

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 such 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-BOX-2020-05, and should be submitted on or before April 6, 2020.

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

**J. Matthew DeLesDernier,**  
*Assistant Secretary.*

[FR Doc. 2020-05240 Filed 3-13-20; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-88349; File No. SR-MIAX-2020-05]

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

March 10, 2020.

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 28, 2020, Miami International Securities Exchange LLC ("MIAX Options" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange is filing a proposal to amend the MIAX Options Fee Schedule ("Fee Schedule").

While changes to the Fee Schedule pursuant to this proposal are effective

upon filing, the Exchange has designated these changes to be operative on March 1, 2020.

The text of the proposed rule change is available on the Exchange's website at <http://www.miaxoptions.com/rule-filings>, at MIAX's principal office, and at the Commission's Public Reference Room.

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

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

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

###### 1. Purpose

The Exchange proposes to amend the Fee Schedule to: (i) Waive the cap of 1,000 contracts per leg for complex PRIME ("cPRIME")<sup>3</sup> Agency Order rebates for all tiers under the Priority Customer Rebate Program ("PCRP")<sup>4</sup> until May 31, 2020; (ii) lower the alternative cPRIME Agency Order rebate for PCRP Members<sup>5</sup> in Tier 4 that

<sup>3</sup> "cPRIME" is the process by which a Member may electronically submit a "cPRIME Order" (as defined in Rule 518(b)(7)) it represents as agent (a "cPRIME Agency Order") against principal or solicited interest for execution (a "cPRIME Auction"), subject to the restrictions set forth in Exchange Rule 515A, Interpretation and Policy .12. See Exchange Rule 515A.

<sup>4</sup> Under the PCRP, MIAX credits each Member the per contract amount resulting from each Priority Customer order transmitted by that Member which is executed electronically on the Exchange in all multiply-listed option classes (excluding, in simple or complex as applicable, QCC and cQCC Orders, mini-options, Priority Customer-to-Priority Customer Orders, C2C and cC2C Orders, PRIME and cPRIME AOC Responses, PRIME and cPRIME Contra-side Orders, PRIME and cPRIME Orders for which both the Agency and Contra-side Order are Priority Customers, and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in Exchange Rule 1400), provided the Member meets certain percentage thresholds in a month as described in the PCRP table. See Fee Schedule, Section 1)a)iii.

<sup>5</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.

execute Priority Customer<sup>6</sup> standard non-paired complex volume at least equal to or greater than their Priority Customer cPRIME agency volume; and (iii) decrease the per contract fee for Contra-side Orders (defined below) in Penny and non-Penny options classes in a cPRIME Auction assessable to all market participants, except Priority Customers.

###### Background

Exchange Rule 518(b)(7) defines a cPRIME Order as a type of complex order<sup>7</sup> that is submitted for participation in a cPRIME Auction and trading of cPRIME Orders is governed by Rule 515A, Interpretations and Policies .12.<sup>8</sup> cPRIME Orders are processed and executed in the Exchange's PRIME mechanism, the same mechanism that the Exchange uses to process and execute simple PRIME orders, pursuant to Exchange Rule 515A.<sup>9</sup> PRIME is a process by which a Member may electronically submit for execution an order it represents as agent (an "Agency Order") against principal interest and/or solicited interest. The Member that submits the Agency Order ("Initiating Member") agrees to guarantee the execution of the Agency Order by submitting a contra-side order representing principal interest or solicited interest ("Contra-Side Order"). When the Exchange receives a properly designated Agency Order for Auction processing, a request for response ("RFR") detailing the option, side, size

<sup>6</sup> "Priority Customer" means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). A "Priority Customer Order" means an order for the account of a Priority Customer. See Exchange Rule 100.

<sup>7</sup> A "complex order" is any order involving the concurrent purchase and/or sale of two or more different options in the same underlying security (the "legs" or "components" of the complex order), for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purposes of executing a particular investment strategy. A complex order can also be a "stock-option" order, which is an order to buy or sell a stated number of units of an underlying security coupled with the purchase or sale of options contract(s) on the opposite side of the market, subject to certain contingencies set forth in the proposed rules governing complex orders. For a complete definition of a "complex order," see Exchange Rule 518(a)(5). See also Securities Exchange Act Release No. 78620 (August 18, 2016), 81 FR 58770 (August 25, 2016) (SR-MIAX-2016-26).

