

subparagraph (f)(2) of Rule 19b-4<sup>11</sup> thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such 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 under Section 19(b)(2)(B)<sup>12</sup> of the Act to determine whether the proposed rule change 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-NYSEArca-2013-109 on the subject line.

##### *Paper Comments*

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

All submissions should refer to File Number SR-NYSEArca-2013-109. 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 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 Web site 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; 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-NYSEArca-2013-109, and should be submitted on or before November 27, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70788; File No. SR-MIAX-2013-50]

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

October 31, 2013.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 24, 2013, Miami International Securities Exchange LLC ("MIAX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange is filing a proposal to amend its Fee Schedule.

The text of the proposed rule change is available on the Exchange's Web site at [http://www.miaxoptions.com/filter/wotitle/rule\\_filing](http://www.miaxoptions.com/filter/wotitle/rule_filing), at MIAX's principal

office, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified 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 establish a \$0.08 transaction fee for executions in standard option contracts and \$0.008 transaction fee for Mini Option contracts for Market Makers<sup>3</sup> registered on the Exchange.

The current transaction fees for Market Makers are: (i) RMMs \$0.05 per contract for standard options or \$0.005 for Mini Options; (ii) LMMs \$0.05 per contract for standard options or \$0.005 for Mini Options; (iii) DLMMs and PLMMs \$0.05 per contract for standard options or \$0.005 for Mini Options; and (iv) DPLMMs \$0.05 per contract for standard options or \$0.005 for Mini Options.<sup>4</sup> The proposal will increase the transaction fees for all Market Makers in both standard options and Mini Options. The Exchange proposes to implement the new transaction fees beginning November 1, 2013.

The previous transaction fees were designed both to enhance the Exchange's competitiveness with other option exchanges and to strengthen its market quality. Now that both intermarket and intramarket competition has been increased the

<sup>3</sup> Market Makers may be registered as a Lead Market Maker or as a Registered Market Maker. See Exchange Rule 600(b). Market Makers registered on the Exchange for purposes of the transaction fee and Section 1(a)(i) of the Fee Schedule include: (i) Registered Market Maker ("RMM"); (ii) Lead Market Maker ("LMM"); (iii) Directed Order Lead Market Maker ("DLMM"); (iv) Primary Lead Market Maker ("PLMM"); and (v) Directed Order Primary Lead Market Maker ("DPLMM"). See MIAX Options Fee Schedule, Section 1(a)(i)—Market Maker Transaction Fees.

<sup>4</sup> See MIAX Options Fee Schedule, Section 1(a)(i)—Market Maker Transaction Fees. See also Securities Exchange Act Release No. 70346 (September 9, 2013), 78 FR 56762 (September 13, 2013) (SR-MIAX-2013-41).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

<sup>12</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>13</sup> 17 CFR 200.30-3(a)(12).

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

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

Exchange believes that it would be beneficial to marginally increase the transaction fees for all Market Makers to bring rates closer in line with transaction fees charged to other market participants that execute orders on the Exchange. The Exchange notes that Market Maker transactions fees will still remain lower than other market participants in order to continue to incent market participants and market makers on other exchanges to register as Market Makers on the Exchange. The Exchange believes that maintaining lower transaction fees for Market Makers registered on the Exchange promotes tighter bid-ask spreads by Market Makers, and increases the volume of transactions in order to allow the Exchange to compete more effectively with other options exchanges for such transactions.

## 2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with Section 6(b) of the Act<sup>5</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>6</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange believes that the proposal is fair, equitable and not unreasonably discriminatory. The proposal is reasonable because it results in a marginal increase in transactions fees for all Market Makers on the Exchange to bring rates closer in line with transaction fees charged to other market participants that execute orders on the Exchange. The proposed fees are fair and equitable and not unreasonably discriminatory because they will apply equally to all Market Makers regardless of type. All Market Makers will be subject to the same transaction fee, and access to the Exchange is offered on terms that are not unfairly discriminatory. The registration as an Exchange Market Maker is equally available to all market participants and Electronic Exchange Members (“EEMs”) that satisfy the requirements of Rule 600. Any market participant may choose to satisfy the additional requirements and obligations of being a Market Maker in order to qualify for the transaction fee.

The Exchange believes that maintaining lower transaction fees for Market Makers is equitable and not unfairly discriminatory because Market Makers on the Exchange have enhanced quoting obligations measured in both quantity (% time) and quality

(minimum bid-ask differentials) that other market participants do not have. Additionally, maintaining lower transaction fees for Market Makers registered on the Exchange promotes tighter bid-ask spreads by Market Makers, and increases the volume of transactions in order to allow the Exchange to compete more effectively with other options exchanges for such transactions. To the extent that this purpose is achieved, all the Exchange’s market participants should benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the increase in Market Maker activity on the Exchange will benefit all market participants and improve competition on the Exchange.

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

MIAx does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposal increases both intermarket and intramarket competition by marginally increasing transactions fees for all Market Makers on the Exchange to bring rates closer in line with transaction fees charged to other market participants that execute orders on the Exchange. The Exchange notes that it 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. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow. The Exchange believes that the proposal reflects this competitive environment because it increases the Exchange’s fees in a manner that continues to encourage market participants to register as Market Makers, to provide liquidity, and to attract order flow to the Exchange. To the extent that this purpose is achieved, all the Exchange’s market participants should benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the increase in Market Maker activity on the Exchange will benefit all market participants and improve competition on 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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>7</sup> 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-2013-50 on the subject line.

