources expended by such Market Makers and the Exchange on the appointment process.

The Exchange does not believe the proposed rule change would help these Market Makers to the detriment of market participants on other exchanges, particularly because the proposed appointment process for LMMs and RMMs is meant to simply create a more efficient process by which such Market Makers can request an appointment, and it is similar to the appointment and registration processes for market makers already in place on other exchanges.²⁷ LMMs and RMMs would still be subject to the same obligations with respect to its appointment; however, the proposed rule change would make the appointment process more efficient for such Market Makers. The Exchange believes that the proposed rule change would relieve any burden on, or otherwise promote, competition, as it would enable LMMs and RMMs to streamline the process by which they request appointments (and relinquishment of appointments) and get notified of approvals or denials related to such requests, which, in turn, would reduce the time and resources expended by such Market Makers and the Exchange on the appointment process.

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.

²⁷

Id.

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 Act²⁸ and Rule 19b-4(f)(6)²⁹ 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.

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. Please include File Number SR-

MIAX-2018-13 on the subject line.

²⁸ 15 U.S.C. 78s(b)(3)(A).

²⁹ 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.

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-2018-13. 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 website (<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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to

make available publicly. All submissions should refer to File Number SR-MIAX-2018-13 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.³⁰

Eduardo A. Aleman
Assistant Secretary

³⁰ 17 CFR 200.30-3(a)(12).