<sup>8</sup> See Securities Exchange Act Release No. 81131 (July 12, 2017), 82 FR 32900 (July 18, 2017) (SR-MIAX-2017-19). (Order Granting Approval of a Proposed Rule Change to Amend MIAX Options Rules 515, Execution of Orders and Quotes; 515A, MIAX Price Improvement Mechanism ("PRIME") and PRIME Solicitation Mechanism; and 518, Complex Orders).

<sup>9</sup> *Id.*

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

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

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

and initiating price is broadcasted to MIAX Options participants up to an optional designated limit price. Members may submit responses to the RFR, which can be either an Auction or Cancel (“AOC”) order or an AOC eQuote. A cPRIME Auction is the price-improvement mechanism of the Exchange’s System pursuant to which an Initiating Member electronically submits a complex Agency Order into a cPRIME Auction. The Initiating Member, in submitting an Agency Order, must be willing to either (i) cross the Agency Order at a single price against principal or solicited interest, or (ii) automatically match against principal or solicited interest, the price and size of a RFR that is broadcast to MIAX Options participants up to an optional designated limit price. Such responses are defined as cPRIME AOC Responses or cPRIME eQuotes. The PRIME mechanism is used for orders on the Exchange’s Simple Order Book.<sup>10</sup> The cPRIME mechanism is used for Complex Orders<sup>11</sup> on the Exchange’s Strategy Book,<sup>12</sup> with the cPRIME mechanism operates in the same manner for processing and execution of cPRIME Orders that is used for PRIME Orders on the Simple Order Book.

#### PCRPR cPRIME Agency Order Credit Limit

First, the Exchange proposes to amend footnote “\*” of the PCRPR in Section 1(a)iii) of the Fee Schedule to waive the contracts cap per leg for cPRIME Agency Order rebates for all tiers under the PCRPR for a set period of time. Currently, the Exchange limits the cPRIME Agency Order Credit to be payable only to the first 1,000 contracts per leg for each cPRIME Agency Order in all tiers under the PCRPR. The Exchange now proposes to waive the cap of 1,000 contracts per leg for cPRIME Agency Order rebates for all

tiers under the PCRPR until May 31, 2020. The purpose of this proposed change is for business and competitive reasons and to entice market participants to submit larger sized cPRIME Agency Orders.

#### Alternative Credit for cPRIME Agency Orders

Next, the Exchange proposes to amend footnote “\*\*\*” of the PCRPR in Section 1(a)iii) of the Fee Schedule to lower the cPRIME Agency Order rebate for PCRPR Members in Tier 4 that execute Priority Customer standard non-paired complex volume at least equal to or greater than their Priority Customer cPRIME agency volume. Currently, under the PCRPR, the Exchange provides a higher credit of \$0.22 per contract for cPRIME Agency Orders if any Member or its Affiliate<sup>13</sup> qualifies for PCRPR Tier 4 and executes Priority Customer standard, non-paired complex volume at least equal to or greater than their Priority Customer cPRIME Agency Order volume, on a monthly basis instead of the \$0.10 credit otherwise applicable for Tier 4. The Exchange now proposes to lower the alternative cPRIME Agency Order rebate for PCRPR Members in Tier 4 that execute Priority Customer standard non-paired complex volume at least equal to or greater than their Priority Customer cPRIME agency

<sup>13</sup> For purposes of the MIAX Options Fee Schedule, the term “Affiliate” means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm’s Form BD, Schedule A, (“Affiliate”), or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An “Appointed Market Maker” is a MIAX Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an “Appointed EEM” is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAX Market Maker) that has been appointed by a MIAX Market Maker, pursuant to the following process. A MIAX Market Maker appoints an EEM and an EEM appoints a MIAX Market Maker, for the purposes of the Fee Schedule, by each completing and sending an executed Volume Aggregation Request Form by email to [membership@miaxoptions.com](mailto:membership@miaxoptions.com) no later than 2 business days prior to the first business day of the month in which the designation is to become effective. Transmittal of a validly completed and executed form to the Exchange along with the Exchange’s acknowledgement of the effective designation to each of the Market Maker and EEM will be viewed as acceptance of the appointment. The Exchange will only recognize one designation per Member. A Member may make a designation not more than once every 12 months (from the date of its most recent designation), which designation shall remain in effect unless or until the Exchange receives written notice submitted 2 business days prior to the first business day of the month from either Member indicating that the appointment has been terminated. Designations will become operative on the first business day of the effective month and may not be terminated prior to the end of the month. Execution data and reports will be provided to both parties.

volume from \$0.22 per contract to \$0.12 per contract. The Exchange initially adopted the higher alternative credit for cPRIME Agency Orders in order to encourage market participants to submit more complex and cPRIME orders and therefore increase Priority Customer order flow. The Exchange now believes that it is appropriate to adjust this credit to be a slightly higher alternative credit of \$0.12 per contract than the other credits for cPRIME Agency Orders, thereby continuing to encourage market participants to submit more complex orders and therefore increase Priority Customer order flow. The Exchange believes that by encouraging market participants to execute Priority Customer standard, non-paired complex volume and cPRIME volume will result in increased liquidity that benefits all Exchange participants by providing more trading opportunities and tighter spreads. The purpose of this proposed change is for business and competitive reasons.

