

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 21	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2019 - * 02	Amendment No. (req. for Amendments *)
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Filing by Miami International Securities Exchange, LLC.  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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

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

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**

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

Amend Exchange Rule 521

**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 \* Gregory Last Name \* Ziegler

Title \* Senior Associate Counsel

E-mail \* gziegler@miaxoptions.com

Telephone \* (609) 897-1483 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 02/06/2019 Senior Associate Counsel

By Gregory P. Ziegler

(Name \*)

gziegler@miaxoptions.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 EFFS website.

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

Add Remove View

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**

Add Remove View

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 Options” 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 521, Nullification and Adjustment of Options Transactions Including Obvious Errors.

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 Options Board of Directors on January 31, 2019. 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 Gregory P. Ziegler, Senior Associate Counsel, at (609) 897-1483.

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

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

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

a. Purpose

On October 12, 2018, the Securities and Exchange Commission (“SEC”) approved a proposal by the MIAX Exchange (the “Exchange”) to list and trade on the Exchange, options on the SPIKES™ Index, a new index that measures expected 30-day volatility of the SPDR S&P 500 ETF Trust.<sup>3</sup> To establish the settlement value for the Index, a final settlement price calculation will occur once per month, on the morning of SPIKES Index options expiration.<sup>4</sup>

The Exchange proposes to amend Exchange Rule 521, Nullification and Adjustment of Options Transactions Including Obvious Errors, to adopt a provision specifically related to its volatility index product. Currently, subparagraph (b)(1), Transactions at the Open, of Rule 521, provides that for a transaction occurring as part of the Opening Process<sup>5</sup> (as described in Rule 503) the Exchange will determine the Theoretical Price<sup>6</sup> if there is no NBB (National Best Bid) or NBO (National Best Offer) for the affected series just prior to the erroneous transaction or if the bid/ask differential of the NBB and NBO just prior to the erroneous transaction is equal to or greater than the Minimum Amount set forth in the chart contained in sub-paragraph (b)(3) of this rule.<sup>7</sup> If the bid/ask differential is less than the Minimum Amount, the Theoretical Price is the

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<sup>3</sup> See Securities Exchange Act Release No. 84417 (October 12, 2018), 83 FR 52865 (October 18, 2018) (SR-MIAX-2018-14) (Order Granting Approval of a Proposed Rule Change to List and Trade Options on the SPIKES™ Index).

<sup>4</sup> See Exchange Rule 503.02.

<sup>5</sup> See Exchange Rule 503(f).

<sup>6</sup> See Exchange Rule 521(b).

<sup>7</sup> If the bid price at the time of the trade was below \$2.00 the Minimum Amount is \$0.75, similarly if the bid price at the time of the trade is between \$2.00 and \$5.00, the Minimum Amount is \$1.25; above \$5.00 to \$10.00, \$1.50; above \$10.00 to \$20.00,

NBB or NBO just prior to the erroneous transaction. The Exchange now proposes to adopt new subparagraph (A) to state that for transactions occurring in any option series being used to calculate the final settlement price of a volatility index on the final settlement day, the Theoretical Price is the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s), provided that the quote size is for at least the overall size of the opening trade, if the quote size is for less than the overall size of the opening trade, then paragraph (c) and (d) shall not apply.

For erroneous sell transactions, the size of the bid would be used and for erroneous buy transactions, the size of the offer would be used. For example, if the opening trade in Series XYZ is for a total of 200 contracts and the bid or offer, as applicable, of the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s) is for 500 contracts, the transaction in question would qualify for treatment under the Exchange's obvious error rule. If the bid or offer, as applicable, of the quote is for only 100 contracts, then the transaction in question would not be subject to consideration under the Exchange's obvious error rule. Upon the completion of the final settlement price calculation the proposed provision would no longer be applicable and all provisions of Rule 521 would again be in force.

