

pricing in this space. The Exchange expects to see firms challenge its pricing on the basis of the Exchange's explicit fees being higher than the zero-priced fees from other competitors such as BATS. In all cases, the Exchange expects firms to make decisions on how much and what types of data to consume on the basis of the total cost of interacting with MIAX or other exchanges. Of course, the explicit data fees are only one factor in a total platform analysis. Some competitors have lower transactions fees and higher data fees, and others are vice versa. The market for this proprietary information is highly competitive and continually evolves as products develop and change.

The Exchange notes that the ToM market data and fees compete with similar products offered by other markets such as NASDAQ OMX PHLX, LLC ("PHLX") and the International Stock Exchange LLC ("ISE"). For example, PHLX and ISE offer market data products that are similar to ToM: data feeds that show the top of the market entitled Top of PHLX Options ("TOPO") and the ISE TOP Quote Feed.

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.¹⁶ 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. Please include File Number SR-MIAX-2014-36 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-2014-36. 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 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-2014-36 and should be submitted on or before August 4, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72553; File No. SR-ISEGemini-2014-19]

Self-Regulatory Organizations; ISE Gemini, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to the Price Improvement Mechanism

July 8, 2014.

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 June 26, 2014, ISE Gemini, LLC ("Exchange" or "ISE Gemini") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II 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 proposes to amend its rules regarding the Price Improvement Mechanism ("PIM").

The text of the proposed rule change is available on the Exchange's Internet Web site at <http://www.ise.com>, at the principal office of the Exchange, 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 self-regulatory organization 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 purpose of this proposed rule change is to amend the Exchange's rules regarding the PIM functionality. The Exchange proposes to make two changes

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁷ 17 CFR 200.30-3(a)(12).

to its PIM rules. The first change is based on a proposal recently submitted by NASDAQ OMX PHLX LLC (“PHLX”), and approved by the Commission,³ pursuant to which orders of any size may initiate the price improvement auction (“PIXL”) on PHLX at a price which is at or better than the national best bid or offer (“NBBO”), even in instances where PHLX has resting interest on the opposite side and thus not at least one cent better than PHLX’s own best bid or offer as required in the past. The second change proposed in this filing relates to how responses are addressed in the PIM. With this proposed change, the manner in which response messages are treated will be similar to how they are treated in the price improvement auctions operated at other exchanges.⁴

The PIM is a process that allows Electronic Access Members (“EAM”) to provide price improvement opportunities for a transaction wherein the Member seeks to execute an agency order as principal or execute an agency order against a solicited order (a “Crossing Transaction”).⁵ A Crossing Transaction is comprised of the order the EAM represents as agent (the “Agency Order”) and a counter-side order for the full size of the Agency Order (the “Counter-Side Order”). The Counter-Side Order may represent interest for the Member’s own account, or interest the Member has solicited from one or more other parties, or a combination of both.

Currently under Rule 723, a Crossing Transaction must be entered only at a price that is better than the ISE Gemini best bid or offer (“ISE Gemini BBO”) and equal to or better than the national best bid or offer (“NBBO”). Under Supplementary Material .08 to Rule 723, when the ISE Gemini BBO is equal to the NBBO, a Crossing Transaction may be entered where the price of the Crossing Transaction is equal to the ISE Gemini BBO if the Agency Order is on the opposite side of the market from the ISE Gemini BBO. In this case, the Agency Order is automatically executed

against the ISE Gemini BBO. If the Agency Order is not fully executed after the ISE Gemini BBO is fully exhausted and is no longer at a price equal to the Crossing Transaction, the PIM is initiated for the balance of the order as provided in Rule 723.

