

on services provided that are in addition to, rather than duplicative of, services provided under the advisory contract(s) of any Underlying Fund in which the Fund of Funds may invest. Such finding and the basis upon which the finding was made will be recorded fully in the minute books of the appropriate Fund of Funds.

10. A Fund of Funds Adviser will waive fees otherwise payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Investment Company under rule 12b-1 under the Act) received from an Unaffiliated Fund by the Fund of Funds Adviser, or an affiliated person of the Fund of Funds Adviser, other than any advisory fees paid to the Fund of Funds Adviser or its affiliated person by an Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund. Any Subadviser will waive fees otherwise payable to the Subadviser, directly or indirectly, by the Fund of Funds in an amount at least equal to any compensation received by the Subadviser, or an affiliated person of the Subadviser, from an Unaffiliated Fund, other than any advisory fees paid to the Subadviser or its affiliated person by an Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund made at the direction of the Subadviser. In the event that a Subadviser waives fees, the benefit of the waiver will be passed through to the applicable Fund of Funds.

11. No Underlying Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent that such Underlying Fund: (a) Acquires such securities in compliance with section 12(d)(1)(E) of the Act and either is an Affiliated Fund or is in the same "group of investment companies," as defined in section 12(d)(1)(G)(ii) of the Act, as its corresponding master fund; (b) receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the Act); or (c) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund to (i) acquire securities of one or more investment companies for short-term cash management purposes, or (ii)

engage in interfund borrowing and lending transactions.

12. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to fund of funds set forth in NASD Conduct Rule 2830.

Other Investments by Same Group Investing Funds

Applicants agree that the relief to permit Same Group Investing Funds to invest in Other Investments shall be subject to the following condition:

13. Applicants will comply with all provisions of rule 12d1-2 under the Act, except for paragraph (a)(2) to the extent that it restricts any Same Group Investing Fund from investing in Other Investments as described in the application.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69682; File No. SR-MIAX-2013-21]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing of Proposed Rule Change To Modify the Allocation of Directed Orders in Specific Limited Situations

June 3, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 22, 2013, Miami International Securities Exchange LLC ("MIAX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 Exchange Rule 514 to modify the allocation of Directed Orders in specific limited situations.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

The text of the proposed rule change is available on the Exchange's Web site at 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 amend Exchange Rule 514 to modify the allocation of Directed Orders³ to provide a Directed Lead Market Maker ("DLMM") a minimum participation allocation of one (1) contract in certain situations where the DLMM participation entitlement allocation results in an allocation of zero due to the fact that the Exchange System rounds down any fractional contract size allocations.

Exchange Rule 514(h)(1) provides the formula used to calculate the DLMM participation entitlement. Specifically, the DLMM participation entitlement is equal to the greater of: (i) The proportion of the total size at the best price represented by the size of its quote; (ii) sixty percent (60%) of the contracts to be allocated if there is only one (1) other Market Maker quotation at the NBBO; or (iii) forty percent (40%) if there are two (2) or more other Market Maker quotes at the NBBO.⁴ The DLMM participation entitlement algorithm works well when applied to Directed Orders of a contract size of three (3) or more. However, for Directed Orders of a contract size of two (2) or less, the DLMM participation entitlement allocation may result in an allocation of zero due to the fact that the Exchange

³ A "Directed Order" is an order entered into the System by an Electronic Exchange Member with a designation for a Lead Market Maker (referred to as a "Directed Lead Market Maker"). See Securities Exchange Act Release No. 69507 (May 3, 2013), 78 FR 27269 (May 9, 2013) (SR-MIAX-2013-20).

⁴ See Exchange Rule 514(h)(1).

System rounds down any fractional contract size allocations.⁵

Example 1:

Three (3) Lead Market Makers (LMMs) quoting at the NBBO; no orders resting on the Exchange System; and the DLMM participation entitlement overlay is in effect.

LMM1 Quote: 1.00 (35) × 1.10 (10)

LMM2 Quote: 1.00 (35) × 1.10 (10)

LMM3 Quote: 1.00 (10) × 1.10 (10)

MIAX Market: 1.00 (80) × 1.10 (30)

Incoming Directed Order: Sell 3 contracts @ 1.00 directed to LMM3.

The Exchange System operates as follows:

- LMM3 is entitled to the greater of: (i) pro-rata allocation, 0.375 contract (10/80 × 3 contracts); or (ii) 40%, 1.2 contract (40% × 3 contracts). LMM3 would receive a DLMM participation entitlement of 1 contract.⁶

- LMM1 and LMM2 would each receive 1 contract.⁷

Example 2:

Three (3) Lead Market Makers (LMMs) quoting at the NBBO; no orders resting on the Exchange System; and the DLMM participation entitlement overlay is in effect.