By establishing a size threshold for certain transactions occurring during the Exchange's Opening Process, the proposal ensures that there is sufficient liquidity in a series for which a valid Theoretical Price can be established for use in determining whether a transaction meets the conditions necessary to qualify as an Obvious<sup>8</sup> or Catastrophic Error.<sup>9</sup> Further, due to the

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\$2.50; above \$20.00 to \$50.00, \$3.00; above \$50.00 to \$100.00, \$4.50; above \$100, \$6.00. See Exchange Rule 521(b)(3).

<sup>8</sup> See Exchange Rule 521(c).

<sup>9</sup> See Exchange Rule 521(d).

importance and finality of the final settlement price for expiring SPIKES Index Options, establishing a threshold based upon transaction size for obvious and catastrophic error consideration, and only for those options being used in the final settlement price calculation, ensures the timely completion of the settlement price calculation and protects the integrity of the calculation process from being unduly impacted by relatively small transactions.

Using the size of a transaction as the threshold for determining whether the transaction in question warrants consideration for obvious or catastrophic error review under the rule is a widely accepted standard and long standing practice in the industry.<sup>10</sup> The Exchange notes that its proposed provision is substantially similar in all material respects to a provision found in the Cboe Exchange's rule pertaining to the treatment of transactions in option series being used to calculate the final settlement price of a volatility index on the final settlement day.<sup>11</sup> Further, the Exchange notes that the industry has undertaken an effort to harmonize obvious error handling across all option exchanges and the Exchange's proposal aligns to currently accepted practices.<sup>12</sup>

b. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act<sup>13</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>14</sup> in particular, in that it

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<sup>10</sup> See Securities Exchange Act Release No. 59981 (May 27, 2009), 74 FR 26447 (June 2, 2009) (SR-CBOE-2009-024) (Order Granting Approval of a Proposed Rule Change Related to Its Obvious Error Rules).

<sup>11</sup> See Cboe Exchange Rule 6.25(b)(1)(a).

<sup>12</sup> See Securities Exchange Act Release Nos. 74918 (May 8, 2015), 80 FR 27781 (May 14, 2015) (SR-MIAX-2015-35); 74911 (May 8, 2015), 80 FR 27717 (May 14, 2015) (SR-BOX-2015-18); 74898 (May 7, 2015), 80 FR 27354 (May 13, 2015) (SR-CBOE-2015-039); 74919 (May 8, 2015), 80 FR 27766 (May 15, 2015) (SR-PHLX-2015-43).

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

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 regulating, clearing, settling, processing information with respect to, and 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 proposed rule promotes just and equitable principles of trade and removes impediments to and perfects the mechanism of a free and open market and a national market system and, in general, protects investors and the public interest by ensuring that there is sufficient liquidity in the market by which to derive a Theoretical Price for options being used in the final index settlement value calculation. Additionally, the proposed rule promotes just and equitable principles of trade and removes impediments to and perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest by ensuring that the SPIKES index settlement value calculation is completed on a timely basis without unnecessary interruption.

Additionally, the proposed rule promotes cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, by harmonizing the Exchange's obvious error rule with that of another exchange that has a similar process for determining the settlement price of an index.<sup>15</sup>

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange does not believe the proposed rule change will impose any burden on inter-market competition as the proposed rule change is not a competitive filing and is designed to harmonize the Exchange's obvious error rule with that of the Cboe Exchange, which similarly offers a volatility index product that requires the calculation of a final settlement price.

Additionally, the Exchange does not believe the proposed rule change will impose any burden on intra-market competition as the rules of the Exchange apply equally to all Members<sup>16</sup> of the Exchange.

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

The Exchange has neither solicited nor received comments on the proposed rule change.

**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>17</sup> and Rule 19b-4(f)(6)<sup>18</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.

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<sup>16</sup> 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.

<sup>17</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>18</sup> 17 CFR 240.19b-4(f)(6).

The Exchange believes that the proposed rule change does not significantly affect the protection of investors or the public interest because the proposal seeks to establish a size threshold for certain transactions occurring during the Exchange's Opening Process to ensure that there is sufficiently liquidity from which a valid theoretical price may be derived. Additionally, the proposal protects the final settlement price calculation and ensures that the calculation is completed without unnecessary delay.

