

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, security-based swap submission, or advance notice that are filed with the Commission, and all written communications relating to the proposed rule change, security-based swap submission, or advance notice 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 filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's Web site at <https://www.theice.com/clear-credit/regulation>.

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-ICC-2017-011 and should be submitted on or before August 2, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2017-14985 Filed 7-17-17; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549-2736

Extension:

Rule 203-3, Form ADV-H; SEC File No. 270-481, OMB Control No. 3235-0538

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") is soliciting comments on the collection of information

summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget ("OMB") for extension and approval.

The title for the collection of information is "Form ADV-H under the Investment Advisers Act of 1940." Rule 203-3 (17 CFR 275.203-3) under the Investment Advisers Act of 1940 (15 U.S.C. 80b) requires that registered advisers requesting either a temporary or continuing hardship exemption submit the request on Form ADV-H. Rule 204-4 (17 CFR 275.204-4) under the Investment Advisers Act of 1940 requires that exempt reporting advisers requesting a temporary hardship exemption submit the request on Form ADV-H. The purpose of this collection of information is to permit advisers to obtain a hardship exemption to not complete an electronic filing. The temporary hardship exemption that is available to registered advisers under rule 203-3 and exempt reporting advisers under rule 204-4 permits these advisers to make late filings due to unforeseen computer or software problems. The continuing hardship exemption available to registered advisers under rule 203-3 permits advisers to submit all required electronic filings on hard copy for data entry by the operator of the IARD.

The Commission has estimated that compliance with the requirement to complete Form ADV-H imposes a total burden of approximately one hour for an adviser. Based on our experience, we estimate that we will receive two Form ADV-H filings annually from registered investment advisers and one Form ADV-H filing annually from exempt reporting advisers. Based on the 60 minute per respondent estimate, the Commission estimates a total annual burden of 3 hours for this collection of information.

Rule 203-3, rule 204-4, and Form ADV-H do not require recordkeeping or records retention. The collection of information requirements under the rule and form are mandatory. The information collected pursuant to the rule and Form ADV-H consists of filings with the Commission. These filings are not kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate

of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: July 11, 2017.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2017-14967 Filed 7-17-17; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81131; File No. SR-MIAX-2017-19]

### Self-Regulatory Organizations; Miami International Securities Exchange LLC; Order Granting Approval of a Proposed Rule Change To Amend MIAx Options Rules 515, Execution of Orders and Quotes; 515A, MIAx Price Improvement Mechanism ("PRIME") and PRIME Solicitation Mechanism; and 518, Complex Orders

July 12, 2017.

#### I. Introduction

On May 12, 2017, Miami International Securities Exchange, LLC ("MIAx Options" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to establish three new types of complex orders—Complex Customer Cross ("c2C") Orders, Complex Qualified Contingent Cross ("cQCC") Orders, and Complex PRIME ("cPRIME") Orders—and to adopt new provisions that relate to the processing of those new complex order types. The proposed rule change was published for comment in the *Federal Register* on June 1, 2017.<sup>3</sup> The Commission received no comments regarding the proposal.

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

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

<sup>3</sup> See Securities Exchange Act Release No. 80768 (May 25, 2017), 82 FR 25347 ("Notice").

<sup>19</sup> 17 CFR 200.30-3(a)(12).

This order approves the proposed rule change.

## II. Description of the Proposal

The Exchange proposes to establish three new types of complex orders,<sup>4</sup> and to adopt new provisions that relate to the processing of those new complex order types. In particular, the Exchange is proposing to modify its rules, including its rule related to the MIA X Price Improvement Mechanism (“PRIME”), to permit the entry and execution of cC2C Orders, cQCC Orders, and cPRIME Orders, each as discussed more fully below.