The Exchange now proposes to modify PIM so that Members may enter a Crossing Transaction at a price that is at or better than the NBBO on either side of the Agency Order and better than the limit order or quote on the ISE Gemini order book on the same side of the Agency Order. Members are not required to improve the ISE Gemini BBO on the opposite side of the Agency Order to initiate a PIM. Any resting interest on the ISE Gemini order book on the opposite side of the Agency Order will participate at the end of the auction in accordance with Rule 723(d). With this proposed rule change, PIM will now operate similar to the PIXL functionality at PHLX in terms of the price at which a PIM can be initiated.⁶ The proposed change to the start price of a PIM will not impact the current execution priority. However, as discussed in detail below, the Exchange is also proposing to make PIM auctions blind. In addition, the Exchange is proposing that Member orders will no longer yield priority to non-Member orders.⁷

The Exchange believes the proposed rule change will allow a greater number of orders to receive price improvement that might not currently be afforded any price improvement. By auctioning the entire quantity in the PIM, the opportunity for price improvement over the prevailing NBBO is extended to the whole order, rather than only the portion that does not interact with the resting liquidity at the auction price level. As before, Priority Customers will continue to have priority at each price level in accordance with Rule 723(d). At each given price point, ISE Gemini will execute Priority Customer interest in a price/time fashion such that all Priority Customer interest which was resting on the order book is satisfied before any other interest that arrived after the PIM was initiated. After Priority Customer interest at a given price point has been satisfied, remaining contracts will be allocated among all Exchange quotes and orders in accordance with the execution rules set forth in Rule 723(d). Interest, whether resting prior to the commencement of the auction or arriving during the auction process, will

continue to be executed in accordance with Rule 723(d).

The Exchange believes using the allocation method that it currently does is a fair distribution because the Counter-Side Order provides significant value to the market. The EAM guarantees the Crossing Transaction price improvement, and is subject to market risk while the order is exposed to other market participants. The EAM may only improve the price where it stopped the agency side, and may not cancel its order once the PIM commences. Other market participants are free to modify or cancel their quotes and orders at any time during the auction. The Exchange believes that the EAM provides an important role in facilitating the price improvement opportunity for market participants.

The following examples illustrate how the proposed rule change would operate:

Example 1

ISE Gemini BBO is 2.48–2.51 (60x30) (10 of the 30 on the offer is a Priority Customer; 20 of the 30 on the offer is a market maker (MM1); all 60 on the bid is a MM). NBBO is 2.48–2.51 (100x100). Under the proposed rule change, an Agency Order to buy may be entered into the PIM at any price between and including 2.49 and 2.51.

Assume a Priority Customer or non-Priority Customer order to buy 100 contracts is submitted into the PIM with a stop price of 2.51. The PIM auction will commence with a notification being sent to market participants. Assume, during the auction, two market makers (MM2 and MM3) respond. MM2 responds to sell 10 contracts at 2.50 and MM3 responds to sell 20 contracts at 2.51. At the end of the auction, the agency side of the order will buy 10 contracts from MM2 at 2.50, leaving 90 to be allocated at the original order limit of 2.51. The allocation process would continue and 10 contracts will be allocated to the Priority Customer on the book at 2.51, leaving 80 contracts to be allocated among the Counter-Side Order at 2.51 and the two market makers offering at 2.51. The remaining 80 contracts will be allocated at a price of 2.51 with 40 contracts (40% of the original order quantity) being allocated to the Counter-Side Order, 20 contracts allocated to MM1 and 20 contracts allocated to MM3.

The Exchange believes the proposed rule change will attract new order flow that might not currently be afforded any price improvement opportunity. Moreover, the Exchange notes that the Boston Options Exchange (“BOX”) currently has rules that allow it to

³ See Securities Exchange Act Release No. 70654 (October 10, 2013), 78 FR 62891 (October 22, 2013) (SR-PHLX–2013–76).

⁴ See Securities Exchange Act Release No. 72009 (April 23, 2014), 79 FR 24032 (April 29, 2014) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Adopt the MIAx PRIME Price Improvement Mechanism and the MIAx PRIME Solicitation Mechanism) (“MIAx Filing”). See also PHLX Rule 1080(n)(ii)(A)(6).

⁵ See Securities Exchange Act Release Nos. 70050 (July 26, 2013), 78 FR 46622 (August 1, 2013) (Order Granting the Application of Topaz Exchange, LLC for Registration as a National Securities Exchange).

⁶ See PHLX Rule 1080(n).