Additionally, the Exchange believes that the proposal does not impose any significant burden on competition as the proposal is not a competitive filing and harmonizes the Exchange's obvious error rule with that of another exchange that has a similar process for calculating a final settlement price for an Index.

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. Furthermore, a proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>19</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)<sup>20</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.

The Exchange respectfully requests that the Commission waive the 30-day pre-operative delay pursuant to Section 19(b)(3)(A) of the Act<sup>21</sup> and paragraph (f)(6) of Rule 19b-4

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<sup>19</sup> 17 CFR 240.19b-4(f)(6).

<sup>20</sup> Id.

<sup>21</sup> 15 U.S.C. 78s(b)(3)(A).

thereunder.<sup>22</sup> Waiver of this requirement, specified in Rule 19b-4(f)(6),<sup>23</sup> ensures that the Exchange will have a provision available for handling obvious errors in option series being used to calculate the final settlement price of a volatility index on the final settlement day. Based on the foregoing, the Exchange believes that its proposal should become immediately effective and requests that the Commission waive the 30-day pre-operative waiting period contained in Rule 19b-4(f)(6)(iii) under the Act.<sup>24</sup> Waiver of this requirement is consistent with the protection of investors and the public interest for the reasons described above.

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**

The proposed rule change is substantially similar to Cboe Exchange Rule 6.25(b)(1)(A). The Cboe Exchange rule specifies that the provision applies to any index options series being used to calculate the final settlement price of a volatility index on the final settlement day. The Exchange's final settlement price calculation for its volatility index does not rely upon index options series, therefore the Exchange's rule is inclusive of any option series being used to calculate the final settlement price of a volatility index on the final settlement day.

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

Not applicable.

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<sup>22</sup> 17 CFR 240.19b-4(f)(6).

<sup>23</sup> Id.

<sup>24</sup> 17 CFR 240.19b-4(f)(6)(iii).

**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-2019-02)

February \_\_, 2019

Self-Regulatory Organizations: Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by Miami International Securities Exchange, LLC to Amend Exchange Rule 521, Nullification and Adjustment of Options Transactions Including Obvious Errors

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 February 6, 2019, 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 521, Nullification and Adjustment of Options Transactions Including Obvious Errors.

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

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

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

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

On October 12, 2018, the Securities and Exchange Commission (“SEC”) approved a proposal by the MIAX Exchange (the “Exchange”) to list and trade on the Exchange, options on the SPIKES™ Index, a new index that measures expected 30-day volatility of the SPDR S&P 500 ETF Trust.<sup>3</sup> To establish the settlement value for the Index, a final settlement price calculation will occur once per month, on the morning of SPIKES Index options expiration.<sup>4</sup>

The Exchange proposes to amend Exchange Rule 521, Nullification and Adjustment of Options Transactions Including Obvious Errors, to adopt a provision specifically related to its volatility index product. Currently, subparagraph (b)(1), Transactions at the Open, of Rule 521, provides that for a transaction occurring as part of the Opening Process<sup>5</sup> (as described in Rule 503) the Exchange will determine the Theoretical Price<sup>6</sup> if there is no NBB (National Best Bid) or NBO (National Best Offer) for the affected series just prior to the erroneous transaction or if the bid/ask differential of the NBB and NBO just prior to the erroneous transaction is equal to or greater than the Minimum Amount set forth in the chart contained in sub-paragraph (b)(3) of this

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<sup>3</sup> See Securities Exchange Act Release No. 84417 (October 12, 2018), 83 FR 52865 (October 18, 2018) (SR-MIAX-2018-14) (Order Granting Approval of a Proposed Rule Change to List and Trade Options on the SPIKES™ Index).

<sup>4</sup> See Exchange Rule 503.02.

<sup>5</sup> See Exchange Rule 503(f).

