

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-85770; File No. SR-MIAX-2019-21)

May 3, 2019

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Exchange Rule 100, Definitions, Rule 200, Trading Permits, Rule 402, Criteria for Underlying Securities, Rule 403, Withdrawal of Approval of Underlying Securities and Rule 519, MIAX Order 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 April 24, 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 make a number of minor, non-substantive edits to Exchange Rule 100, Definitions, Rule 200, Trading Permits, Rule 402, Criteria for Underlying Securities, Rule 403, Withdrawal of Approval of Underlying Securities and Rule 519, MIAX Order Monitor, for purposes of clarification and uniformity.

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

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

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 Exchange Rule 100, Definitions, to make a minor non-substantive edit to the definition for Electronic Exchange Member in order to provide consistency and clarity within the rule text. Currently, Exchange Rule 100 defines Electronic Exchange Member as follows:

The term “Electronic Exchange Member” means the holder of a Trading Permit who is not a Market Maker. Electronic Exchange Members are deemed “members” under the Exchange Act.”<sup>3</sup>

The Exchange proposes to amend the definition for Electronic Exchange Member in Exchange Rule 100 to insert the abbreviation for Electronic Exchange Member as “EEM” to provide consistency and clarity within MIAX’s rulebook. With the proposed change, the definition for Electronic Exchange Member would be as follows:

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<sup>3</sup> See Exchange Rule 100.

The term “Electronic Exchange Member” or “EEM” means the holder of a Trading Permit who is not a Market Maker. Electronic Exchange Members are deemed “members” under the Exchange Act.

The proposed change would align the rule text for the definition of an Electronic Exchange Member with the rulebook for MIAX, which uses the EEM abbreviation for an Electronic Exchange Member in other Exchange rules.

The Exchange also proposes to amend Exchange Rule 100, Definitions, to make minor non-substantive edits to harmonize the rule text to that of the Exchange’s affiliate, MIAX Emerald, LLC (“MIAX Emerald”). Currently, Exchange Rule 100 does not include definitions for the Exchange’s affiliates, MIAX Emerald and MIAX PEARL, LLC (“MIAX PEARL”). In order to ensure conformity, the Exchange proposes to amend Exchange Rule 100 to adopt definitions for MIAX Emerald and MIAX PEARL that are nearly identical to rule text found in MIAX Emerald Rule 100.

MIAX proposes to adopt the following definition for MIAX Emerald to be included in Exchange Rule 100: “The term ‘MIAX Emerald’ means MIAX Emerald, LLC.” MIAX proposes to adopt the following definition for MIAX PEARL to be included in Exchange Rule 100: “The term ‘MIAX PEARL’ means MIAX PEARL, LLC.” The Exchange believes that adopting the definitions of the Exchange’s affiliates, MIAX Emerald and MIAX PEARL, in Exchange Rule 100 creates consistency among MIAX, MIAX Emerald and MIAX PEARL.

Next, the Exchange proposes to amend Exchange Rule 100 to clarify the definition for the term “MIAX.” Exchange Rule 100 currently defines MIAX as follows: “The term ‘MIAX’ means the Miami International Securities Exchange, LLC.” The Exchange proposes to insert the phrase “or the Exchange” following the period in the current definition for the term MIAX in Exchange Rule 100 to clarify and align the rule text with the definition for the term the

“Exchange” in Exchange Rule 100. Exchange Rule 100 currently defines Exchange as follows: “The term ‘Exchange’ means the national securities exchange known as Miami International Securities Exchange or MIAX.” The Exchange’s proposal to clarify the definition for the term “MIAX” would be as follows: “The term ‘MIAX’ means the Miami International Securities Exchange, LLC, or the Exchange.” The proposal is nearly identical to rule text in MIAX Emerald Rule 100.<sup>4</sup> The Exchange believes that its affiliate, MIAX PEARL, would also make a nearly identical change to MIAX PEARL Rule 100.<sup>5</sup>

The Exchange also proposes to amend Exchange Rule 100 to make minor non-substantive edit to the definition for “Exchange” in order to provide consistency and clarity within the rule text. Currently, Exchange Rule 100 defines Exchange as follows: “The term ‘Exchange’ means the national securities exchange known as Miami International Securities Exchange or MIAX.” The definition for Exchange in MIAX Rule 100 should include a comma and the abbreviation “LLC” following the whole name for MIAX. Accordingly, the Exchange proposes to amend the definition for Exchange as follows: “The term ‘Exchange’ means the national securities exchange known as Miami International Securities Exchange, LLC or MIAX.”