⁷ Priority Customer interest will continue to be executed first followed by Professional Orders and Member interest. See proposed Rule 723(d)(2).

commence its price improvement auction, called the Price Improvement Period (“PIP”), at a price equal to the NBBO.⁸ When a PIP is initiated at a price equal to the NBBO, regardless of size, the resting quotes and orders on BOX are considered for allocation at the end of the auction. BOX executes interest that existed on the BOX order book prior to the commencement of a PIP before executing any interest which joined during the auction. This behavior aligns with the BOX standard trade allocation rules as they employ a price/time allocation algorithm.

Similar to BOX, the ISE Gemini proposed rule change will allow orders of any size to initiate an auction at a price which is equal to or better than the NBBO where ISE Gemini may have resting interest. ISE Gemini will execute a Crossing Transaction against any interest, resting prior to the commencement of an auction or interest which arrived during the auction, in accordance with the rules as stated and illustrated with the example above. While this is different than the allocation algorithm that BOX employs, this behavior is consistent with the ISE Gemini PIM rules in place today. This proposal will continue to afford the same price improvement opportunities for Priority Customer and non-Priority Customer Crossing Transactions as is in operation today, but with the ability to initiate such price improving auctions at a price that is equal to the NBBO, and therefore permitting more of such orders to receive price improvement.

Further, as noted above, under Supplementary Material .08 to Rule 723, when the ISE Gemini BBO is equal to the NBBO, a Crossing Transaction may currently be entered where the price of the Crossing Transaction is equal to the ISE Gemini BBO if the Agency Order is on the opposite side of the market from the ISE Gemini BBO. However, with this proposed rule change, if a Crossing Transaction is entered at a price equal to the ISE Gemini BBO on the opposite side of the market, the Agency Order will no longer automatically execute and the Agency Order will trade against any interest, resting prior to the commencement of an auction or interest which arrived during the auction, in accordance with rule 723(d). The Exchange, therefore, proposes to delete Supplementary Material .08 to Rule 723.

The second change proposed in this filing is to modify the PIM functionality so responses sent by Members during a PIM auction are not visible to other auction participants. With this proposed change, responses will be treated in the

same way they are treated in price improvement auctions operated by other exchanges.⁹

Currently, upon entry of a Crossing Transaction into the PIM, a broadcast message that includes the series, price and size of the Agency Order, and whether it is to buy or sell, is sent to all Members. Members are then given 500 milliseconds to indicate the size and price at which they want to participate in the execution of the Agency Order (“Improvement Orders”). Improvement Orders may be entered by all Members for their own account or for the account of a Public Customer in one-cent increments at the same price as the Crossing Transaction or at an improved price for the Agency Order, and for any size up to the size of the Agency Order. During the exposure period, Improvement Orders cannot be canceled, but can be modified to (1) increase the size at the same price, or (2) improve the price of the Improvement Order for any size up to the size of the Agency Order. During the exposure period, the aggregate size of the best prices (including the Counter-Side Order, Improvement Orders, and any changes to either) are continually updated and broadcast to all Members.

Because the PIM permits Members to continually receive broadcast messages, the Exchange adopted rules pursuant to which EAMs and Exchange Market Makers are required to yield priority to all non-Member orders¹⁰ which the Commission found to be consistent with the requirements in Section 11(a) of the Act. At the time PIM on ISE Gemini was approved, although the “effect versus execute” exemption under Section 11(a) existed and was available to ISE Gemini Members, because of the manner in which the PIM was designed, ISE Gemini Members were not able to comply with that exemption. Instead, the PIM was designed to rely on yielding by Members to non-Member orders to be consistent with Section 11(a) of the Act. The Exchange notes the options markets have evolved and some options exchanges that have adopted a price improvement auction rely now on the “effect versus execute” exemption under Section 11(a) and yield execution priority to Priority Customers only. As a competitive response, the Exchange now proposes to delete relevant parts of Rule 723 to modify the PIM functionality so that responses

submitted during a PIM auction will no longer be continually updated and broadcast to all Members.¹¹ Doing so will allow ISE Gemini Members to rely on the “effect versus execute” exemption under Section 11(a) of the Act when utilizing the PIM.

