

alternative opportunity to exercise their right to nominate directors for the Board, consistent with the Exchange Act.

The proposed rule changes will require ICE to include in its Proxy Materials information regarding a director nominee nominated pursuant to proposed Section 2.15 in its Proxy Materials, including disclosures regarding the nominee and nominating stockholder(s), any statement in support of the nominee provided by the nominating stockholder(s), and any other information that ICE or the Board determines to include relating to the nomination. The Commission believes that the provision of such information could help stockholders to assess whether a nominee submitted pursuant to proposed Section 2.15 possesses the necessary qualifications and experience to serve as a director.

The proposed rule changes limit the availability of proxy access in certain circumstances. For example, in order to be eligible to submit a nomination to be included in the Proxy Materials pursuant to proposed Section 2.15, a shareholder (or group of shareholders) is required to own at least three percent of ICE's outstanding shares of common stock continuously for at least three years. Furthermore, a shareholder may not nominate a director to be included in the Proxy Materials pursuant to proposed Section 2.15 if he or she is holding ICE's securities with the intent of effecting a change of control of ICE. The proposed rule changes also generally would limit the number of director nominees submitted pursuant to proposed Section 2.15 that may be included in the Proxy Materials to twenty percent of the total number of directors of the Board. The proposed rule changes would allow ICE to disregard or omit nominees submitted pursuant to proposed Section 2.15 from the Proxy Materials in certain circumstances, including if the Board determines that the nomination or election of the nominee would result in ICE violating or failing to be in compliance with its governing documents or any applicable law, rule or regulation to which it is subject.⁴² The Commission notes that such limitations on proxy access seem designed to balance the ability of ICE shareholders to participate more fully in the nomination and election process against the potential cost and practical difficulties of requiring inclusion of shareholder nominations in proxy materials.

The Commission notes that the proposed proxy access provisions include safeguards to help verify that any director nominees submitted pursuant to proposed Section 2.15 would qualify as independent directors and that the nominating shareholder's nomination of the nominee, and the nominee's membership on the Board, if elected, would not violate any applicable laws, rules or regulations of any government entity or relevant self-regulatory organization. Specifically, the nominating stockholder must represent and warrant, among other things, that: (i) The nominee's candidacy or, if elected, membership on the Board would not violate applicable state or federal law or the rules of the principal national securities exchange on which ICE's securities are traded; (ii) the nominee does not have any direct or indirect relationship with ICE that will cause the nominee to be deemed not independent under the Board's Independence Policy;⁴³ and (iii) the nominee qualifies as independent under the rules of the principal national securities exchange on which ICE's common stock is traded and meets that exchange's audit committee independence requirements.⁴⁴ In addition, each nominating stockholder is required to provide an executed agreement, pursuant to which he or she agrees to comply with all applicable laws, rules and regulations in connection with the nomination, solicitation, and election of a nominee. The nominee is also required to provide an executed agreement, pursuant to which: (i) If elected, the nominee agrees to adhere to ICE's Corporate Governance Guidelines and Global Code of Business Conduct and any other policies and guidelines applicable to directors; and (ii) the nominee agrees that he or she is not and will not become party to certain financial or voting arrangements that may present conflicts of interest or interfere with the nominee's ability to comply, if elected, with his or her fiduciary duties under applicable law.⁴⁵

The Commission notes that the safeguards and limitations described above should help to ensure ICE can comply with its bylaws and any applicable laws, rules, regulations,

⁴³ See also *id.* (permitting ICE to omit from its Proxy Materials any nominee submitted pursuant to proposed Section 2.15 if the Board determines that nomination or election of that nominee to the Board would cause ICE to violate or fail to be in compliance with its Bylaws, its certificate of incorporation, or any applicable law, rule or regulation, including any rules or regulations of the principal national securities exchange on which ICE's common stock is traded).

⁴⁴ See *supra* notes 12–19 and accompanying text.

⁴⁵ See *supra* notes 20–21 and accompanying text.

including, among others, the Board's Independence Policy and exchange listing standards on independent directors and audit committees, consistent with Section 6(b)(5) of the Act. Based on the foregoing, the Commission finds that the proposed rule changes filed by the Exchanges are consistent with the Act.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁴⁶ that the proposed rule changes (SR–NYSE–2016–14, SR–NYSEArca–2016–25, SR–NYSEMKT–20), be, and hereby are, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁷

Robert W. Errett,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77777; File No. SR–MIAX–2016–09]

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

May 6, 2016.