### A. cC2C Orders

The Exchange proposes to define a cC2C Order as a type of complex order that is comprised of one Priority Customer<sup>5</sup> complex order to buy and one Priority Customer complex order to sell the same strategy at the same price (which must be better than the icMBBO<sup>6</sup> or the best net price of the complex order on the Strategy Book<sup>7</sup> for the strategy, whichever is more aggressive) and for the same quantity.<sup>8</sup> The Exchange proposes that cC2C Orders be automatically executed upon entry provided that the execution is at least \$0.01 better than the icMBBO price or the best net price of a complex order on the Strategy Book, whichever is more aggressive.<sup>9</sup> The Exchange will reject a cC2C Order if, at the time of its receipt, (i) the strategy is subject to a cPRIME Auction pursuant to proposed Interpretations and Policies .12 to Rule 515A or to a Complex Auction pursuant to Rule 518(d); or (ii) any component of the strategy is subject to a SMAT Event

as described in Rule 518(a)(16).<sup>10</sup> Unlike simple Customer Cross Orders, the Exchange proposes to not reject a cC2C Order when a component of the strategy is subject to the managed interest process<sup>11</sup> pursuant to Rule 515(c).<sup>12</sup> cC2C Orders will be automatically cancelled if they cannot be executed,<sup>13</sup> and may only be entered in the minimum trading increments applicable to complex orders under Rule 518(c)(1)(i).<sup>14</sup> The Exchange further proposes to state that Interpretations and Policies .01 to Rule 520 applies to the entry and execution of cC2C Orders.<sup>15</sup>

The Exchange will determine, on a class-by-class basis, the option classes in which cC2C Orders are available for trading on the Exchange, and will

<sup>10</sup> A Simple Market Auction or Timer, or “SMAT” Event, is defined as any of the following: (i) a PRIME Auction (pursuant to Rule 515A); (ii) a Route Timer (pursuant to Rule 529); or (iii) a liquidity refresh pause (pursuant to Rule 515(c)(2)). See Rule 518(a)(16).

<sup>11</sup> Under the managed interest process, if the limit price of a non-routable order locks or crosses the current opposite side NBBO, the System will display the order one Minimum Price Variation away from the current opposite side NBBO, and book the order at a price that will lock the current opposite side NBBO. See Rule 515(c)(ii).

<sup>12</sup> The Exchange states that it is not necessary to reject a cC2C Order in this scenario because, in accordance with the execution price requirements for cC2C Orders, the order would already have a guaranteed execution price at the better of \$0.01 inside the icMBBO price or at the best net price of a complex order on the Strategy Book. See Notice, *supra* note 3, at 25349. See also proposed Rule 515(h)(3). According to the Exchange, because the execution price requirements ensure that each participant in the complex order receives a better price than it would have received if its order were submitted as a single complex order, it is not necessary or desirable to preclude the execution of a cC2C Order where one component is subject to the managed interest process in the simple market. See Notice, *supra* note 3, at 25349.

<sup>13</sup> See proposed Rule 515(h)(3)(A).

<sup>14</sup> See proposed Rule 515(h)(3)(B). Bids and offers on complex orders and quotes may be expressed in \$0.01 increments, and the component(s) of a complex order may be executed in \$0.01 increments, regardless of the minimum increments otherwise applicable to individual components of the complex order. See Rule 518(c)(1)(i).

<sup>15</sup> See proposed Rule 515(h)(3)(C). Rule 520(b) prevents an Electronic Exchange Member from executing agency orders to increase its economic gain from trading against the order without first giving other trading interest on the Exchange an opportunity to either trade with the agency order or to trade at the execution price when the Electronic Exchange Member was already bidding or offering on the Simple Order Book. It would be a violation of Rule 520(b) for an Electronic Exchange Member to be a party to any arrangement designed to circumvent Rule 520(b) by providing an opportunity for a customer or other person (including an affiliate) to regularly execute against agency orders handled by the Electronic Exchange Member immediately upon their entry into the System. See Interpretations and Policies .01 to Rule 520. The term “Electronic Exchange Member” means the holder of a Trading Permit who is not a Market Maker. See Rule 100.

announce such classes to Members via Regulatory Circular.<sup>16</sup>

### B. cQCC Orders

The Exchange proposes to define a cQCC Order as a type of complex order that is identified as being part of a qualified contingent trade<sup>17</sup> which is comprised of a complex order to buy or sell where each component is at least 1,000 contracts, coupled with a contra-side complex order or orders (for the same strategy) totaling an equal number of contracts.<sup>18</sup> cQCC Orders are automatically executed upon entry provided that, with respect to each option leg of the cQCC Order, the execution (i) is not at the same price as a Priority Customer Order on the Simple Order Book; and (ii) is at or between the NBBO.<sup>19</sup> The Exchange states that, as is currently the case with QCC orders, it will require that the Member entering a cQCC Order provide certain information to the Exchange regarding the execution of the stock component, such as the underlying price, quantity, price delta, execution time, and executing venue.<sup>20</sup>