<sup>6</sup> See Exchange Rule 521(b).

rule.<sup>7</sup> If the bid/ask differential is less than the Minimum Amount, the Theoretical Price is the NBB or NBO just prior to the erroneous transaction. The Exchange now proposes to adopt new subparagraph (A) to state that for transactions occurring in any option series being used to calculate the final settlement price of a volatility index on the final settlement day, the Theoretical Price is the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s), provided that the quote size is for at least the overall size of the opening trade, if the quote size is for less than the overall size of the opening trade, then paragraph (c) and (d) shall not apply.

For erroneous sell transactions, the size of the bid would be used and for erroneous buy transactions, the size of the offer would be used. For example, if the opening trade in Series XYZ is for a total of 200 contracts and the bid or offer, as applicable, of the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s) is for 500 contracts, the transaction in question would qualify for treatment under the Exchange's obvious error rule. If the bid or offer, as applicable, of the quote is for only 100 contracts, then the transaction in question would not be subject to consideration under the Exchange's obvious error rule. Upon the completion of the final settlement price calculation the proposed provision would no longer be applicable and all provisions of Rule 521 would again be in force.

By establishing a size threshold for certain transactions occurring during the Exchange's Opening Process, the proposal ensures that there is sufficient liquidity in a series for which a valid Theoretical Price can be established for use in determining whether a transaction meets the

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<sup>7</sup> If the bid price at the time of the trade was below \$2.00 the Minimum Amount is \$0.75, similarly if the bid price at the time of the trade is between \$2.00 and \$5.00, the Minimum Amount is \$1.25; above \$5.00 to \$10.00, \$1.50; above \$10.00 to \$20.00, \$2.50; above \$20.00 to \$50.00, \$3.00; above \$50.00 to \$100.00, \$4.50; above \$100, \$6.00. See Exchange Rule 521(b)(3).

conditions necessary to qualify as an Obvious<sup>8</sup> or Catastrophic Error.<sup>9</sup> Further, due to the importance and finality of the final settlement price for expiring SPIKES Index Options, establishing a threshold based upon transaction size for obvious and catastrophic error consideration, and only for those options being used in the final settlement price calculation, ensures the timely completion of the settlement price calculation and protects the integrity of the calculation process from being unduly impacted by relatively small transactions.

Using the size of a transaction as the threshold for determining whether the transaction in question warrants consideration for obvious or catastrophic error review under the rule is a widely accepted standard and long standing practice in the industry.<sup>10</sup> The Exchange notes that its proposed provision is substantially similar in all material respects to a provision found in the Cboe Exchange's rule pertaining to the treatment of transactions in option series being used to calculate the final settlement price of a volatility index on the final settlement day.<sup>11</sup> Further, the Exchange notes that the industry has undertaken an effort to harmonize obvious error handling across all option exchanges and the Exchange's proposal aligns to currently accepted practices.<sup>12</sup>

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<sup>8</sup> See Exchange Rule 521(c).

<sup>9</sup> See Exchange Rule 521(d).

<sup>10</sup> See Securities Exchange Act Release No. 59981 (May 27, 2009), 74 FR 26447 (June 2, 2009) (SR-CBOE-2009-024) (Order Granting Approval of a Proposed Rule Change Related to Its Obvious Error Rules).

<sup>11</sup> See Cboe Exchange Rule 6.25(b)(1)(a).

<sup>12</sup> See Securities Exchange Act Release Nos. 74918 (May 8, 2015), 80 FR 27781 (May 14, 2015) (SR-MIAX-2015-35); 74911 (May 8, 2015), 80 FR 27717 (May 14, 2015) (SR-BOX-2015-18); 74898 (May 7, 2015), 80 FR 27354 (May 13, 2015) (SR-CBOE-2015-039); 74919 (May 8, 2015), 80 FR 27766 (May 15, 2015) (SR-PHLX-2015-43).