Next, the Exchange proposes to amend Exchange Rule 200, Trading Permits, to conform to MIAX Emerald Rule 200 by adopting language to differentiate the MIAX trading permit application process for holders of MIAX Emerald or MIAX PEARL trading permits and applicants not holding MIAX Emerald or MIAX PEARL trading permits. Currently, Exchange Rule 200(c), Application Process, describes the application process for a person or entity seeking to hold a MIAX Trading Permit as follows:

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<sup>4</sup> See MIAX Emerald Rule 100.

<sup>5</sup> See SR-PEARL-2019-16.

All persons or entities seeking to hold a Trading Permit (“Applicant”) must submit an application to the Exchange in accordance with such procedures as shall be established by the Exchange via Regulatory Circular including submission deadlines and payment of any applicable application fees. In addition, the following shall apply:<sup>6</sup>

The current application process under Exchange Rule 200 for a MIAX trading permit was established prior to the Exchange’s affiliates, MIAX Emerald and MIAX PEARL, commencing operations.

The Exchange proposes to adopt the waive-in application process for a MIAX trading permit that is currently in place on MIAX Emerald. MIAX Emerald Rule 200 provides that a holder of a MIAX or MIAX PEARL trading permit in good standing is eligible to receive one MIAX Emerald Trading Permit in the same Membership category to trade on MIAX Emerald.<sup>7</sup> Member<sup>8</sup> applicants of MIAX and MIAX PEARL are not required to submit a full application for membership on MIAX Emerald, but rather only need to complete selected MIAX Emerald forms concerning their election to trade on MIAX Emerald, consent to MIAX Emerald’s jurisdiction, and other operational matters.<sup>9</sup> This waive-in application process is similar to arrangements in place at other exchanges.<sup>10</sup>

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<sup>6</sup> See Exchange Rule 200.

<sup>7</sup> See MIAX Emerald Rule 100.

<sup>8</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>9</sup> See MIAX Emerald Rule 100.

<sup>10</sup> See, e.g., Nasdaq MRX, LLC Rule 302(a) (containing similar expedited waive-in membership process for members of the Nasdaq ISE, LLC and Nasdaq GEMX, LLC); MIAX PEARL Rule 200(c)(1) (containing similar expedited waive-in membership process for members of MIAX); and Cboe C2 Exchange, Inc. Rule 3.1(c)(1) (containing similar expedited waive-in membership process for members of Cboe).

MIAX proposes to adopt the waive-in application process to conform to MIAX Emerald by adopting a new paragraph in Exchange Rule 200, that will be numbered (c)(1). Currently, sub-paragraph (c)(1) under Exchange Rule 200 provides as follows:

Each Applicant shall promptly update the application materials submitted to the Exchange if any of the information provided in these materials becomes inaccurate or incomplete after the date of submission of the application to the Exchange and prior to any approval of the application.

Pursuant to this proposal, the Exchange proposes to adopt the following sub-paragraph, which will be numbered as (c)(1) under Exchange Rule 200:

**Holders of MIAX Emerald or MIAX PEARL Trading Permits.** A holder of a MIAX Emerald or MIAX PEARL trading permit in good standing is eligible to receive one MIAX Trading Permit in the same Membership category to trade on MIAX (i.e., a MIAX Emerald Primary Lead Market Maker Member is eligible to become a MIAX Primary Lead Market Maker Member, a MIAX Emerald Lead Market Maker Member is eligible to become a MIAX Lead Market Maker Member, a MIAX Emerald Registered Market Maker Member is eligible to become a MIAX Registered Market Maker Member, a MIAX Emerald Electronic Exchange Member is eligible to become a MIAX Electronic Exchange Member, a MIAX PEARL Market Maker is eligible to become a MIAX Registered Market Maker and a MIAX PEARL Electronic Exchange Member is eligible to become a MIAX Electronic Exchange Member). A holder of a MIAX Emerald or MIAX PEARL trading permit who wishes to apply to the Exchange is not required to complete and submit an Exchange application. Instead only Exchange forms concerning election to trade on the Exchange, submitting to Exchange jurisdiction, and operational matters need be completed and tendered.