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 April 26, 2016, 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 “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

⁴⁶ 15 U.S.C. 78s(b)(2).

⁴⁷ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

⁴² See, e.g., Proposed Section 2.15(e)(i)(C).

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: (i) Offer to each Qualifying Member (as defined below) a rebate of \$0.03 per contract executed within Tier 1 of the Priority Customer Rebate Program (the "PCRP"),³ and (ii) amend the definition of "Baseline Percentage" under the Professional Rebate Program. The Exchange is also proposing a technical clarifying amendment to the Fee Schedule, as described below.

The Exchange proposes to amend Section (1)(a)(iii) of the Fee Schedule to offer a \$0.03 rebate per contract executed within Tier 1 of the PCRP to each "Qualifying Member," as defined below. Tier 1 of the PCRP [sic] currently offers no per contract credits to Members that execute a number of Priority Customer⁴ contracts as a percentage of national customer volume in multiply-listed options classes (with certain exclusions detailed in the Fee

³ Under the PCRP [sic], MIAX credits each Member the per contract amount resulting from each Priority Customer order transmitted by that Member which is executed electronically on the Exchange in all multiply-listed option classes (excluding QCC Orders, mini-options, Priority Customer-to-Priority Customer Orders, PRIME AOC Responses, PRIME Contra-side Orders, PRIME Orders for which both the Agency and Contra-side Order are Priority Customers, 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 MIAX Rule 1400), provided the Member meets certain percentage thresholds in a month as described in the Priority Customer Rebate Program table. See Fee Schedule, Section (1)(a)(iii).

⁴ 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).

schedule)⁵ listed on MIAX of 0.00% to 0.50% in a given month, unless the Priority Customer contracts executed in Tier 1 are the result of a PRIME⁶ Agency Order, which receive a rebate of \$0.10 per contract.

In order to provide incentive for order flow providers to increase the volume of Professional⁷ orders they submit to the Exchange, and to send additional Priority Customer order flow as well, the Exchange proposes to offer the \$0.03 per contract credit for Priority Customer contracts executed in Tier 1 of the PCRP [sic] program to Members that achieve certain volume increases in the Professional Rebate Program. Specifically, the Exchange proposes to provide a rebate of \$0.03 per Priority Customer contract executed in Tier 1 of the PCRP [sic] in a given month to Members that execute a certain number of contracts in that month for the account(s) of a Professional and which qualify for the Professional Rebate Program described in Section (1)(a)(iv) of the Fee Schedule.

In order to qualify for the proposed monthly PCRP [sic] Tier 1 rebate, a Member must execute an increased percentage of contracts on MIAX in that same month for the account(s) of a Professional (not including mini-options, Non-Priority Customer-to-Non-Priority Customer Orders, QCC Orders, PRIME Orders, PRIME AOC Responses, PRIME Contra-side Orders, 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 MIAX Rule 1400 (collectively, for purposes of the Professional Rebate Program, "Excluded Contracts")) by greater than 0.065% of the number of contracts executed by the Member for the account(s) of a Professional during the fourth quarter of 2015 as a percentage of the total volume reported by the Options Clearing Corporation ("OCC") in MIAX classes during the fourth quarter of 2015 (the "Baseline Percentage"). For the purpose of establishing a Baseline Percentage for any Member for whom no fourth quarter 2015 Baseline Percentage exists, MIAX

⁵ See *supra* note 3.

⁶ The MIAX Price Improvement Mechanism ("PRIME") is a price improvement auction under which the Initiating Member electronically submits an order that it represents as agent (an "Agency Order") into a PRIME Auction ("Auction"), which the Initiating Member is willing to match as principal, the price and size of responses in the Auction at a single price or up to an optional designated limit price. See Exchange Rule 515A.

⁷ A "Professional" is a (i) Public Customer that is not a Priority Customer; (ii) Non-MIAX Market Maker; (iii) Non-Member Broker-Dealer; or (iv) Firm. See Fee Schedule, Section (1)(a)(iv).

will use 0.03% as that Member's Baseline Percentage, as described below.