## 2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act<sup>13</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>14</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 regulating, clearing, settling, processing information with respect to, and 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 proposed rule promotes just and equitable principles of trade and removes impediments to and perfects the mechanism of a free and open market and a national market system and, in general, protects investors and the public interest by ensuring that there is sufficient liquidity in the market by which to derive a Theoretical Price for options being used in the final index settlement value calculation. Additionally, the proposed rule promotes just and equitable principles of trade and removes impediments to and perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest by ensuring that the SPIKES index settlement value calculation is completed on a timely basis without unnecessary interruption.

Additionally, the proposed rule promotes cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, by harmonizing the Exchange's obvious error rule with that of another exchange that has a similar process for determining the settlement price of an index.<sup>15</sup>

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<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

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

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.

The Exchange does not believe the proposed rule change will impose any burden on inter-market competition as the proposed rule change is not a competitive filing and is designed to harmonize the Exchange's obvious error rule with that of the Cboe Exchange, which similarly offers a volatility index product that requires the calculation of a final settlement price.

Additionally, the Exchange does not believe the proposed rule change will impose any burden on intra-market competition as the rules of the Exchange apply equally to all Members<sup>16</sup> of the Exchange.

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>17</sup> and Rule 19b-4(f)(6)<sup>18</sup> thereunder.

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<sup>16</sup> 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.

<sup>17</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>18</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.

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](mailto:to-rule-comments@sec.gov). Please include File Number SR-MIAX-2019-02 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-2019-02. 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-2019-02 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>19</sup>

Brent J. Fields  
Secretary

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<sup>19</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

New text is underlined;

Deleted text is in [brackets]

**MIAMI INTERNATIONAL SECURITIES EXCHANGE, LLC**

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**Rule 521. Nullification and Adjustment of Options Transactions Including Obvious Errors**

The Exchange may nullify a transaction or adjust the execution price of a transaction in accordance with this Rule. However, the determination as to whether a trade was executed at an erroneous price may be made by mutual agreement of the affected parties to a particular transaction. A trade may be nullified or adjusted on the terms that all parties to a particular transaction agree, provided, however, that such agreement to nullify or adjust must be conveyed to the Exchange in a manner prescribed by the Exchange prior to 8:30 a.m. Eastern Time on the first trading day following the execution. It is considered conduct inconsistent with just and equitable principles of trade for any Member to use the mutual adjustment process to circumvent any applicable Exchange rule, the Act or any of the rules and regulations thereunder.

(a) No Change

(b) **Theoretical Price.** Upon receipt of an obvious or catastrophic error notification (as described below) and prior to any review of a transaction execution price, the “Theoretical Price” for the option must be determined. For purposes of this Rule, if the applicable option series is traded on at least one other options exchange, then the Theoretical Price of an option series is the last NBB just prior to the trade in question with respect to an erroneous sell transaction or the last NBO just prior to the trade in question with respect to an erroneous buy transaction unless one of the exceptions in sub-paragraphs (b)(1) through (3) below exists. For purposes of this provision, when a single order received by the Exchange is executed at multiple price levels, the last NBB and last NBO just prior to the trade in question would be the last NBB and last NBO just prior to the Exchange’s receipt of the order. The Exchange will rely on this paragraph (b) and Interpretation and Policy .04 of this Rule when determining Theoretical Price.

(1) **Transactions at the Open.** For a transaction occurring as part of the Opening Process (as described in Rule 503) the Exchange will determine the Theoretical Price if there is no NBB or NBO for the affected series just prior to the erroneous transaction or if the bid/ask differential of the NBB and NBO just prior to the erroneous transaction is equal to or greater than the Minimum Amount set forth in the chart contained in sub-paragraph (b)(3) below. If the bid/ask differential is less than the Minimum Amount, the Theoretical Price is the NBB or NBO just prior to the erroneous transaction.

(A) For transactions occurring in any option series being used to calculate the final settlement price of a volatility index on the final settlement day, the Theoretical

Price is the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s), provided that the quote size is for at least the overall size of the opening trade; if the quote size is for less than the overall size of the opening trade, then paragraph (c) and (d) shall not apply.

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