The Exchange will reject a cQCC Order if, at the time of receipt of the cQCC Order, (i) the strategy is subject to a cPRIME Auction pursuant to proposed Interpretations and Policies .12 to Rule 515A, or to a Complex Auction pursuant to Rule 518(d); or (ii) any component of the strategy is subject to a SMAT Event as described in Rule 518(a)(16).<sup>21</sup> The Exchange will not reject a cQCC Order when a component of the strategy is subject to the managed interest process pursuant to Rule 515(c). cQCC Orders will be automatically cancelled if they

<sup>16</sup> See proposed Rule 515(h)(3)(D). The term “Member” means an individual or organization approved to exercise the trading rights associated with a Trading Permit. See Rule 100.

<sup>17</sup> A “qualified contingent trade” is a transaction consisting of two or more component orders, executed as agent or principal, where: (a) At least one component is an NMS Stock, as defined in Rule 600 of Regulation NMS under the Act; (b) all components are effected with a product or price contingency that either has been agreed to by all the respective counterparties or arranged for by a broker-dealer as principal or agent; (c) the execution of one component is contingent upon the execution of all other components at or near the same time; (d) the specific relationship between the component orders (e.g., the spread between the prices of the component orders) is determined by the time the contingent order is placed; (e) the component orders bear a derivative relationship to one another, represent different classes of shares of the same issuer, or involve the securities of participants in mergers or with intentions to merge that have been announced or cancelled; and (f) the transaction is fully hedged (without regard to any prior existing position) as a result of other components of the contingent trade. See Interpretations and Policies .01 to Rule 516.

<sup>18</sup> See proposed Rule 518(b)(6).

<sup>19</sup> See proposed Rule 515(h)(4).

<sup>20</sup> See Notice, *supra* note 3, at 25350.

<sup>21</sup> See proposed Rule 515(h)(4).

<sup>4</sup> For a description of the trading of complex orders on the Exchange, see Rule 518. See also Securities Exchange Act Release No. 79072 (October 7, 2016), 81 FR 71131 (October 14, 2016) (SR-MIA X-2016-26).

<sup>5</sup> 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 account(s). See Rule 100.

<sup>6</sup> The Implied Complex MIA X Best Bid or Offer (“icMBBO”) is a calculation that uses the best price from the Simple Order Book for each component of a complex strategy including displayed and non-displayed trading interest. For stock-option orders, the icMBBO for a complex strategy will be calculated using the best price (whether displayed or non-displayed) on the Simple Order Book in the individual option component(s), and the National Best Bid and Offer (“NBBO”) in the stock component. See Rule 518(a)(11). The “Simple Order Book” is the Exchange’s regular electronic book of orders and quotes. See Rule 518(a)(15).

<sup>7</sup> The “Strategy Book” is the Exchange’s electronic book of complex orders and complex quotes. See Rule 518(a)(17).

<sup>8</sup> See proposed Rules 515(h)(3) and 518(b)(5).

<sup>9</sup> See proposed Rule 515(h)(3).

cannot be executed,<sup>22</sup> and may only be entered in the minimum trading increments applicable to complex orders under Rule 518(c)(1)(i).<sup>23</sup>

The Exchange will determine, on a class-by-class basis, the option classes in which cQCC Orders are available for trading on the Exchange, and will announce such classes to Members via Regulatory Circular.<sup>24</sup>

### C. cPRIME Orders

PRIME is a price-improvement mechanism pursuant to which a Member (“Initiating Member”) electronically submits an order that it represents as agent (an “Agency Order”) into a PRIME Auction (“Auction”). The Initiating Member, in submitting an Agency Order, must be willing to either (i) cross the Agency Order at a single price (a “single-price submission”) against principal or solicited interest, or (ii) automatically match (“auto-match”), against principal or solicited interest, the price and size of responses to a Request for Response (“RFR”) that is broadcast to MIAX Options participants up to an optional designated limit price.<sup>25</sup>

As described below, the Exchange proposes to add a cPRIME order type<sup>26</sup> which will be processed and executed in the same manner in which simple PRIME Orders are currently processed and executed, except as otherwise provided in proposed Interpretations and Policies .12 to Rule 515A or unless the context otherwise requires.<sup>27</sup> The