Section 11(a) of the Exchange Act prohibits any member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated persons exercises discretion (“covered accounts”), unless an exception applies.¹² Section 11(a)(1) contains a number of exceptions for principal transactions by members and their associated persons. As set forth below, the Exchange believes that with the proposed change, the PIM rules are now consistent with the requirements in Section 11(a) and the rules thereunder.

In this regard, Section 11(a)(1)(A) provides an exception from the prohibitions in Section 11(a) for dealers acting in the capacity of market makers. With respect to Market Makers on the Exchange, the Exchange believes that orders sent by them for covered accounts to the proposed PIM would qualify for this exception from Section 11(a).

In addition to this Market Maker exception, Rule 11a2–2(T) under the Exchange Act, known as the “effect versus execute” rule, provides exchange members with an exception from Section 11(a) by permitting them, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute the transactions on the exchange.¹³ To comply with the “effect versus execute” rule’s conditions, a member: (i) Must transmit the order from off the exchange floor; (ii) may not participate in the execution of the transaction once it has been transmitted to the member performing the execution;¹⁴ (iii) may not be affiliated

¹¹ A number of exchanges currently operate price improvement auctions where responses submitted by a member are blind, i.e., not visible to other auction participants. For example, MIAX Rule 515A(a)(2)(i)(E) notes that “responses shall not be visible to other Auction participants.” See Securities Exchange Act Release No. 72009 (April 23, 2014), 79 FR 24032 (April 29, 2014). Additionally, PHLX Rule 1080(n)(ii)(A)(6) similarly provides that “responses will not be visible to Auction participants.” See PHLX Rule 1080(n)(ii)(A)(6).

¹² 15 U.S.C. 78k(a)(1).

¹³ 17 CFR 240.11a2–2(T).

¹⁴ The member, however, may participate in clearing and settling the transaction. See Securities Exchange Act Release No. 14563 (March 14, 1978), 43 FR 11542 (March 17, 1978).

⁹ See *supra* note 4.

¹⁰ See Securities Exchange Act Release Nos. 70050 (July 26, 2013), 78 FR 46622 (August 1, 2013). In connection with the current proposal to make PIM auctions blind, the Exchange proposes to delete reference to non-Member Professional Orders from its rules.

⁸ See BOX Rules Chapter V, Section 18(e).

with the member executing the transaction on the floor through the facilities of the Exchange; and (iv) with respect to an account over which the member has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the rule.¹⁵

The Exchange believes that orders sent by Members for covered accounts to the proposed PIM would qualify for this “effect versus execute” exception from Section 11(a), as described below. In this regard, the first condition of Rule 11a2–2(T) is that orders for covered accounts be transmitted from off the exchange floor. The ISE Gemini trading system and the PIM receives all orders electronically through remote terminals or computer-to-computer interfaces. The Exchange represents that orders for covered accounts from Members will be transmitted from a remote location directly to the PIM auction by electronic means. In the context of other automated trading systems, the Commission has found that the off-floor transmission requirement is met if a covered account order is transmitted from a remote location directly to an exchange’s floor by electronic means.¹⁶ The second condition of Rule 11a2–2(T) requires that the member not participate in the execution of its order once the order is transmitted to the floor for execution.¹⁷ The Exchange represents that, upon submission to the PIM, an order will be executed automatically pursuant to the rules set forth for the mechanism. In particular, execution of an order sent to the mechanism depends not on the Member entering the order, but rather on what other orders are present and the priority of those orders. Thus, at no time following the submission of an order is a Member able to acquire control or influence over the result or timing of order execution.¹⁸

¹⁵ 17 CFR 240.11a2–2(T).

¹⁶ See, e.g., Securities Exchange Act Release Nos. 59154 (December 23, 2008), 73 FR 80468 (December 31, 2008) (SR–BSE–2008–48); 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080); 49068 (January 13, 2004), 69 FR 2775 (January 20, 2004) (SR–BSE–2002–15); 15533 (January 29, 1979), 44 FR 6084 (January 31, 1979) (“1979 Release”); 14563 (March 14, 1978), 43 FR 11542 (March 17, 1978) (“1978 Release”).

