

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76392; File No. SR-MIAX-2015-62]

### Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend MIAX Rule 521

November 9, 2015.

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 November 4, 2015, 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 Rule 521, Nullification and Adjustment of Options Transactions Including Obvious Errors, to modify the amount to be charged to Members that appeal an Official ruling when the ruling is sustained and not overturned or modified, and to pass through other market center charges associated with obvious error determinations.

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

On May 7, 2015 the Exchange filed a proposed rule change to replace Exchange Rule 521 entitled “Obvious and Catastrophic Errors” with new Exchange Rule 521 entitled “Nullification and Adjustment of Options Transactions Including Obvious Errors.” Rule 521 became operative on May 8, 2015.<sup>3</sup> Rule 521 was amended in conjunction with amendments made by all U.S. options exchanges in order to harmonize their respective rules related to the adjustment and nullification of erroneous options transactions. The Exchange believes that Rule 521, together with comparable harmonized rules of the other U.S. options exchanges,<sup>4</sup> provides transparency and finality with respect to the adjustment and nullification of erroneous options transactions, achieving consistent results for participants across the options exchanges while maintaining a fair and orderly market, protecting investors and protecting the public interest.

The purpose of the proposed rule change is to further harmonize Rule 521 with the rules of other exchanges by modifying the amount to be charged to Members that appeal an Official ruling under Rule 521 if such ruling is sustained and not overturned or modified, and to permit the Exchange to pass along charges assessed by another market center in connection with Obvious Error and Catastrophic Error determination requests presented to that market center by the Exchange on a Member’s behalf.

The Exchange proposes to amend Section (l)(2) of the Rule to charge \$500.00 to MIAX Members that appeal an Official ruling when such ruling is sustained and not overturned or modified, and to add new language to permit the Exchange to pass along charges assessed by another market center in connection with Obvious Error and Catastrophic Error determination requests presented to that market center by the Exchange on a Member’s behalf. Currently, the Exchange charges Members \$250.00 in this circumstance.

<sup>3</sup> See Securities Exchange Act Release No. 74918 (May 8, 2015), 80 FR 27781 (May 14, 2015) (SR-MIAX-2015-35).

<sup>4</sup> See, e.g., NASDAQ OMX PHLX LLC (“PHLX”) Rule 1092(l) and BATS Exchange, Inc. (“BATS”) Rule 20.6. See also, e.g., Securities Exchange Act Release Nos. 74556 (March 20, 2015), 80 FR 16031 (March 26, 2015) (SR-BATS-2014-067), and 75488 (July 20, 2015), 80 FR 44164 (July 24, 2015) (SR-Phlx-2015-65).

The Exchange proposes to increase this charge from \$250.00 to \$500.00.

##### 2. Statutory Basis

The Exchange believes that its proposal to amend Rule 521 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 provides for an equitable allocation of reasonable fees and other charges among Exchange members.

The \$500.00 charge and the provision to pass through charges from other market centers proposed herein is just and equitable and not unfairly discriminatory because it would apply equally to all MIAX Members seeking review on appeal of Official rulings pursuant to Rule 521(l), and will not be assessed if the ruling giving rise to the appeal is modified or reversed. The \$500.00 charge is consistent with the amount charged by other U.S. options exchanges for unsuccessful appeals under their obvious error rules.<sup>7</sup>

The provision to pass through charges from other market centers proposed herein is just and equitable and not unfairly discriminatory because it would apply equally to all MIAX Members requesting Obvious Error or Catastrophic Error determinations from other market centers through the Exchange. The pass through charge is also consistent with pass through charges charged by other U.S. options exchanges under their obvious error rules.<sup>8</sup> The Exchange believes that it will prevent fraudulent and manipulative practices, promote just and equitable principles of trade, and remove impediments to and perfect the mechanisms of a free and open market and a national market system by discouraging frivolous appeals of Official rulings made under Rule 521. Further, it will allow the Exchange to recoup its administrative costs associated with Rule 521 appeals, and provide additional resources to the Exchange to administer its regulatory functions, including appeals of Official rulings under Rule 521(l).

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposal will have any impact on

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

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

<sup>7</sup> See *supra* note 4.

<sup>8</sup> See *supra* note 4.

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

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

competition in that the \$500.00 charge and the provision of pass through charges from other market centers proposed herein will apply equally to all MIAX Members submitting appeals pursuant to Rule 521(l).

*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>9</sup> and Rule 19b-4(f)(2)<sup>10</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-2015-62 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-MIAX-2015-62. 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](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-MIAX-2015-62, and should be submitted on or before December 7, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Robert W. Errett,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-76394; File No. SR-BATS-2015-56]

**Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of Amendments Nos. 1 and 2 and Order Granting Accelerated Approval of a Proposed Rule Change to List and Trade Shares of the ProShares Managed Futures Strategy ETF of the ProShares Trust Under BATS Rule 14.11 on BATS Exchange, Inc.**

November 9, 2015.

**I. Introduction**

On July 30, 2015, BATS Exchange, Inc. ("Exchange" or "BATS") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")<sup>2</sup> and Rule 19b-4

thereunder,<sup>3</sup> a proposed rule change to list and trade shares ("Shares") of the ProShares Managed Futures Strategy ETF ("Fund") of the ProShares Trust ("Trust") under BATS Rule 14.11(i). The proposed rule change was published for comment in the **Federal Register** on August 17, 2015.<sup>4</sup> On August 19, 2015, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced the proposed rule change in its entirety.<sup>5</sup> On September 4, 2015, the Exchange filed Amendment No. 2 to the proposed rule change, which replaced the proposed rule change in its entirety.<sup>6</sup> The Commission received no comments on the proposed rule change. The Commission is publishing this notice to solicit comments on Amendments Nos. 1 and 2 from interested persons, and is approving the proposed rule change, as modified by Amendments Nos. 1 and 2, on an accelerated basis.

**II. Description of the Proposal**

The Exchange proposes to list and trade the Shares under BATS Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange. The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.

The Shares will be offered by the Trust, which is established as a Delaware statutory trust. The Trust is registered with the Commission as an open-end investment company and has filed a registration statement on behalf of the Fund on Form N-1A ("Registration Statement") with the Commission.<sup>7</sup> ProShare Advisors LLC is the investment adviser ("Adviser") to the Fund. JPMorgan Chase Bank, National Association is the

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> See Securities Exchange Act Release No. 75664 (August 11, 2015), 80 FR 49288.

<sup>5</sup> In Amendment No. 1, the Exchange supplemented the information that will be included in the Fund's Disclosed Portfolio, clarified the investments that the Fund may hold, clarified how certain of the Fund's assets will be valued in calculating the Fund's net asset value ("NAV"), and provided additional information regarding the availability of price information for the assets that the Fund may hold. All amendments to the proposed rule change are available at: <http://www.sec.gov/comments/sr-bats-2015-56/bats201556-1.pdf>.

<sup>6</sup> In Amendment No. 2, the Exchange modified the description of the swaps that the Fund may hold and the availability of intraday price information for assets that the Fund may hold.

<sup>7</sup> See Registration Statement on Form N-1A for the Trust, dated May 31, 2013 (File Nos. 333-98922 and 811-21114). See also Investment Company Act Release No. 30562 (June 18, 2013) (File No. 812-14041).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>10</sup> 17 CFR 240.19b-4(f)(2).

<sup>11</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a.