#### cPRIME Fees for Contra-Side Orders in Penny and Non-Penny Classes

Next, the Exchange proposes to decrease the per contract fee for Contra-Side Orders in Penny and non-Penny classes in a cPRIME Auction assessable to all market participants, except Priority Customers. Currently, the Exchange assesses a cPRIME Contra-Side Order Fee of \$0.05 per contract for options in Penny classes and \$0.07 per contract for options in non-Penny classes for all market participants except Priority Customers. The Exchange now proposes to decrease the fees assessed to all market participants except Priority Customers for cPRIME Contra-Side Orders for options in Penny classes from \$0.05 to \$0.04 per contract and for options in non-Penny classes from \$0.07 to \$0.04 per contract. The purpose of these proposed changes is for business and competitive reasons.

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and self-regulatory organization (“SRO”) revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>14</sup> There are currently 16 registered

<sup>14</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

<sup>10</sup> The “Simple Order Book” is the Exchange’s regular electronic book of orders and quotes. See Exchange Rule 518(a)(15).

<sup>11</sup> A “complex order” is any order involving the concurrent purchase and/or sale of two or more different options in the same underlying security (the “legs” or “components” of the complex order), for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purposes of executing a particular investment strategy. Mini-options may only be part of a complex order that includes other mini-options. Only those complex orders in the classes designated by the Exchange and communicated to Members via Regulatory Circular with no more than the applicable number of legs, as determined by the Exchange on a class-by-class basis and communicated to Members via Regulatory Circular, are eligible for processing. See Exchange Rule 518(a)(5).

<sup>12</sup> The “Strategy Book” is the Exchange’s electronic book of complex orders and complex quotes. See Exchange Rule 518(a)(17).

options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than approximately 15% of the market share of executed volume of multiply-listed equity and exchange-traded fund (“ETF”) options trades as of February 24, 2020, for the month of February 2020.<sup>15</sup> Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, for all of January 2020, the Exchange had a total market share of 4.44% of all equity options volume.<sup>16</sup>

The Exchange believes that the ever-shifting market shares among the exchanges from month to month demonstrates that market participants can shift order flow (as further described below), or discontinue or reduce use of certain categories of products, in response to transaction and non-transaction fee changes. For example, on March 1, 2019, the Exchange filed with the Commission an immediately effective filing to decrease certain credits assessable to Members pursuant to the PCRCP.<sup>17</sup> The Exchange experienced a decrease in total market share between the months of February and March of 2019. Accordingly, the Exchange believes that the March 1, 2019 fee change may have contributed to the decrease in the Exchange’s market share and, as such, the Exchange believes competitive forces constrain options exchange transaction and non-transaction fees.

## 2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act<sup>18</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>19</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among its members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect

investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange believes its proposal to waive the cap of 1,000 contracts per leg for cPRIME Agency Order rebates for all tiers under the PCRCP until May 31, 2020, lower the alternative cPRIME Agency Order rebate for PCRCP Members in Tier 4 that execute Priority Customer standard non-paired complex volume at least equal to or greater than their Priority Customer cPRIME agency volume and decrease the per contract fee for Contra-side Orders in Penny and non-Penny options classes in a cPRIME Auction assessable to all market participants, except Priority Customers, provides for the equitable allocation of reasonable dues and fees and is not unfairly discriminatory for the following reasons. The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>20</sup> There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than approximately 15% of the market share of executed volume of multiply-listed equity and ETF options trades as of February 24, 2020, for the month of February 2020.<sup>21</sup> Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, for all of January 2020, the Exchange had a total market share of 4.44% of all equity options volume.<sup>22</sup>

The Exchange believes that the ever-shifting market shares among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to transaction and/or non-transaction fee changes. For example, on March 1, 2019, the

Exchange filed with the Commission an immediately effective filing to decrease certain credits assessable to Members pursuant to the PCRCP.<sup>23</sup> The Exchange experienced a decrease in total market share between the months of February and March of 2019. Accordingly, the Exchange believes that the March 1, 2019 fee change may have contributed to the decrease in the Exchange’s market share and, as such, the Exchange believes competitive forces constrain options exchange transaction and non-transaction fees and market participants can shift order flow based on fee changes instituted by the exchanges.

