

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80753; File No. SR–NYSE–2017–07; SR–NYSEMKT–2017–16]

Self-Regulatory Organizations; New York Stock Exchange LLC; NYSE MKT LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Changes Amending NYSE Rule 36 and NYSE MKT Rule 36—Equities To Permit Exchange Floor Brokers To Use Non-Exchange Provided Telephones on the Floor

May 24, 2017.

On March 31, 2017 and March 22, 2017, New York Stock Exchange LLC (“NYSE”) and NYSE MKT LLC (“NYSE MKT,” and each of NYSE and NYSE MKT an “Exchange”), respectively, filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b–4 thereunder,² proposed rule changes to permit Exchange floor brokers to use cellular or wireless telephones not provided by the Exchange while on the Floor of the Exchange and make related changes. The proposed rule changes were published for comment in the **Federal Register** on April 10, 2017.³ No comments have been received on the proposed rule changes.

Section 19(b)(2) of the Act⁴ provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notices for these proposed rule changes is May 25, 2017. The Commission is extending this 45-day time period for Commission action on the proposed rule changes.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule changes so that it has sufficient time to consider these proposed rule changes. Accordingly, the Commission,

pursuant to Section 19(b)(2) of the Act,⁵ and for the reason noted above, designates July 9, 2017 as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule changes (File Nos. SR–NYSE–2017–07 and SR–NYSEMKT–2017–16).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80757; File No. SR–MIAX–2017–23]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend MIAX Options Rule 510 To Extend the Penny Pilot Program

May 24, 2017.

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 May 16, 2017, Miami International Securities Exchange, LLC (“MIAX Options” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange is filing a proposal to amend Exchange Rule 510, Interpretations and Policies .01 to extend the pilot program for the quoting and trading of certain options in pennies.

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

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

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

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

1. Purpose

The Exchange is a participant in an industry-wide pilot program that provides for the quoting and trading of certain option classes in penny increments (the “Penny Pilot Program” or “Program”). The Penny Pilot Program allows the quoting and trading of certain option classes in minimum increments of \$0.01 for all series in such option classes with a price of less than \$3.00; and in minimum increments of \$0.05 for all series in such option classes with a price of \$3.00 or higher. Options overlying the PowerShares QQQ™ (“QQQ”), SPDR® S&P 500® ETF (“SPY”), and iShares® Russell 2000 ETF (“IWM”), however, are quoted and traded in minimum increments of \$0.01 for all series regardless of the price. The Penny Pilot Program was initiated at the then existing option exchanges in January 2007³ and currently includes more than 300 of the most active option classes. The Penny Pilot Program is currently scheduled to expire on June 30, 2017.⁴ The purpose of the proposed rule change is to extend the Penny Pilot Program in its current format through December 31, 2017.

In addition to the extension of the Penny Pilot Program through December 31, 2017, the Exchange proposes to extend one other date in the Rule.

³ See Securities Exchange Act Release Nos. 55154 (January 23, 2007), 72 FR 4743 (February 1, 2007) (SR–CBOE–2006–92); 55161 (January 24, 2007), 72 FR 4754 (February 1, 2007) (SR–ISE–2006–62); 54886 (December 6, 2006), 71 FR 74979 (December 13, 2006) (SR–Phlx–2006–74); 54590 (October 12, 2006), 71 FR 61525 (October 18, 2006) (SR–NYSEArca–2006–73); and 54741 (November 9, 2006), 71 FR 67176 (November 20, 2006) (SR–Amex–2006–106).

⁴ See Securities Exchange Act Release No. 79432 (November 30, 2016), 81 FR 87990 (December 6, 2016) (SR–MIAX–2016–45) (extending the Penny Pilot Program from December 31, 2016, to June 30, 2017).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release Nos. 80374 (April 4, 2017), 82 FR 17306; and 80375 (April 4, 2017), 82 FR 17302.

⁴ 15 U.S.C. 78s(b)(2).

⁵ 15 U.S.C. 78s(b)(2).

⁶ 17 CFR 200.30–3(a)(31).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

Currently, Interpretations and Policies .01 states that the Exchange will replace any Penny Pilot issues that have been delisted with the next most actively traded multiply listed option classes that are not yet included in the Penny Pilot Program, and that the replacement issues will be selected based on trading activity in the previous six months. Such option classes will be added to the Penny Pilot Program on the second trading day following January 1, 2017.⁵ Because this date has expired and the Exchange intends to continue this practice for the duration of the Penny Pilot Program, the Exchange is proposing to amend the Rule to reflect that such option classes will be added to the Penny Pilot Program on the second trading day following July 1, 2017.

The purpose of this provision is to reflect the new date on which replacement issues may be added to the Penny Pilot Program.

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act⁷ 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.

In particular, the proposed rule change, which extends the Penny Pilot Program for six months, allows the Exchange to continue to participate in a program that has been viewed as beneficial to traders, investors and public customers and viewed as successful by the other options exchanges participating in it.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically,

⁵ The month immediately preceding a replacement class's addition to the Pilot Program (*i.e.*, June) is not used for purposes of the six-month analysis. For example, a replacement added on the second trading day following July 1, 2017, will be identified based on trading activity from December 1, 2016, through May 31, 2017.

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Penny Pilot Program and a determination of how the Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace, facilitating investor protection, and fostering a competitive environment. In addition, consistent with previous practices, the Exchange believes the other options exchanges will be filing similar extensions of the Penny Pilot Program.

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

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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act⁸ and Rule 19b-4(f)(6)⁹ 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:

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

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-2017-23 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-2017-23. 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-2017-23 and should be submitted on or before June 21, 2017. For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Eduardo A. Aleman,

Assistant Secretary.

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¹⁰ 17 CFR 200.30-3(a)(12).