¹⁷ The description above covers the universe of the types of Members (i.e., Market Makers, EAMs).

¹⁸ The Exchange notes that a Member may cancel or modify the order, or modify the instructions for executing the order, but that such instructions would be transmitted from off the floor of the Exchange. The Commission has stated that the non-participation requirement is satisfied under such circumstances so long as such modifications or cancellations are also transmitted from off the floor.

Rule 11a2–2(T)’s third condition requires that the order be executed by an exchange member who is unaffiliated with the member initiating the order. The Commission has stated that the requirement is satisfied when automated exchange facilities, such as the PIM, are used, as long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange.¹⁹ The Exchange represents that the PIM is designed so that no Member has any special or unique trading advantage in the handling of its orders after transmitting its orders to the mechanism. Rule 11a2–2(T)’s fourth condition requires that, in the case of a transaction effected for an account with respect to which the initiating member or an associated person thereof exercises investment discretion, neither the initiating member nor any associated person thereof may retain any compensation in connection with effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to Section 11(a) of the Act and Rule 11a2–2(T) thereunder.²⁰ The Exchange recognizes that Members relying on Rule 11a2–2(T) for transactions effected

See 1978 Release (stating that the “non-participation requirement does not prevent initiating members from canceling or modifying orders (or the instructions pursuant to which the initiating member wishes to be executed) after the orders have been transmitted to the executing member, provided that any such instructions are also transmitted from off the floor”).

¹⁹ In considering the operation of automated execution systems operated by an exchange, the Commission noted that, while there is not an independent executing exchange member, the execution of an order is automatic once it has been transmitted into the system. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2–2(T). See 1979 Release.

²⁰ See 17 CFR 240.11a2–2(T)(a)(2)(iv). In addition, Rule 11a2–2(T)(d) requires a member or associated person authorized by written contract to retain compensation, in connection with effecting transactions for covered accounts over which such member or associated persons thereof exercises investment discretion, to furnish at least annually to the person authorized to transact business for the account a statement setting forth the total amount of compensation retained by the member in connection with effecting transactions for the account during the period covered by the statement which amount must be exclusive of all amounts paid to others during that period for services rendered to effect such transactions. See also 1978 Release (stating “[t]he contractual and disclosure requirements are designed to assure that accounts electing to permit transaction-related compensation do so only after deciding that such arrangements are suitable to their interests”).

through the PIM must comply with this condition of the Rule.

2. Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”)²¹ in general, and furthers the objectives of Section 6(b)(5) of the Act²² in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest by creating positive, beneficial incentives for EAMs to provide price improvement opportunities to market participants. With the proposed change to the start price of a PIM auction, Members will not be required to improve the ISE Gemini BBO on the opposite side of the Agency Order to initiate a PIM. Further, any resting interest on the ISE Gemini order book on the opposite side of the Agency Order will now participate at the end of the auction. As a result, the proposed rule change will remove impediments to and perfect the mechanism for a free and open market and will result in more orders being executed in the PIM, thus providing an increased probability of price improvement for all orders, regardless of their size. With this proposed rule change, market participants would be incentivized to introduce more orders to the PIM for the opportunity to receive price improvement. Furthermore, Priority Customers will continue to have priority at each price level in accordance with ISE Gemini Rule 723(d). While currently non-Member Professional Orders are executed after Priority Customer interest and before Member interest, with this proposal, which in part amends ISE Gemini rules to make PIM a blind auction, all Professional Orders will now be at par with Member interest and will be executed after Priority Customer orders are executed. The Exchange believes it is appropriate to give Professionals Orders the same priority that is given to broker-dealer orders because professional customers and broker-dealers essentially behave the same, i.e., the type of trading professional customers engage in largely resembles that of a broker-dealer. The Exchange believes it is appropriate to treat these market participants at par with one another.

In particular, the Exchange believes that using the same allocation process as

²¹ 15 U.S.C. 78f(b).