Exchange will determine, on a class-by-class basis, the option classes in which complex orders are available for trading on PRIME on the Exchange, and will announce such classes to Members via Regulatory Circular.<sup>28</sup>

#### 1. Auction Eligibility and Auction Process

The initiating price for a cPRIME Agency Order must be better than the icMBBO for the strategy and any other complex orders on the Strategy Book.<sup>29</sup> The Exchange will reject cPRIME Agency Orders submitted with an initiating price that is equal to or worse than the icMBBO or any other complex orders on the Strategy Book. The Exchange also will reject a cPRIME Agency Order if, at the time of receipt of the cPRIME Agency Order: (i) the strategy is subject to a cPRIME Auction or to a Complex Auction pursuant to Rule 518(d); (ii) any component of the strategy is subject to a SMAT Event as described in Rule 518(a)(16); or (iii) any component of the strategy is subject to the managed interest process described in Rule 515(c)(1)(ii).

The RFR period for cPRIME Auctions will be independent from the RFR for PRIME Auctions and will last for a period of time as set forth in Rule 515A(a)(2)(i)(C).<sup>30</sup> Members may enter RFR responses on the opposite side of the market from the cPRIME Agency Order at net prices, and bids and offers for complex orders may participate in the execution of an order as provided in Rule 515A.<sup>31</sup> Bids and offers for the individual legs of a complex order may also participate; however, except as provided in proposed Interpretations and Policies .12(c) to Rule 515A, the order allocation rules contained in Rule

disseminated MBBO on the opposite side of the market from the response, because an Auction will already conclude under Rule 515A(a)(2)(ii)(E) if an RFR response matches the NBBO on the opposite side of the market from the RFR responses, which cannot be inferior to the MBBO. See proposed edits to Rule 515A(a)(2)(i)(D).

<sup>28</sup> See proposed Interpretations and Policies .12 to Rule 515A.

<sup>29</sup> See proposed Interpretations and Policies .12(a)(i) to Rule 515A.

<sup>30</sup> See proposed Interpretations and Policies .12(c)(i) to Rule 515A. The Commission notes that, on June 15, 2017, MIAX Options amended the duration of the RFR period described in Rule 515A(a)(2)(i)(c) such that the RFR period will be a period of time within a range of no less than 100 milliseconds and no more than 1 second, as determined by the Exchange. See Securities Exchange Act Release No. 80940 (June 15, 2017), 82 FR 28369 (June 21, 2017) (order approving SR-MIAX-2017-16).

<sup>31</sup> RFR responses shall be an AOC order or an AOC eQuote. See Rule 515A(a)(2)(i)(D). This applies by reference to cPRIME Auctions (and cAOC eQuotes and cAOC orders, as defined below). See proposed Interpretations and Policies .12(a) to Rule 515A.

514 will apply.<sup>32</sup> If an improved net price for the complex order being executed can be achieved from bids and offers for the individual legs of the complex order in the simple market, and the complex order is otherwise eligible for Legging pursuant to Rule 518(c)(2)(iii), the Strategy being matched will receive an execution at the better net price.<sup>33</sup>

#### 2. cPRIME Order Execution and Allocation

The Exchange proposes to not apply the size and bid/ask differential and conclusion of auction provisions contained in Rule 515A(a)(1)(iii) and (iv) to cPRIME Orders.<sup>34</sup> Instead, a cPRIME Auction will conclude at the sooner of the following events, with the cPRIME Agency Order executing pursuant to the cPRIME Auction allocation provisions: (1) The end of the RFR period; (2) when an AOC eQuote<sup>35</sup> or cAOC Order<sup>36</sup> on the opposite side of the market from the cPRIME Agency Order locks or crosses the icMBBO or the best net price of a complex order in the same strategy on the Strategy Book, whichever is more aggressive; (3) when unrelated interest on the same side of the market as the cPRIME Agency Order locks or crosses the best price on the opposite side of the market; (4) when unrelated interest on the opposite side of the market from the cPRIME Agency Order locks or crosses the icMBBO or the best net price of a complex order in the same strategy on the Strategy Book, whichever is more aggressive, or improves the price of any RFR response; (5) when a simple order or quote in a component of the strategy on the same side of the market as the cPRIME Agency Order locks or crosses the NBBO for such component; or (6) when a simple order or quote in a component of the strategy on the opposite side of the market from the cPRIME Agency Order locks or crosses the NBBO for such component or causes the icMBBO

<sup>32</sup> See proposed Interpretations and Policies .12(a)(iii) to Rule 515A.