LMM1 Quote: 1.00 (35) × 1.10 (10)

LMM2 Quote: 1.00 (35) × 1.10 (10)

LMM3 Quote: 1.00 (10) × 1.10 (10)

MIAX Market: 1.00 (80) × 1.10 (30)

Incoming Directed Order: Sell 2 contracts @ 1.00 directed to LMM3.

The Exchange System operates as follows:

- LMM3 is entitled to the greater of: (i) pro-rata allocation, 0.25 contract (10/

80 × 2 contracts); or (ii) 40%, 0.8 contract (40% × 2 contracts). LMM3 would receive a DLMM participation entitlement of zero.⁸

- LMM1 and LMM2 would each receive 1 contract.⁹

LMM3, who succeeded in drawing the Directed Order to the Exchange, does not receive a contract allocation.

The Exchange proposes to modify the allocation of Directed Orders to provide a DLMM a minimum participation allocation of one (1) contract in situations where the DLMM participation allocation currently results in an allocation of zero due to the fact that the Exchange System rounds down any fractional contract size allocations. Specifically, the Exchange seeks to remedy these situations by adding “or (iii) one (1) contract” to the DLMM participation entitlement formula of Exchange Rule 514(h)(1). Thus, the DLMM would be entitled to the greatest of: (i) the pro-rata share; (ii) 40% or 60% of the incoming Directed Order (depending on the number of other Market Makers quoting along with the DLMM); or (iii) one (1) contract. The following example, using the same facts as Example 2 above, illustrates the impact of the proposed change.

Example 3:

Three (3) LMMs quoting at the NBBO; no orders resting on the Exchange System; and the DLMM participation entitlement overlay is in effect.

LMM1 Quote: 1.00 (35) × 1.10 (10)

LMM2 Quote: 1.00 (35) × 1.10 (10)

LMM3 Quote: 1.00 (10) × 1.10 (10)

MIAX Market: 1.00 (80) × 1.10 (30)

Incoming Directed Order: Sell 2 contracts @ 1.00 directed to LMM3.

The Exchange System would operate as follows:

- LMM3 would be entitled to the greater of: (i) Pro-rata allocation, 0.25

contract (10/80 × 2 contracts); (ii) 40%, 0.8 contract (40% × 2 contracts); or (iii) one (1) contract. LMM3 would receive a DLMM participation entitlement of one (1) contract.

- LMM1 would receive one (1) contract.¹⁰

The Exchange believes that the proposed change preserves the integrity of its Directed Order program by enabling the DLMM to receive a minimum of one (1) contract in situations where the allocation would be zero due to the Exchange System’s practice of rounding down fractional allocations. By choosing to enter a Directed Order over a non-directed order, an Electronic Exchange Member (“EEM”) actively intends to trade with the particular quote of the designated DLMM. In most situations when the DLMM participation entitlement applies, the EEM’s Directed Order interacts and executes at least partially with the quote of the DLMM. However, when applying the DLMM participation entitlement to Directed Orders of a contract size of two (2) or less, such interaction with the quote of the DLMM may never occur because of the rounding down of fractional contract size by the Exchange System. The Exchange’s proposal would fix these scenarios and ensure that the EEM’s Directed Order would trade a minimum of one contract with the quote of the DLMM, when the DLMM participation entitlement applies. The Exchange believes this proposal to be fair because it preserves the original purpose of the Directed Order, to trade with the particular quote of the DLMM, and also correspondingly enables the DLMM to be rewarded with an allocation for having attracted the Directed Order to the Exchange.

Because of the technology changes associated with this rule proposal, the Exchange will announce the implementation date of the proposal in a Regulatory Circular to be published no later than 30 days after the publication of the approval order in the **Federal Register**. The implementation date will be no later than 30 days following publication of the Regulatory Circular

⁵ For example, the Exchange System will round down any fractional contract sizes in the following way: 3.7 contracts to 3 contracts; 1.7 contracts to 1 contract; or 0.7 contract size to zero contracts.

The Exchange notes that other competing exchanges may round up in certain situations where there is a fractional contract size allocation. Rounding up fractional contract sizes in this situation would result in a 0.7 contract size equaling 1 contract.

⁶ Since, the Exchange System is designed to round fractional allocations down, LMM3’s DLMM participation entitlement of 1.2 contracts is rounded down to 1 contract.

