

Exchange also proposed to list and trade shares of Royce Pennsylvania ETF, Royce Premier ETF, and Royce Total Return ETF under proposed NYSE Arca Rule 8.900-E. The proposed rule change was published for comment in the **Federal Register** on January 26, 2018.³ The Commission has received five comment letters on the proposed rule change.⁴

Section 19(b)(2) of the Act⁵ 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 notice for this proposed rule change is March 12, 2018. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the comment letters. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,⁶ designates April 26, 2018, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File Number SR-NYSEArca-2018-04).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

Eduardo A. Aleman,
Assistant Secretary.

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³ See Securities Exchange Act Release No. 82549 (January 19, 2018), 83 FR 3846.

⁴ See letters from: (1) Terence W. Norman, Founder, Blue Tractor Group, LLC, dated February 6, 2018; (2) Simon P. Goulet, Co-Founder, Blue Tractor Group, LLC, dated February 13, 2018; (3) Todd J. Broms, Chief Executive Officer, Broms & Company LLC, dated February 16, 2018; (4) Kevin S. Haeberle, Associate Professor of Law, William & Mary Law School, dated February 16, 2018; and (5) Gary L. Gastineau, President, ETF Consultants.com, Inc., dated March 6, 2018. The comment letters are available at <https://www.sec.gov/comments/sr-nysearca-2018-04/nysearca201804.htm>.

⁵ 15 U.S.C. 78s(b)(2).

⁶ *Id.*

⁷ 17 CFR 200.30-3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82823; File No. SR-MIAX-2018-09]

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

March 7, 2018.

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 March 1, 2018, 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 the MIAX Options Fee Schedule (the “Fee Schedule”).

The text of the proposed rule change is available on the Exchange’s website 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 proposes to amend its Fee Schedule to introduce a cap on the amount of Member Participant Identifier

(“MPID”)³ fees that are assessed by the Exchange on an Electronic Exchange Member (“EEM”)⁴ per month. The Exchange is not proposing any new fees; the Exchange is simply proposing to introduce a monthly cap on certain existing fees.

The amount of MPID fees assessed by the Exchange on a particular EEM in a particular month is based on the number of MPIDs assigned to the particular EEM in the System⁵ in a given month, for each month the Member⁶ is credentialed to use such MPID in the production environment.⁷ EEMs request MPID assignments from the Exchange. EEMs are assessed a monthly MPID fee of \$200.00 for the first MPID assigned, \$100.00 each for the second through fifth MPID assigned, and \$50.00 each for the sixth MPID and any additional MPIDs assigned. The Exchange assesses MPID fees in order to cover the administrative costs it incurs in assigning and managing these identifiers for each EEM.

The Exchange now proposes to cap MPID fees at \$1,000.00 per month per EEM, regardless the actual number of MPIDs assigned to such EEM. As a practical matter, using the current fee table in Section 5e) of the Fee Schedule, the 14th MPID assigned to an EEM and each MPID thereafter would not incur an additional MPID fee, as the EEM would reach the cap of \$1,000.00 after assignment of the 13th MPID for that month.

The Exchange believes that establishing a monthly cap on MPID fees will give Members greater flexibility to accommodate their varying business models and customer configurations, as many Members often request multiple MPIDs from the Exchange, and the Exchange does not want MPID costs to serve as a barrier for requesting multiple MPIDs. The Exchange notes that several other

³ An MPID is a code used in the MIAX Options system to identify the participant to MIAX Options and to the participant’s Clearing Member respecting trades executed on MIAX Options. Participants may use more than one MPID.

⁴ The term “Electronic Exchange Member” or “EEM” means the holder of a Trading Permit who is a Member representing as agent Public Customer Orders or Non-Customer Orders on the Exchange and those non-Market Maker Members conducting proprietary trading. See Exchange Rule 100.

⁵ The term “System” means the automated trading system used by the Exchange for the trading of securities. See Exchange Rule 100.

⁶ The term “Member” means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed “members” under the Exchange Act. See Exchange Rule 100.

⁷ See Securities Exchange Act Release No. 68645 (January 14, 2013), 78 FR 4175 (January 18, 2013) (SR-MIAX-2012-05).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

exchanges offer fee caps on certain non-transaction fees as well.⁸

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b)⁹ of the Act in general, and furthers the objectives of Section 6(b)(4)¹⁰ of the Act, in that it is designed to provide for an equitable allocation of reasonable dues, fees and other charges among Exchange Members and issuers and other persons using its facilities, because it applies equally to all Members and any persons using the facilities or services of the Exchange. The Exchange also believes that the proposal furthers the objectives of Section 6(b)(5)¹¹ of the Act 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, and it is not designed to permit unfair discrimination among customers, brokers, or dealers.

The Exchange believes that the proposed amendment to establish a fee cap on MPID fees is reasonable, equitable, and not unfairly discriminatory. The proposal to cap the total amount of MPID fees that can be assessed upon an EEM to a maximum of \$1,000.00 per month is designed to promote just and equitable principles of trade by encouraging Members to configure their MPID assignments with greater granularity and for MPID costs to not serve as a barrier for requesting multiple MPIDs. Because any EEM is eligible to take advantage of the fee cap, the Exchange believes the fee cap is fair and equitable and not unreasonably discriminatory because it applies equally to all Members, and access to such fee cap is offered on terms that are not unfairly discriminatory.

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 believes that the proposed rule change would promote transparency by providing Members with more flexibility to configure their MPIDs with greater granularity by offering a reasonably designed fee structure and fee cap. Additionally, respecting intra-market competition, the fee cap on MPID assignments is available to all Members, thus providing all Members with an even playing field with respect to amount of fees that can be assessed by the Exchange for MPID assignments. 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. In such an environment, the Exchange must continually adjust its fees and fee waivers to remain competitive with other exchanges and to attract order flow to the Exchange.

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,¹² and Rule 19b-4(f)(2)¹³ 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. Please include File Number SR-MIAX-2018-09 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-2018-09. 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 website (<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 website 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MIAX-2018-09 and should be submitted on or before April 3, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Eduardo A. Aleman,
Assistant Secretary.

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⁸ See the Nasdaq Phlx LLC Pricing Schedule, Section VI(D), Remote Specialist Fee (fee cap of \$4,500 per month). See also the Nasdaq ISE, LLC Schedule of Fees, Section V(D), INET Port Fees (fee cap of \$4,000 per month for OTTO Port Fee).

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(4).

¹¹ 15 U.S.C. 78f(b)(5).

¹² 15 U.S.C. 78s(b)(3)(A)(ii).

¹³ 17 CFR 240.19b-4(f)(2).

¹⁴ 17 CFR 200.30-3(a)(12).