<sup>33</sup> See proposed Interpretations and Policies .12(a)(iv) to Rule 515A.

<sup>34</sup> See proposed Interpretations and Policies .12(c)(iii) and (iv) to Rule 515A.

<sup>35</sup> A “Complex Auction or Cancel eQuote” or “cAOC eQuote,” is an eQuote submitted by a Market Maker that is used to provide liquidity during a specific Complex Auction with a time in force that corresponds with the duration of the Complex Auction. See Interpretations and Policies .02(c)(1) to Rule 518.

<sup>36</sup> A Complex Auction-or-Cancel or “cAOC” order is a complex limit order used to provide liquidity during a specific Complex Auction with a time in force that corresponds with that event. See Rule 518(b)(3).

<sup>22</sup> See proposed Rule 515(h)(4)(A).

<sup>23</sup> See proposed Rule 515(h)(4)(B).

<sup>24</sup> See proposed Rule 515(h)(4)(C).

<sup>25</sup> See Rule 515A(a)(2)(i). When the Exchange receives a properly designated Agency Order for auction processing, an RFR detailing the option, side, size, and initiating price will be sent to all subscribers of the Exchange’s data feeds. Members may submit responses to the RFR (specifying prices and sizes). RFR responses shall be an Auction or Cancel (“AOC”) order or an AOC eQuote. Such responses cannot cross the disseminated MIAX Best Bid or Offer (“MBBO”) on the opposite side of the market from the response.

<sup>26</sup> The Exchange proposes to define a cPRIME Order as a type of complex order that is submitted for participation in a cPRIME Auction. See proposed Rule 518(b)(7). A Member may electronically submit a “cPRIME Order” it represents as agent (a “cPRIME Agency Order”) against principal or solicited interest for execution (a “cPRIME Auction”). See proposed Interpretations and Policies .12(a) to Rule 515A.

<sup>27</sup> In addition, MIAX proposes to state that any references to the NBBO in Rule 515A are inapplicable to cPRIME Auctions. See proposed Interpretations and Policies .12(a)(v) to Rule 515A. The Exchange also proposes to modify its simple PRIME Rule to (1) state clearly that it will reject RFR responses submitted with a price that is not equal to or better than the initiating price to avoid handling RFR responses that could not be executed in an Auction because they are inferior to the initiating price; and (2) delete unnecessary text stating that an RFR response cannot cross the

to be equal to or better than the initiating price.<sup>37</sup>

At the conclusion of a cPRIME Auction, the Exchange will apply the order allocation provisions applicable to the simple PRIME Auction,<sup>38</sup> provided that: (A) All references to contracts will be considered references to complex strategies; and (B) the last priority allocation option described in Rule 515A(a)(2)(iii)(L) will not be available for Initiating Members that submit cPRIME Agency Orders.<sup>39</sup> The Exchange further proposes that participants that submit simple orders that are executed as individual legs of complex orders at the execution price point will be allocated contracts only after all complex interest at such price point have received allocations.<sup>40</sup> Specifically, cPRIME Orders will be matched first against other complex orders and have priority over all simple orders that are on the Simple Order Book and “legged,” at the execution price.<sup>41</sup> According to the Exchange, it proposes to provide priority to complex interest over simple interest because the initiating price of the cPRIME Agency Order will always be superior to the net price of simple orders resting on the Simple Order Book, which would not necessarily be intended to trade with the legs of the Agency Order.<sup>42</sup> However, if new interest is received in the simple market that causes the icMBBO on the opposite side of the market from the cPRIME Agency Order to be equal to or better than the initiating price, the cPRIME Auction will conclude before the expiration of the RFR period and the standard cPRIME execution and allocation process will commence early.<sup>43</sup> Regardless of when the cPRIME Auction ends, contracts at each price point will first be allocated by matching complex strategies.<sup>44</sup>

<sup>37</sup> See proposed Interpretations and Policies .12(d) to Rule 515A.

<sup>38</sup> See Rule 515A(a)(2)(iii). For an example of cPRIME Order executions with and without the Auto-Match feature, see Examples 3 and 4, Notice, *supra* note 3, at 25352.