The Exchange proposes to amend the rule text of Exchange Rule 200 to adopt a new sub-paragraph in Exchange Rule 200, that would be numbered (c)(2) for trading permit applicants not holding a MIAX Emerald or MIAX PEARL trading permit already. Currently, Exchange Rule 200(c)(2) provides as follows:

The Exchange shall investigate each Applicant applying to be a Member (with the exception of any Applicant that was a Member within 9 months prior to the date of receipt of that Applicant's application by the Exchange, and any Applicant that was investigated by the Exchange within 9 months prior to the date of receipt of that Applicant's application by the Exchange). The Exchange may investigate any Applicant that is not required to be investigated pursuant to this paragraph. In

connection with an investigation conducted pursuant to this paragraph, the Exchange may (i) conduct a fingerprint based criminal records check of the Applicant and its Responsible Person; or (ii) utilize the results of a fingerprint based criminal records check of the Applicant and its Responsible Person conducted by the Exchange or another self-regulatory organization within the prior year.

Pursuant to this proposal, the Exchange proposes to adopt the following sub-paragraph, which will be numbered as (c)(2) under Exchange Rule 200:

**Applicants Not Holding MIAX Emerald or MIAX PEARL Trading Permits.**

An applicant not holding a MIAX Emerald or MIAX PEARL trading permit seeking to hold a MIAX Trading Permit (“Applicant”) must submit an application to the Exchange in accordance with such procedures as shall be established by the Exchange. In addition, the following shall apply:

The Exchange also proposes to make corrective changes to the numerical and alphabetical list item identifiers to account for the Exchange’s proposal to adopt new rule text for sub-paragraphs (c)(1) and (c)(2), as described above, which replaced the current sub-paragraphs identified as (c)(1) and (c)(2). The Exchange proposes that the sub-paragraphs in Exchange Rule 200(c)(1) through (c)(7), as well as paragraphs (d) through (f), would be changed to conform to the hierarchical heading scheme used throughout the Exchange’s rulebook as well as to account for the new language adopted in new sub-paragraphs (c)(1) and (c)(2). Accordingly, under Exchange Rule 200, the text in paragraph (c) would be deleted, leaving only the heading “Application Process” in bold font as a heading for the entire section identified as paragraph (c). The Exchange proposes to adopt new sub-paragraph (c)(1) and (c)(2), as described above. Current sub-paragraph (c)(1) through (c)(7) will be renumbered as (c)(2)(i) through (c)(2)(vi), and current sub-paragraph (c)(7) will become its own paragraph identified as paragraph (d); current paragraphs (d) through (f) will be renumbered as (e) through (g); current sub-paragraphs (c)(2)(i) through (c)(2)(ii) will be renumbered as (c)(2)(ii)(A) through (c)(2)(ii)(B); and the reference in current sub-paragraph (c)(3) to “paragraph (2)” will be corrected such that sub-

paragraph (c)(3) will be renumbered as sub-paragraph (c)(2)(iii) and will reference “paragraph (ii).”

Next, the Exchange proposes to amend Exchange Rule 402, Criteria for Underlying Securities, to make minor corrective changes to the numerical and alphabetical list item identifiers to properly conform to the hierarchical heading scheme used throughout the Exchange’s rulebook. Currently, Exchange Rule 402(i) provides as follows:

Securities deemed appropriate for options trading shall include shares or other securities (“Exchange-Traded Fund Shares”) that are traded on a national securities exchange and are defined as an “NMS stock” under Rule 600 of Regulation NMS, and that:

The Exchange proposes that the sub-paragraphs that follow would be changed to conform to the hierarchical heading scheme used throughout the Exchange’s rulebook. Accordingly, under Exchange Rule 402(i), sub-paragraphs (A) through (E) will be renumbered as (1) through (5); sub-paragraphs (E)(1) through (E)(2) will be renumbered as (5)(i) through (5)(ii); sub-paragraphs (E)(1)(i) through (E)(1)(iii) will be renumbered as (5)(i)(A) through (5)(i)(C); sub-paragraph (E)(2) will be renumbered as (5)(ii); sub-paragraphs (E)(2)(i) through (E)(2)(ii) will be renumbered as (5)(ii)(A) through (5)(ii)(B); and sub-paragraphs (E)(2)(ii)(A) through (E)(2)(ii)(D) will be renumbered as (5)(ii)(B)(1) through (5)(ii)(B)(4).

Next, the Exchange proposes to amend Exchange Rule 403, Withdrawal of Approval of Underlying Securities, to conform references to Exchange Rule 402(i) sub-paragraphs that are in Exchange Rule 403. Exchange Rule 403(g)(1) and (g)(2) currently reference Exchange Rule 402(i)(E)(1)(i) and 402(i)(E)(1)(ii). The Exchange proposes to amend these reference to conform to the other proposed changes to Exchange Rule 402 and the proposed changes would be references to Exchange Rule 402(i)(5)(i)(A) and 402(i)(5)(i)(B).