²² 15 U.S.C. 78f(b)(5).

is used today for Crossing Transactions is fair and equitable because of the value the EAM brings to the marketplace. Specifically, by stopping the Crossing Transaction at or better than the NBBO, the EAM facilitates a process that protects investors and is in the public interest by providing an opportunity for price improvement. The Exchange believes the proposed rule change generally will benefit investors by offering more opportunities for orders to receive price improvement. For these reasons, the Exchange believes that the proposal is fair, reasonable and equitable for all market participants.

The Exchange believes its proposal to amend the manner in which responses in the PIM auction are addressed is consistent with Section 6(b) of the Act. The proposal to make responses in the PIM blind to other auction participants and the corresponding change to the priority rules for the PIM are similar to existing priority rules that distinguish between Priority Customers, Market Makers, and Professional interest in a manner that will help ensure a fair and orderly market by maintaining priority of orders and quotes while still affording the opportunity for price improvement is both reasonable and appropriate.

The Exchange believes the proposed rule change is appropriate in the [sic] price improvement auctions are widely recognized by market participants as invaluable, both as a tool to access liquidity, and a mechanism to help meet their best execution obligations. The proposed rule change will further the ability of market participants to carry out these strategies. Finally, as noted above, the proposed changes are a competitive response to how price improvement auctions on other exchanges currently operate and with this proposal, the Exchange will be on a more equal footing to compete with other exchanges for orders to be executed in the PIM.

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's proposal to amend its rules regarding the start price of a PIM auction will not impose a burden on competition because it will increase the number of orders that may be executed in the PIM and thereby receive price improvement opportunities that were not previously available to them. Further, the Exchange's proposal to make PIM a blind auction will allow ISE

Gemini to compete with other options exchanges that already have blind auctions which most options exchanges that operate a price improvement auction do. Finally, the Exchange's proposal to amend the execution priority rules will not be a burden on competition because the proposed change will allow the Exchange to compete with other options exchanges that operate a price improvement auction and whose rules already permit its members to rely on the "effect versus execute" exemption when utilizing the price improvement auction of those markets. The changes proposed to Rule 723 will offer opportunities found on other options exchanges and create systems that embolden market participants to seek out price improvement opportunities for customers. Accordingly, the proposed rule change will have no impact on competition other than to strengthen competition among the options exchanges that provide price improvement opportunities.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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 from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act²³ and subparagraph (f)(6) of Rule 19b-4 thereunder.²⁴

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

²³ 15 U.S.C. 78s(b)(3)(a)(ii).

²⁴ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's 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.

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. Please include File Number SR-ISEGemini-2014-19 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-ISEGemini-2014-19. 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 the filing also will be available for inspection and copying at the principal office of the ISE. 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-ISEGemini-2014-19 and should be submitted on or before August 4, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁵

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72567; File No. SR-MIAX-2014-34]

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

July 8, 2014.

Pursuant to the provisions of 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 June 25, 2014, 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 the MIAX Options 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, 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Priority Customer Rebate Program (the "Program")³ to expand the number of option classes that qualify for a \$0.20 per contract credit for transactions in MIAX Select Symbols⁴.

The Program is based on the substantially similar fees of another competing options exchange.⁵ Under the Program, the Exchange credits each Member the per contract amount set forth in the table below resulting from each Priority Customer⁶ order transmitted by that Member which is executed on the Exchange in all multiply-listed option classes (excluding mini-options 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 Rule 1400), provided the Member meets certain volume thresholds in a month. For each Priority Customer order transmitted by that Member which is executed electronically on the Exchange in MIAX Select Symbols, MIAX shall credit each member at the separate per contract rate for MIAX Select Symbols. The volume thresholds are calculated based on the customer average daily volume over the course of the month. Volume is recorded for and credits are delivered to the Member Firm that submits the order to the Exchange. The Exchange aggregates the contracts resulting from Priority Customer orders transmitted and executed electronically on the Exchange from affiliated

³ See Securities Exchange Act Release Nos. 72356 (June 10, 2014), 79 FR 34384 (June 16, 2014) (SR-MIAX-2014-26); 71698 (March 12, 2014), 79 FR 15185 (March 18, 2014) (SR-MIAX-2014-12); 71700 (March 12, 2014), 79 FR 15188 (March 18, 2014) (SR-MIAX-2014-13); 71283 (January 10, 2014), 79 FR 2914 (January 16, 2014) (SR-MIAX-2013-63); 71009 (December 6, 2013), 78 FR 75629 (December 12, 2013) (SR-MIAX-2013-56).