<sup>39</sup> See proposed Interpretations and Policies .12(c)(v) to Rule 515A.

<sup>40</sup> See proposed Interpretations and Policies .12(c)(ii) to Rule 515A.

<sup>41</sup> The Exchange notes that other exchanges afford priority to complex interest over simple interest when allocating interest after a price improvement auction. See Notice, *supra* note 3, at 25353 n.39 (citing as an example NASDAQ PHLX LLC (“Phlx”) Rule 1098(e)(vi)(A)(2) and (viii)(C)(3)).

<sup>42</sup> See Notice, *supra* note 3, at 25353.

<sup>43</sup> See *id.* See also Example 5, Notice, *supra* note 3, at 25352.

<sup>44</sup> The term “complex strategy” means a particular combination of components and their ratios to one another. New complex strategies can be created as the result of the receipt of a complex

#### D. Implementation Date

The Exchange will announce the implementation date of the proposed rule change by Regulatory Circular to be published no later than 60 days following the operative date of the proposed rule change.<sup>45</sup> The implementation date will be no later than 60 days following the issuance of the Regulatory Circular.<sup>46</sup>

### III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with Section 6(b) of the Act.<sup>47</sup> In particular, the Commission finds that the proposed rule change is consistent with Sections 6(b)(5) and 6(b)(8) of the Act,<sup>48</sup> which require, among other things, that the rules of a national securities exchange be 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and that the rules of an exchange do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Commission believes that the Exchange’s proposed cC2C rules are consistent with the Act. They allow for the crossing of complex orders in a manner similar to other crossing rules that the Commission has previously approved for other exchanges and do not appear to raise any novel or significant issues.<sup>49</sup>

The Commission believes that the Exchange’s proposed cQCC rules, which would permit complex orders to

order or by the Exchange for a complex strategy that is not currently in the System. The Exchange may limit the number of new complex strategies that may be in the System at a particular time and will communicate this limitation to Members via Regulatory Circular. See Rule 518(a)(6).

<sup>45</sup> See Notice, *supra* note 3, at 25356.

<sup>46</sup> See *id.*

<sup>47</sup> 15 U.S.C. 78f(b). In approving this proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>48</sup> 15 U.S.C. 78f(b)(5), (b)(8).

<sup>49</sup> See, e.g., Chicago Board Options Exchange, Incorporated Rule 6.74A.08(b) and Phlx Rule 1080(n)(vi).

participate in a clean cross of the options leg of a subset of qualified contingent trades in a similar manner as QCC Orders already permitted on the Exchange, are appropriate and consistent with the Act.<sup>50</sup> The Commission notes that the proposal to permit cQCC Orders in a manner similar to QCC Orders already permitted on MIAX Options, while requiring that the cQCC Order: (1) Be part of a qualified contingent trade under Regulation NMS; (2) each option leg be for at least 1,000 contracts; and (3) with respect to each option leg of the cQCC Order, that the execution is not at the same price as a Priority Customer Order on the Simple Order Book and is at or between the NBBO, establishes a limited exception to the general principle of exposure and retains the general principle of customer priority in the options markets. Furthermore, not only must a cQCC Order be part of a qualified contingent trade by satisfying each of the six underlying requirements of the NMS QCT Exemption,<sup>51</sup> the requirement that a cQCC Order be for a minimum size of 1,000 contracts per leg provides another limit to its use by ensuring only transactions of significant size may avail themselves of this order type.

By allowing MIAX Options Members to enter complex orders into PRIME, the Commission believes that the proposal could provide opportunities for complex orders to receive price improvement. Under the proposal, a complex order entered into a cPRIME Auction must be stopped at a price that is better than the icMBBO for the strategy and any other complex orders on the Strategy Book.<sup>52</sup> As noted above, a Member enters a cPRIME Agency Order against principal or solicited interest for execution.<sup>53</sup> At the conclusion of a cPRIME Auction, the cPRIME Agency Order is executed in full at the best prices available, taking into consideration orders and quotes in

<sup>50</sup> See also Securities Exchange Act Release Nos. 64653 (June 13, 2011), 76 FR 35491 (June 17, 2011) (order approving SR-CBOE-2011-041); 63955 (February 24, 2011), 76 FR 11533 (March 2, 2011) (order approving SR-ISE-2010-73). The Commission has granted an exemption for qualified contingent trades that meet certain requirements from Rule 611(a) of Regulation NMS, 17 CFR 242.611(a) (the “NMS QCT Exemption”). See Securities Exchange Act Release No. 57620 (April 4, 2008), 73 FR 19271 (April 9, 2008) (which supersedes a release initially granting the NMS QCT Exemption, Securities Exchange Act Release No. 54389 (August 31, 2006), 71 FR 52829 (September 7, 2006)).