Next, the Exchange proposes to amend Exchange Rule 519, MIAX Order Monitor, to amend sub-paragraph (a)(3)(i) to delete Roman numeral (i) in that sub-paragraph that immediately precedes the sentence “The following examples illustrate those situations where lower priced limit orders are rejected because they cross the NBBO by at least 50%.” The Exchange proposes to separate sub-paragraph (a)(3)(i) into sub-paragraphs (a)(3)(i)(A) and (a)(3)(i)(B). The Exchange also proposes to amend sub-paragraph (a)(3)(i) to separate Roman numeral (ii) into its own sub-paragraph that will become sub-paragraph (a)(3)(ii), with sub-paragraphs (a)(3)(ii)(A) and (a)(3)(ii)(B) separated into their own sub-paragraphs as well. The Exchange also proposes to make a minor corrective change to the current Roman numeral identifier for sub-paragraph (a)(3)(ii) that is directly below sub-paragraph (a)(3)(i) to properly conform to the hierarchical heading scheme used throughout the Exchange’s rulebook following the other proposed changes to Rule 519, sub-paragraph (a)(3). Accordingly, the current sub-paragraph (a)(3)(ii) will be renumbered as sub-paragraph (a)(3)(iii).

## 2. 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 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.

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

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

The Exchange believes the proposed changes promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule changes correct errors in the hierarchical heading scheme to provide uniformity in the Exchange's rulebook. The Exchange notes that the proposed changes to Exchange Rule 100, Rule 402, Rule 403 and Rule 519 do not alter the application of each rule. As such, the proposed amendments would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national exchange system. In particular, the Exchange believes that the proposed changes will provide greater clarity to Members and the public regarding the Exchange's Rules. It is in the public interest for rules to be accurate and concise so as to eliminate the potential for confusion.

The Exchange believes the proposed changes to Exchange Rule 200 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 because the proposed changes will align MIAX Rule 200 with MIAX Emerald Rule 200 regarding trading permits. 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 application process for trading permits. The Exchange also believes that although MIAX Emerald rules may, in certain instances, intentionally differ from MIAX rules, the proposed changes will promote uniformity with MIAX with respect to rules that are intended to be identical. The Exchange believes that this proposal will reduce the potential for confusion by its Members that are also Members of MIAX Emerald

if the only differences between MIAX Emerald rules and MIAX rules are those are specific to each exchange.

The Exchange also believes the proposed changes to Exchange Rule 200 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 because MIAX and its affiliates, MIAX Emerald and MIAX PEARL, have substantially the same Members, and by adopting the waive-in application process for those Members already holding trading permits on MIAX Emerald and/or MIAX PEARL, promotes the more effective utilization of time and resources of the Exchange. Furthermore, because MIAX Emerald and MIAX PEARL trading permit holders have already been vetted, the Exchange's proposal to adopt the waive-in application process in Exchange Rule 200 aligns the trading permit application process with that of the Exchange's affiliates, MIAX Emerald and MIAX PEARL, preventing unnecessary regulatory burdens and promoting the efficient administration of the Exchange's rules.

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

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule changes will have no impact on competition as they are not designed to address any competitive issues but rather are designed to add additional clarity to existing rules and to remedy minor non-substantive issues in the text of various rules identified in this proposal.

The Exchange does not believe that the proposed rule changes to Exchange Rule 200 will impose any burden on intermarket competition not necessary or appropriate in furtherance of the purposes of the Act because MIAX and its affiliates, MIAX Emerald and MIAX PEARL, have substantially the same Members, and by adopting the waive-in application process for those Members already holding trading permits on MIAX Emerald and/or MIAX PEARL promotes the

more effective utilization of time and resources of the Exchange. Furthermore, because MIAX PEARL and MIAX Emerald trading permit holders have already been vetted, the Exchange's proposal to amend the waive-in application process in Exchange Rule 200 aligns the trading permit application process with that of the Exchange's affiliate, MIAX Emerald, preventing unnecessary regulatory burdens and promoting the efficient administration of the Exchange's rules.

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

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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)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five 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.

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:rule-comments@sec.gov). Please include File Number SR-MIAX-2019-21 on the subject line.

Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-MIAX-2019-21. 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-2019-21, 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>

Eduardo A. Aleman  
Deputy Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).