⁷ With two contracts remaining to be allocated, the Exchange System applies the pro-rata allocation logic of Exchange Rule 514(c)(2), which allocates one (1) contract at a time on a price-size-time priority because the Directed Order (two contracts) cannot be evenly allocated between LMM1 and LMM2. See Exchange Rule 514(c)(2). LMM3 would be excluded from receiving a pro-rata allocation, because LMM3 has already been allocated a participation entitlement. See Exchange Rule 514(e)(1). LMM1 and LMM2 are bidding at the same price, so priority is then determined by size. LMM1 and LMM2 are displaying the same bid size, so priority for the first contract is determined by time. LMM1 is allocated the first contract assuming LMM1 has the time priority. The next contract is allocated in the same fashion. LMM1 and LMM2 are bidding at the same price, so priority is determined by size. At that point, LMM2 is displaying the most size and is allocated the last contract.

⁸ Since, the Exchange System is designed to round fractional allocations down, LMM3’s DLMM participation entitlement of 0.8 contracts is rounded down to zero.

⁹ With two contracts remaining to be allocated, the Exchange System applies the pro-rata allocation logic of Exchange Rule 514(c)(2), which allocates one (1) contract at a time on a price-size-time priority because the Directed Order (two contracts) cannot be evenly allocated among LMM1, LMM2, and LMM3. See Exchange Rule 514(c)(2). LMM3 would be included in the pro-rata allocation calculation, because LMM3 was not allocated a participation entitlement. See Exchange Rule 514(e)(1). LMM1, LMM2, and LMM3 are bidding at the same price, so priority is then determined by size. LMM1 and LMM2 are displaying the same bid size (both greater than the bid size of LMM3), so priority for the first contract is determined by time. LMM1 is allocated the first contract assuming LMM1 has the time priority. The next contract is allocated in the same fashion. LMM1, LMM2, and LMM3 are bidding at the same price, so priority is determined by size. At that point, LMM2 is displaying the most size and is allocated the last contract.

¹⁰ The remaining contract would be allocated pursuant to the pro-rata allocation logic. The remaining contract would be allocated to LMM1 on time priority as both LMM1 and LMM2 had equally priced bids of the same size. LMM3 would be excluded from receiving a pro-rata allocation, because LMM3 has already been allocated a participation entitlement. See Exchange Rule 514(e)(1). Thus, there is no risk in the LMM3 potentially receiving 100% of the Directed Order (e.g., one (1) contract during the participation entitlement and one (1) contract for being first in line for pro-rata allocation of the remainder because of price-size-time priority).

announcing publication of the approval order in the **Federal Register**.

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act¹¹ in general, and furthers the objectives of Section 6(b)(5) of the Act¹² in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposal to establish a one (1) contract minimum for the DLMM participation entitlement promotes just and equitable principles of trade by enabling DLMM to be eligible for a participation entitlement regardless if the order is for three (3) contracts or more, or for two (2) contracts or less, in a manner that protects investors and the public interest. In addition, the proposal fosters cooperation and coordination with persons engaged in facilitating transactions in securities by fulfilling the intention of a Directed Order in a manner that provides additional certainty to both the EEM that initiates and the DLMM that receives a Directed Order in situations where the DLMM participation entitlement applies. The proposal is also designed to remove impediments to and perfect the mechanisms of a free and open market by providing additional certainty of execution of an EEM's Directed Order in a manner that encourages additional liquidity and order flow to the Exchange, improves overall market quality, and thus benefits all market participants. The Exchange notes that the proposal will have no effect on the existing participation entitlement program, except in the minority of situations where the DLMM participation entitlement is applied to Directed Orders of a contract size of two (2) or less. The Exchange also notes that Priority Customers will be unaffected by the proposal, as Priority Customer orders will continue to be allocated before the DLMM participation entitlement in a manner that promotes the protection of investors and the public interest.

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 not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues who offer similar functionality. As to inter-market competition, the Exchange notes that other competing exchanges may already operate Directed Order programs which function in a similar manner, depending upon whether those exchanges choose to round up or round down fractional contract allocations. As to intra-market competition, the Exchange believes the proposal to be fair as it only applies to Directed Orders, which by their definition possess an intention by the EEM to trade with the quote of a particular DLMM. The Exchange notes that the proposal will have no effect on the existing participation entitlement program, except in the minority of situations where the DLMM participation entitlement is applied to Directed Orders of a contract size of two (2) or less. The Exchange believes it is appropriate and fair to preserve that intention by assuring that the Directed Order will trade at least one (1) contract with the DLMM.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be 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. Please include File Number SR-MIAX-2013-21 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-2013-21. 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 publicly available. All submissions should refer to File Number SR-MIAX-2013-21 and should be submitted on or before June 28, 2013.

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

Kevin M. O'Neill,

Deputy Secretary.

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¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

¹³ 17 CFR 200.30-3(a)(12).