

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80940; File No. SR-MIAX-2017-16]

### Self-Regulatory Organizations; Miami International Securities Exchange LLC; Order Approving a Proposed Rule Change Relating to the Exposure Periods of the MIAX Price Improvement Mechanism and Solicitation Mechanism

June 15, 2017.

#### I. Introduction

On April 25, 2017, Miami International Securities Exchange LLC (“MIAX Options” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) 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> a proposed rule change to amend MIAX Options Rule 515A to modify the exposure periods of the Exchange’s Price Improvement Mechanism (“PRIME”) and PRIME Solicitation Mechanism from 500 milliseconds to a time period designated by the Exchange of no less than 100 milliseconds and no more than 1 second. The proposed rule change was published for comment in the **Federal Register** on May 5, 2017.<sup>3</sup> The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

#### II. Description of the Proposed Rule Change

PRIME is a process by which a Member <sup>4</sup> may electronically submit for execution an order it represents as agent (“Agency Order”) against principal interest, and/or an Agency Order against solicited interest.<sup>5</sup> When the Exchange receives a properly designated Agency Order for auction processing, a Request

for Responses (“RFR”) detailing the option, side, size, and initiating price is sent to all subscribers of the Exchange’s data feeds. Currently, the RFR period lasts for 500 milliseconds, unless it is concluded early.<sup>6</sup> The Exchange proposes to revise the RFR response period to permit the Exchange to designate a specific time within a range of no less than 100 milliseconds and no more than 1 second.<sup>7</sup>

#### III. Discussion and Commission’s 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.<sup>8</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>9</sup> which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation

<sup>6</sup> A PRIME and PRIME Solicitation Auction will conclude at the sooner of: (1) Upon receipt of an unrelated order (in the same option as the Agency Order) on the opposite side of the market from the RFR responses, that is marketable against either the National Best Bid or Offer (“NBBO”), the initiating price, or the RFR responses; (2) upon receipt of an unrelated order (in the same option as the Agency Order) on the same side of the market as the RFR responses, that is marketable against the NBBO; (3) upon receipt of an unrelated limit order (in the same option as the Agency Order) on the opposite side of the market from the Agency Order that improves any RFR response; (4) any time an RFR response matches the NBBO on the opposite side of the market from the RFR responses; (5) any time there is a quote lock in the subject option on the Exchange pursuant to Exchange Rule 1402; or (6) any time there is a trading halt in the option on the Exchange. See Exchange Rule 515A.

<sup>7</sup> The Exchange notes that its proposal is consistent with exposure periods permitted in similar mechanisms on other options exchanges. See Notice, *supra* note 3, at 21288 & n.6; see also Securities Exchange Act Release Nos. 76301 (October 29, 2015), 80 FR 68347 (November 4, 2015) (SR-BX-2015-032) (establishing an exposure period for the Nasdaq BX’s options price improvement mechanism (“PRISM”) of no less than 100 milliseconds and no more than 1 second); 77557 (April 7, 2016), 81 FR 21935 (April 13, 2016) (SR-Phlx-2016-40) (amending the exposure period for the Nasdaq Phlx’s Price Improvement XL (“PIXL”) to be no less than 100 milliseconds and no more than 1 second); 79733 (January 4, 2017), 82 FR 3055 (January 10, 2017) (SR-ISE-2016-26) (amending the exposure period for the Nasdaq ISE’s Price Improvement Mechanism (“PIM”) to be no less than 100 milliseconds and no more than 1 second); and 80738 (May 22, 2017), 82 FR 24417 (May 26, 2017) (SR-CBOE-2017-029) (amending the exposure periods for the CBOE’s Automated Improvement Mechanism (“AIM”) and Solicitation Auction Mechanism (“SAM”) to be no less than 100 milliseconds and no more than 1 second).