A Member that qualifies to receive the proposed PCRP [sic] Tier 1 rebate will be known as a "Qualifying Member," which is a Member or its affiliates of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, that qualifies for the Professional Rebate Program and achieves a volume increase in excess of 0.065% over the applicable Baseline Percentage for Professional orders transmitted by that Member which are executed electronically on the Exchange in all multiply-listed option classes for the account(s) of a Professional and which qualify for the Professional Rebate Program during a particular month, relative to the appropriate Baseline Percentage (described below). The Exchange will aggregate the contracts resulting from orders of a Qualifying Member transmitted and executed electronically on the Exchange from affiliated Members of the Qualifying Member, provided there is at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A.

The Exchange also proposes to establish a new "Baseline Percentage" for Members who did not execute contracts for the account(s) of a Professional during the fourth quarter of 2015 in order to permit such Members to benefit from all of the rebates offered under the Professional Rebate Program. Currently, the Professional Rebate Program affords a per contract credit based upon the increase in the total volume submitted by a Member and executed for the account(s) of a Professional on MIAX (not including Excluded Contracts) during a particular month as a percentage of the total volume reported by (OCC) in MIAX classes during the same month (the "Current Percentage"), less the total volume submitted by that Member and executed for the account(s) of a Professional on MIAX (not including Excluded Contracts) during the fourth quarter of 2015 as a percentage of the total volume reported by OCC in MIAX classes during the fourth quarter of 2015 (the "Baseline Percentage"). The Exchange proposes to define a Baseline Percentage for Members who did not execute contracts for the account(s) of a Professional during the fourth quarter of 2015. For such Members (with respect to all available rebates in the Professional Rebate Program), the "Baseline Percentage" will be .03%.

The purpose of the proposed rule change is to encourage Members to direct an increased level of Professional contract volume to the Exchange by

offering to provide such Members with an additional, concurrent incentive to direct Priority Customer order flow to the Exchange. The Exchange believes that increased Professional and Priority Customer volume will attract more liquidity to the Exchange, which benefits all market participants. Increased Professional and Priority Customer order flow should attract professional liquidity providers (Market Makers), which in turn should make the MIAX marketplace an attractive venue where Market Makers will submit narrow quotations with greater size, deepening and enhancing the quality of the MIAX marketplace. This should provide more trading opportunities and tighter spreads for other market participants and result in a corresponding increase in order flow from such other market participants.

The Exchange is also proposing a minor technical amendment to Section (1)(a)(iii) of the Fee Schedule to refer specifically to “The Priority Customer rebate” payment instead of stating “This” payment in the third paragraph under the PRCP [sic] table. This is intended for clarity and ease of reference.

The credits paid out as part of the PCRCP will be drawn from the general revenues of the Exchange.⁸ The Exchange calculates volume thresholds on a monthly basis. The proposed rule changes are to take effect May 1, 2016.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act⁹ in general, and furthers the objectives of Section 6(b)(4) of the Act¹⁰ in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members, and issuers and other persons using its facilities.

The Exchange believes that the proposal to offer the rebate under the PCRCP to Qualifying Members is fair, equitable and not unreasonably discriminatory, because it applies equally to all Qualifying Members. The proposed per contract rebate for Priority Customer orders is reasonably designed because it will encourage providers of Professional order flow to send increased Professional order flow to the

Exchange in order to receive the per contract credit for achieving Tier 1 volume in contracts executed for Priority Customers. The Exchange thus believes that the proposed new rebate should improve market quality for all market participants by providing more execution opportunities. All Qualifying Members will receive the same rebate for Priority Customer contracts executed in PRCP [sic] Tier 1.

The Exchange believes that the proposal to amend the definition of Baseline Percentage is fair, equitable and not unreasonably discriminatory. The Exchange believes that the proposed definition of Baseline Percentage should provide an equal opportunity, and a beginning measuring percentage, for all Members that did not have a Baseline Percentage for the fourth quarter of 2015 to submit Professional order flow and thus become Qualifying Members for the Tier 1 Priority Customer contract rebate. This should in turn increase order flow, trading opportunities and improve the overall depth, liquidity and quality of the market for all MIAX participants.