The Exchange believes that its proposal to waive the 1,000 contracts cap per leg for cPRIME Agency Order rebates for all tiers in the PCRCP until May 31, 2020, lower the alternative cPRIME Agency Order rebate for PCRCP Members in Tier 4 that execute Priority Customer standard non-paired complex volume at least equal to or greater than their Priority Customer cPRIME agency volume and decrease the per contract fee for Contra-side Orders in Penny and non-Penny classes in a cPRIME Auction assessable to all market participants, except Priority Customers, is reasonable, equitably allocated and not unfairly discriminatory because these changes are for business and competitive reasons and available equally to all market participants. The Exchange cannot predict with certainty whether any market participant would submit cPRIME Agency Orders in excess of 1,000 contracts per leg in light of the proposed change to waive the cap of 1,000 contracts per leg for cPRIME Agency Order rebates for all tiers under the PCRCP, but believes that market participants would be encouraged to submit larger orders to obtain the additional credits. The Exchange believes that this proposed change would encourage increased cPRIME Agency Order flow, which will bring greater volume and liquidity to the Exchange, which benefits all market participants by providing more trading opportunities and tighter spreads.

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory that Priority Customers continue to be charged lower fees in cPRIME Auctions than other market participants in Penny and non-Penny options classes. The exchanges, in general, have historically aimed to improve markets for investors and develop various features within their market structure for customer benefit. The Exchange assesses Priority Customers lower or no transactions fees

<sup>15</sup> The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available at: <https://www.theocc.com/market-data/volume/default.jsp>.

<sup>16</sup> See *id.*

<sup>17</sup> See Securities Exchange Act Release No. 85301 (March 13, 2019), 84 FR 10166 (March 19, 2019) (SR-MIAX-2019-09).

<sup>18</sup> 15 U.S.C. 78f(b).

<sup>19</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>20</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

<sup>21</sup> See *supra* note 15.

<sup>22</sup> See *id.*

<sup>23</sup> See *supra* note 17.

because Priority Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts market makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Moreover, the Exchange believes that assessing all other market participants that are not Priority Customers a higher transaction fee than Priority Customers for cPRIME Order transactions is reasonable, equitable, and not unfairly discriminatory because these types of market participants are more sophisticated and have higher levels of order flow activity and system usage. This level of trading activity draws on a greater amount of system resources than that of Priority Customers, and thus, generates greater ongoing operational costs. Further, the Exchange believes that charging all market participants that are not Priority Customers the same fee for all cPRIME transactions is not unfairly discriminatory as the fees will apply to all these market participants equally.

The Exchange believes its proposal to lower the higher alternative cPRIME Agency Order Credit amount for cPRIME Agency Orders in Tier 4 of the PCRCP is consistent with Section 6(b)(4) of the Act<sup>24</sup> because it applies equally to all participants with similar order flow in that tier. The Exchange believes that by encouraging market participants to execute Priority Customer standard, non-paired complex volume at least equal to or greater than their Priority Customer cPRIME Agency Order volume in order to continue to receive a higher alternative credit of \$0.12 per contract for cPRIME Agency Orders instead of the credit otherwise applicable to such orders in Tier 4 of the PCRCP, is reasonable, equitably allocated and not unfairly discriminatory because it will continue to encourage increased volume of Priority Customer standard, non-paired complex orders and Priority Customer cPRIME orders, which will result in increased liquidity that benefits all Exchange participants by providing more trading opportunities and tighter spreads. The PCRCP is reasonably designed because it will incentivize providers of Priority Customer order flow to send that Priority Customer order flow to the Exchange in order to obtain the highest volume threshold and receive a credit in

a manner that enables the Exchange to improve its overall competitiveness and strengthen its market quality for all market participants.

In addition, the proposal is also consistent with Section 6(b)(5) of the Act<sup>25</sup> because it perfects the mechanisms of a free and open market and a national market system and protects investors and the public interest because, while only certain Priority Customer order flow qualifies for the rebate program under the PCRCP and specifically only order flow by Members in Tier 4 of the PCRCP that meet the additional threshold will continue to receive the higher alternative cPRIME Agency Order rebate, an increase in Priority Customer order flow will bring greater volume and liquidity, which benefits all market participants by providing more trading opportunities and tighter spreads. To the extent Priority Customer order flow continues to increase by the proposal, market participants will increasingly compete for the opportunity to trade on the Exchange including sending more orders and providing narrower and larger-sized quotations in the effort to trade with such Priority Customer order flow.