<sup>8</sup> 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>9</sup> 15 U.S.C. 78f(b)(5).

and coordination with persons engaged in regulating 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 not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Commission also finds that the proposed rule change is consistent with Section 6(b)(8) of the Act,<sup>10</sup> which requires that the rules of an exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Commission believes that, given the electronic nature of the PRIME and PRIME Solicitation Mechanism and the ability of Members to respond within the proposed exposure periods, modifying each of the exposure periods from 500 milliseconds to a time designated by the Exchange of no less than 100 milliseconds and no more than 1 second could facilitate the prompt execution of orders, while continuing to provide market participants with an opportunity to compete to trade with the exposed order by submitting responses to the auctions. According to the Exchange, numerous Members have the capability to and do respond within a 100 millisecond exposure period or less.<sup>11</sup>

To substantiate that its members can receive, process, and communicate a response back to the Exchange within 100 milliseconds, the Exchange states that it surveyed all Members that responded to an auction broadcast in the period beginning November 2016 and ending January 2017 (the “review period”).<sup>12</sup> According to the Exchange, each Member it surveyed indicated that they can receive, process, and communicate a response back to the Exchange within 100 milliseconds.<sup>13</sup> In addition, the Exchange states that it reviewed all responses received in PRIME and PRIME Solicitation Auctions from its Members for the review period, and its review indicated that approximately 90% of responses were submitted within 100 milliseconds.<sup>14</sup> Furthermore, with regard to the impact of the proposal on system capacity, the Exchange states that it has analyzed its capacity and represents that it has the necessary systems capacity to handle the potential additional traffic associated with the additional transactions that may occur with the

<sup>10</sup> 15 U.S.C. 78f(b)(8).

<sup>11</sup> See Notice, *supra* note 3, at 21289.

<sup>12</sup> See *id.*

<sup>13</sup> See *id.*

<sup>14</sup> See *id.*

<sup>17</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. 80570 (May 1, 2017), 82 FR 21288 (“Notice”).

<sup>4</sup> 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.

<sup>5</sup> See Exchange Rule 515A.

implementation of the proposed reduction response time duration to no less than 100 milliseconds.<sup>15</sup> The Exchange also represents that its system will be able to sufficiently maintain an audit trail for order and trade information with the reduction in the response timer.<sup>16</sup>

Based on the Exchange's statements, the Commission believes that market participants should continue to have opportunities to compete to trade with the exposed order by submitting responses to the PRIME and PRIME Solicitation Mechanism within an exposure period of no less than 100 milliseconds and no more than 1 second.<sup>17</sup> Accordingly, for the reasons discussed above, the Commission believes that the Exchange's proposal is consistent with the Act.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>18</sup> that the proposed rule change (SR-MIAX-2017-16) be, and hereby is, approved.

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

**Eduardo A. Aleman,**  
Assistant Secretary.

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#### SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32682; 812-14728]

#### Westcore Trust and Denver Investment Advisors LLC; Notice of Application

June 16, 2017.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from section 15(a) of the Act and rule 18f-2 under the Act, as well as from certain disclosure requirements in rule 20a-1 under the Act, Item 19(a)(3) of Form N-1A, Items 22(c)(1)(ii), 22(c)(1)(iii),

22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934, and Sections 6-07(2)(a), (b), and (c) of Regulation S-X ("Disclosure Requirements"). The requested exemption would permit an investment adviser to hire and replace certain sub-advisers without shareholder approval and grant relief from the Disclosure Requirements as they relate to fees paid to the sub-advisers.

**APPLICANTS:** Westcore Trust (the "Trust"), a Massachusetts business trust registered under the Act as an open-end management investment company with multiple series (each, a "Series"), and Denver Investment Advisors LLC, a Colorado limited liability company registered as an investment adviser under the Investment Advisers Act of 1940 (the "Advisor," and, collectively with the Trust, the "Applicants").

**FILING DATES:** The application was filed on December 15, 2016, and amended on March 13, 2017.

#### HEARING OR NOTIFICATION OF HEARING:

An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 11, 2017 and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. Applicants: c/o Peter H. Schwartz, Esq., Davis Graham & Stubbs LLP, 1550 17th Street, Suite 500, Denver, Colorado 80202.