⁴ The term "MIAX Select Symbols" currently means options overlying AAL, AAPL, AIG, AMZN, AZN, BP, C, CMCSA, EBAY, EEM, EFA, FB, FCX, FXI, GILD, GLD, INTC, IWM, IYR, JCP, JPM, NFLX, NQ, PCLN, PFE, PG, QQQ, S, SUNE, T, TSLA, VALE, WFC, XLE, XLF, and XOM.

⁵ See Chicago Board Options Exchange, Incorporated ("CBOE") Fees Schedule, p. 4. See also Securities Exchange Act Release Nos. 66054 (December 23, 2011), 76 FR 82332 (December 30, 2011) (SR-CBOE-2011-120); 68887 (February 8, 2013), 78 FR 10647 (February 14, 2013) (SR-CBOE-2013-017).

⁶ The term "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 accounts(s). See MIAX Rule 100.

Members for purposes of the thresholds above, provided there is at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A. In the event of a MIAX System outage or other interruption of electronic trading on MIAX, the Exchange adjusts the national customer volume in multiply-listed options for the duration of the outage. A Member may request to receive its credit under the Program as a separate direct payment.

The Exchange proposes modifying the Program to expand the number of option classes that qualify for a \$0.20 per contract credit for transactions in MIAX Select Symbols. MIAX Select Symbols currently include options overlying AAL, AAPL, AIG, AMZN, AZN, BP, C, CMCSA, EBAY, EEM, EFA, FB, FCX, FXI, GILD, GLD, INTC, IWM, IYR, JCP, JPM, NFLX, NQ, PCLN, PFE, PG, QQQ, S, SUNE, T, TSLA, VALE, WFC, XLE, XLF, and XOM. The Exchange proposes to modify the MIAX Select Symbols to add AA, CBS, CLF, EWJ, GE, GM, GOOG, GOOGL, HTZ, KO, MO, MRK, NOK, PBR, QCOM, SIRI, SPY, USO, WAG, WMB, WY, XHB, XLP, and XLU. Thus, the Exchange will credit each Member \$0.20 per contract resulting from each Priority Customer order transmitted by that Member executed on Exchange in AA, AAL, AAPL, AIG, AMZN, AZN, BP, C, CBS, CLF, CMCSA, EBAY, EEM, EFA, EWJ, FB, FCX, FXI, GE, GILD, GLD, GM, GOOG, GOOGL, HTZ, INTC, IWM, IYR, JCP, JPM, KO, MO, MRK, NFLX, NOK, NQ, PBR, PCLN, PFE, PG, QCOM, QQQ, S, SIRI, SPY, SUNE, T, TSLA, USO, VALE, WAG, WFC, WMB, WY, XHB, XLE, XLF, XLP, XLU, and XOM. The \$0.20 per contract credit would be in lieu of the applicable credit that would otherwise apply to the transaction based on the volume thresholds. The Exchange notes that all the other aspects of the Program would continue to apply to the credits (e.g., the aggregation of volume of affiliates, exclusion of contracts that are routed to away exchanges, exclusion of mini-options . . . etc.).⁷

For example, if Member Firm ABC, Inc. ("ABC") has enough Priority Customer contracts to achieve 0.3% of the national customer volume in multiply-listed option contracts during

⁷ See MIAX Options Fee Schedule, p. 3. See also Securities Exchange Act Release Nos. 72356 (June 10, 2014), 79 FR 34384 (June 16, 2014) (SR-MIAX-2014-26); 71698 (March 12, 2014), 79 FR 15185 (March 18, 2014) (SR-MIAX-2014-12); 71700 (March 12, 2014), 79 FR 15188 (March 18, 2014) (SR-MIAX-2014-13); 71283 (January 10, 2014), 79 FR 2914 (January 16, 2014) (SR-MIAX-2013-63); 71009 (December 6, 2013), 78 FR 75629 (December 12, 2013) (SR-MIAX-2013-56).

²⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.