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

In accordance with Section 6(b)(8) of the Act,<sup>26</sup> the Exchange believes that the proposed rule changes would not impose any burden on competition that are not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all market participants. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders.

#### *Intra-Market Competition*

The Exchange does not believe that other market participants at the Exchange would be placed at a relative disadvantage by the proposed changes to waive the cap of 1,000 contracts per leg for cPRIME Agency Order rebates for all tiers under the PCRCP until May 31, 2020 and decrease the per contract fee for Contra-side Orders in Penny and non-Penny classes in a cPRIME Auction

assessable to all market participants, except Priority Customers. The proposed changes are designed to attract additional order flow to the Exchange. The Exchange further believes that its proposal to lower the alternative cPRIME Agency Order Credit amount for cPRIME Agency Orders in Tier 4 of the PCRCP that will apply instead of the credit otherwise applicable to such orders, if a certain threshold is satisfied by the Member, will not have an impact on intra-market competition. Specifically, the Exchange believes that this proposal will continue to encourage Members to submit both Priority Customer standard, non-paired complex orders and Priority Customer complex orders, which will increase liquidity and benefit all market participants by providing more trading opportunities and tighter spreads. Accordingly, the Exchange believes that the proposed changes will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because they will continue to encourage order flow, which provides greater volume and liquidity, benefiting all market participants by providing more trading opportunities and tighter spreads.

#### *Inter-Market Competition*

The Exchange operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than approximately 15% of the market share of executed volume of multiply-listed equity and ETF options trades as of February 24, 2020, for the month of February 2020.<sup>27</sup> Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, for all of January 2020, the Exchange had a total market share of 4.44% for all equity options volume.<sup>28</sup> In such an environment, the Exchange must continually adjust its transaction and non-transaction fees to remain competitive with other exchanges and to attract order flow. The Exchange believes that the proposed rule changes reflect this competitive environment because they modify the Exchange's fees in a manner that encourages market participants to provide and to send

<sup>24</sup> 15 U.S.C. 78f(b)(4).

<sup>25</sup> 15 U.S.C. 78f(b)(1) and (b)(5).

<sup>26</sup> 15 U.S.C. 78f(b)(8).

<sup>27</sup> See *supra* note 15.

<sup>28</sup> See *id.*

order flow to the Exchange. To the extent this is achieved, all the Exchange's market participants should benefit from the improved market quality.

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

Written comments were neither solicited nor received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>29</sup> and Rule 19b-4(f)(2)<sup>30</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-MIAX-2020-05 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-2020-05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet 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-2020-05, and should be submitted on or before April 6, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>31</sup>

**J. Matthew DeLesDernier,**  
*Assistant Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-88356; File No. SR-ICEEU-2020-001]

**Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Changes Relating to Clearing Member Transaction Fees for Certain Equity Derivatives Contracts, Specifically the Fee Caps for the Block Only Standard and Flexible Single Stock Futures and Options ("the Contracts")**

March 10, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 25, 2020, ICE Clear Europe Limited ("ICE Clear Europe") filed with the Securities and Exchange Commission ("Commission") the proposed rule

changes described in Items I, II, and III below, which Items have been primarily prepared by ICE Clear Europe. ICE Clear Europe filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(2)<sup>4</sup> thereunder, such that the proposed rule change was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change**

ICE Clear Europe Limited ("ICE Clear Europe") proposes rule changes relating to fees payable by Clearing Members for certain Equity Derivatives contracts, specifically the fee caps for the Block Only Standard and Flexible Single Stock Futures and Options ("the Contracts"). The revisions do not involve any changes to the ICE Clear Europe Clearing Rules or Procedures.<sup>5</sup>

**II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

*(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

(a) Purpose

The purpose of the proposed rule changes is for ICE Clear Europe to update certain fees payable by Clearing Members for certain Equity Derivatives contracts which are cleared by ICEU Clear Europe. Specifically, ICE Clear Europe proposes changing the Clearing Member fee caps for the Block Only Standard and Flexible Single Stock Futures and Options. No changes will be made to the underlying fee rate per contract ("RPC") for these products. Attached as Exhibit 5 is the table listing the new fee caps for the Block Only Standard and Flexible Single Stock Futures and Options that will be included in a Circular in advance of the proposed effective date. The new

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

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

<sup>5</sup> Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules.

<sup>29</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>30</sup> 17 CFR 240.19b-4(f)(2).

<sup>31</sup> 17 CFR 200.30-3(a)(12).

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

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