### Paper Comments

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

All submissions should refer to File Number SR-MIAx-2013-50. 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 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 Web site viewing and printing in the Commission’s Public

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

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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-2013-50 and should be submitted on or before November 27, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2013-26553 Filed 11-5-13; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70787; File No. SR-ISE-2013-42]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, To List Options on the Nations VolDex Index

October 31, 2013.

#### I. Introduction

On July 17, 2013, the International Securities Exchange, LLC ("Exchange" or "ISE") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to list options on the Nations VolDex Index ("Index"). The proposed rule change was published for comment in the **Federal Register** on August 2, 2013.<sup>3</sup> The Commission received one comment letter on the proposed rule change.<sup>4</sup> On September 10, 2013, the Commission extended the time period for Commission action to October 31,

2013.<sup>5</sup> On October 29, 2013, ISE submitted a response to the comment letter.<sup>6</sup> On October 30, 2013, ISE submitted Amendment No. 1 to the proposed rule change. This order institutes proceedings under Section 19(b)(2)(B) of the Act<sup>7</sup> to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.

#### II. Description of the Proposal

The Exchange proposes to list and trade cash-settled, European-style options on the Index, which measures changes in implied volatility of the SPDR S&P 500 Exchange-Traded Fund ("SPY").<sup>8</sup>

The Index is calculated using a methodology developed by NationsShares, which uses published real-time bid/ask quotes of SPY options.<sup>9</sup> The Index will be calculated and maintained by a calculation agent acting on behalf of NationsShares. The Index will be updated on a real-time basis on each trading day beginning at 9:30 a.m. and ending at 4:15 p.m. (New York time).<sup>10</sup> Values of the Index also will be disseminated every 15 seconds during the Exchange's regular trading hours to market information vendors such as Bloomberg and Thomson Reuters. In the event the Index ceases to be maintained or calculated, or its values are not disseminated every 15 seconds by a widely available source, the Exchange will not list any additional

series for trading and will limit all transactions in such options to closing transactions only for the purpose of maintaining a fair and orderly market and protecting investors.

The Exchange proposes that the standard trading hours for index options (9:30 a.m. to 4:15 p.m., New York time) will apply to options on the Index. Options on the Index will expire on the Wednesday that is thirty days prior to the third Friday of the calendar month immediately following the expiration month. Trading in expiring options on the Index will normally cease at 4:15 p.m. (New York time) on the Tuesday preceding an expiration Wednesday. The exercise and settlement value will be calculated on Wednesday at 9:30 a.m. (New York time) using the mid-point of the NBBO for the SPY options used in the calculation of the Index at that time. The exercise-settlement amount is equal to the difference between the settlement value and the exercise price of the option, multiplied by \$100. Exercise will result in the delivery of cash on the business day following expiration.

In Amendment No. 1, the Exchange expresses its view that manipulation of the Index would be very difficult, particularly around the time when the settlement value is determined. According to the Exchange, the Index options will be settled using a calculation based on the mid-point NBBO of the input components, a methodology unlike how other index settlement values are determined, as most of those are calculated based on transaction prices of the individual index components. The Exchange believes that manipulating the Index settlement value will be difficult based on the dynamics of a quote-based calculation methodology as opposed to a single transaction price and because the option prices themselves would make such an endeavor cost prohibitive. Further, according to the Exchange, the vast liquidity of SPY options as well as the underlying SPY shares ensures a multitude of market participants at any given time—at least 19 market makers actively traded SPY options on ISE during September 2013 on any given day, and there are now 12 options exchanges that list SPY options. Due to the high level of participation among market makers that can enter quotes in SPY options series, the Exchange believes it would be very difficult for a single participant to alter the NBBO width across multiple series in any significant way without exposing the would-be manipulator to regulatory scrutiny and financial costs.

The Exchange proposes to adopt minimum trading increments for

<sup>5</sup> See Securities Exchange Act Release No. 70362, 78 FR 56955 (September 16, 2013).

<sup>6</sup> See letter to Elizabeth M. Murphy, Secretary, Commission, from Michael J. Simon, Secretary and General Counsel, ISE, dated October 29, 2013 ("ISE Letter").

<sup>7</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>8</sup> According to the Exchange, SPY is historically the largest and most actively-traded exchange-traded fund in the United States as measured by its assets under management and the value of shares traded. Specifically, the Exchange states that, according to State Street Global Advisor, the Trustee of SPY, as of June 20, 2013, the net assets under management in SPY was approximately \$106.8 billion; the weighted average market capitalization of the portfolio components was approximately \$106 billion; the smallest market capitalization was approximately \$2.1 billion (Apollo Group Inc., ticker: APOL), and the largest was approximately \$395.9 billion (ExxonMobil, ticker: XOM). Further, according to the Exchange, for the three months ending on June 20, 2013, the average daily volume in SPY shares was 137 million, and the average value of shares traded was \$22.1 billion. According to the Exchange, for the same period, the average daily volume in SPY options was approximately 2.8 million contracts and open interest in SPY options was approximately 25.2 million contracts. See Notice, *supra* note 3, at 47042.

<sup>9</sup> See *id.* (describing in more detail the calculation methodology for the Index).

<sup>10</sup> If the current published value of a component is not available, the last published value will be used in the calculation.

<sup>8</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.

<sup>3</sup> See Securities Exchange Act Release No. 70059 (July 29, 2013), 78 FR 47041 ("Notice").

<sup>4</sup> See letter to Elizabeth M. Murphy, Secretary, Commission, from Edward T. Tilly, Chief Executive Officer, Chicago Board Options Exchange, Incorporated ("CBOE"), dated August 23, 2013 ("CBOE Letter").