#### FOR FURTHER INFORMATION CONTACT:

Elizabeth G. Miller, Senior Counsel, at (202) 551-8707, or Aaron Gilbride, Acting Branch Chief, at (202) 551-6906 (Division of Investment Management, Chief Counsel's Office).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

[www.sec.gov/search/search.htm](http://www.sec.gov/search/search.htm) or by calling (202) 551-8090.

#### Summary of the Application

1. The Advisor will serve as the investment adviser to the Subadvised Series pursuant to an investment advisory agreement with the Trust (each, an "Investment Management Agreement").<sup>1</sup> The Advisor will provide the Subadvised Series with continuous and comprehensive investment management services subject to the supervision of, and policies established by, each Subadvised Series' board of trustees (the "Board").<sup>2</sup> Each Investment Management Agreement permits the Advisor, subject to the approval of the Board, to delegate to one or more Sub-Advisors the responsibility to provide the day-to-day portfolio investment management of each Subadvised Series, subject to the supervision and direction of the Advisor.<sup>3</sup> The primary responsibility for managing the Subadvised Series will remain vested in the Advisor. The Advisor will hire, evaluate, allocate assets to and oversee the Sub-Advisors, including determining whether a Sub-Advisor should be terminated, at all times subject to the authority of the Board.

2. Applicants request an exemption to permit the Advisor, subject to Board approval, to hire a Non-Affiliated Sub-Advisor or a Wholly-Owned Sub-Advisor, pursuant to Sub-Advisory Agreements and materially amend Sub-

<sup>1</sup> Applicants request that the relief sought herein apply to the named Applicants, as well as to any future Series of the Trust and any other existing or future registered open-end management investment company or series thereof that intends to rely on the requested order in the future and that (i) is advised by the Advisor, its successors, and any entity controlling, controlled by or under common control with an Advisor or its successors (included in the term "Advisor"), (ii) uses the multi-manager structure described in this application, and (iii) complies with the terms and conditions of this application (each, a "Subadvised Series"). For the purposes of the requested order, "successor" is limited to an entity resulting from a reorganization into another jurisdiction or a change in the type of business organization.

<sup>2</sup> The term "Board" includes the board of trustees or directors of a future Subadvised Series.

<sup>3</sup> A "Sub-Advisor" for a Series is (1) an indirect or direct "wholly-owned subsidiary" (as such term is defined in the Act) of the Advisor for that Series, or (2) a sister company of the Advisor for that Series that is an indirect or direct "wholly-owned subsidiary" (as such term is defined in the Act) of the same company that, indirectly or directly, wholly owns the Advisor (each of (1) and (2) a "Wholly-Owned Sub-Advisor" and collectively, the "Wholly-Owned Sub-Advisers"), or (3) an investment sub-adviser for that Series that is not an "affiliated person" (as such term is defined in Section 2(a)(3) of the Act) of the Series or the Advisor, except to the extent that an affiliation arises solely because the Sub-Advisor serves as a sub-adviser to one or more Series (each a "Non-Affiliated Sub-Advisor" and collectively, the "Non-Affiliated Sub-Advisers").

<sup>15</sup> See *id.* at 21289-90.

<sup>16</sup> See *id.* at 21290.

<sup>17</sup> The Commission notes that the ability to designate such an exposure time period is consistent with the rules of other options exchanges. See *supra* note 7. See also NASDAQ Phlx Rule 1080(n)(ii)(A)(4), NASDAQ BX Options Rules Chapter VI, Section 9(ii)(A)(3), Nasdaq ISE Rule 716, Supplementary Material .04, Nasdaq ISE Rule 723(c)(1), CBOE Rule 6.74A(b)(1)(C), and CBOE Rule 6.74B(b)(1)(C).

<sup>18</sup> 15 U.S.C. 78s(b)(2).

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