<sup>51</sup> See *supra* note 17.

<sup>52</sup> See proposed Interpretations and Policies .12(a) to Rule 515A; see also Notice, *supra* note 3, at 25352, for an example of an eligible cPRIME Order.

<sup>53</sup> See proposed Interpretations and Policies .12(a) to Rule 515A.

the MIAX Options market, RFR responses, and the Initiating Member's submission. Thus, a complex order entered into a cPRIME Auction would receive an execution at the best price available at the conclusion of the Auction and, at a minimum, would be executed in full at the improved net price. In addition, if an improved net price for a complex order entered in a cPRIME Auction could be achieved from bids and offers for the individual legs of the complex order in the MIAX Options market, the complex order would be executed at the better net price. The Commission further notes that other exchanges have previously adopted similar rules to permit the entry of complex orders into a price improvement mechanism.<sup>54</sup>

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Sections 6(b)(5) and 6(b)(8) of the Act.<sup>55</sup>

#### IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>56</sup> that the proposed rule change (SR-MIAX-2017-19), be and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>57</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81133; File No. SR-NASDAQ-2017-065]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Increase the Trading Rights Fee

July 12, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 29, 2017, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the 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 proposes to amend the Exchange's trading rights fee at Rule 7001(a) to increase the fee from \$1,000 per month to \$1,250 per month, as described further below. While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on July 1, 2017.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaq.cchwallstreet.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 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 purpose of the proposed rule change is to increase its monthly trading rights fee under Rule 7001(a). The trading rights fee is assessed on all Nasdaq members and helps defray the cost of regulating the Nasdaq market. The Exchange last increased the fee in 2012,<sup>3</sup> increasing the fee from \$500 per month to \$1,000 per month, while the cost of regulation has increased since that time. In proposing the change, the Exchange is more closely aligning the fee assessed with the benefit provided by allowing members to trade on a well-regulated market, the cost of which is incurred by the Exchange in the systems and people that support oversight of the market. Nasdaq believes that even with the fee increase, the cost of Nasdaq membership will continue to be

generally lower than the cost of membership in other SROs.<sup>4</sup>

###### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>6</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Nasdaq believes that the fee change is reasonable because the increased fee continues to be less than the analogous fees of other markets. For example, the Exchange's membership fees will continue to remain substantially lower than the analogous fees assessed by the New York Stock Exchange for membership, which assesses an annual fee of \$50,000 for the first license held by a member organization. The Exchange believes that the proposed fee increase is an equitable allocation and is not unfairly discriminatory because the Exchange must adjust fees from time to time so that it can continue to cover costs and to make a profit on the products and services it offers. The proposed increased fee will apply to all members and it will allow the Exchange to cover the costs of providing its members with a well-regulated market. These costs include investing in the systems and people that support oversight of the market

##### 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. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or

<sup>4</sup> For example, the Exchange believes that the New York Stock Exchange ("NYSE") Trading License Fee is analogous to membership fees of NASDAQ as they both provide access to the trading facilities of their respective exchanges. In this regard, NYSE assesses an annual fee of \$50,000 for the first license held by a member organization. See [https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE\\_Price\\_List.pdf](https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Price_List.pdf). By contrast, NASDAQ would assess the proposed a [sic] monthly trading rights fee of \$1,250 (\$15,000 annually), together with an annual membership fee of \$3,000, and a monthly market participant identifier fee of \$550 per MPID (\$6,600 annually). See Rule 7001.

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

<sup>6</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>54</sup> See, e.g., Phlx Rule 1080(n).

<sup>55</sup> 15 U.S.C. 78f(b)(5), (b)(8).

<sup>56</sup> 15 U.S.C. 78s(b)(2).

<sup>57</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 66905 (May 2, 2012), 77 FR 27105 (May 8, 2012) (SR-NASDAQ-2012-056).