Additionally, the proposed amended definition of Baseline Percentage is equitable and not unfairly discriminatory because it will benefit Members who did not execute orders for the account(s) of a Professional in the fourth quarter of 2015 and such Members will now be on an equal playing field with respect to the calculation of their potential increase in percentage of Professional contracts executed for purposes of becoming a Qualifying Member.

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 believes that the proposed changes would increase both intermarket and intramarket competition by encouraging Members to direct their Professional and Priority Customer orders to the Exchange, which should enhance the quality of quoting and increase the volume of contracts traded on MIAX. The Exchange believes that the changes to each of the PCRCP and the Professional Rebate Program should provide additional liquidity that enhances the quality of its markets and increases the number of trading opportunities on MIAX for all participants, who will be able to compete for such opportunities. This should benefit all market participants

and improve competition on the Exchange.

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 rebates to remain competitive with other exchanges and to attract order flow to the Exchange. The Exchange believes that the proposed rule change reflects this competitive environment because it adds new rebates and thus encourages market participants to direct both their Professional and Priority Customer order flow to the Exchange. Given the robust competition for volume among options markets, many of which offer the same products, enhancing the existing volume-based PCRCP and Professional Rebate Programs to attract order flow is consistent with the goals of the Act. The Exchange believes that the proposal will enhance competition, because market participants will have another additional pricing consideration in determining where to execute orders and post liquidity if they factor the benefits of the proposed amendments to the PCRCP and Professional Rebate Program into the determination.

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,¹¹ and Rule 19b-4(f)(2)¹² 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

⁸ Despite providing credits under the PCRCP and the Professional Rebate Program, the Exchange represents that it will continue to have adequate resources to fund its regulatory program and fulfill its responsibilities as a self-regulatory organization while each of the PCRCP and the Professional Rebate Program is in effect.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(4).

¹¹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹² 17 CFR 240.19b-4(f)(2).

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-2016-09 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-2016-09. 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 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 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-2016-09, and should be submitted on or before June 2, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Robert W. Errett,
Deputy Secretary.

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SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2015-0060]

Privacy Act of 1974, as Amended; Computer Matching Program (SSA/ Department of the Treasury, the Bureau of the Fiscal Service (Fiscal Service)—Match Number 1038

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a renewal of an existing computer matching program that will expire on June 25, 2016.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a renewal of an existing computer matching program that we are currently conducting with Fiscal Service.

DATES: We will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Oversight and Government Reform of the House of Representatives; and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefaxing to (410) 966-0869 or writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235-6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100-503), amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for persons applying for, and receiving, Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508) further amended the Privacy Act regarding protections for such persons.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government

records. It requires Federal agencies involved in computer matching programs to:

- (1) Negotiate written agreements with the other agency or agencies participating in the matching programs;
- (2) Obtain approval of the matching agreement by the Data Integrity Boards of the participating Federal agencies;
- (3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or denying a person's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of our computer matching programs comply with the requirements of the Privacy Act, as amended.

Glenn Sklar,

Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

Notice of Computer Matching Program, SSA With the Department of the Treasury, the Bureau of the Fiscal Service (Fiscal Service)

A. Participating Agencies

SSA and Fiscal Service.

B. Purpose of the Matching Program

The purpose of this matching program sets forth the terms, conditions, safeguards, and procedures under which Fiscal Service will disclose savings security data to us. We will use the data to determine continued eligibility for Supplemental Security Income (SSI) applicants and recipients, or the correct benefit amount for recipients and deemors who did not report or incorrectly reported ownership of savings securities.

C. Authority for Conducting the Matching Program

The legal authority for this matching program is executed under the Privacy Act of 1974, 5 United States Code (U.S.C.) 552a, as amended by the Computer Matching and Privacy Protection Act of 1988, as amended, and the regulations and guidance promulgated thereunder.

The legal authority for us to conduct this matching program is contained in 1631(e)(1)(B), and 1631(f) of the Social Security Act (Act), (42 U.S.C. 1383(e)(1)(B), and 1383(f)).

¹³ 17 CFR 200.30-3(a)(12).