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SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-71310; File No. SR-MIAX-2014-01)

January 15, 2014

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Modify the Quarterly Options Series Program to Eliminate the Cap on the Number of Additional Series That May Be Listed Per Expiration Month for Each Quarterly Options Series in ETF Options

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> notice is hereby given that, on January 13, 2014, 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 and II 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 Rule 404 to eliminate the cap on the number of additional series that may be listed per expiration month for each Quarterly Option Series (“QOS”) in exchange-traded fund (“ETF”) options.

The text of the proposed rule change is available on the Exchange’s website at [http://www.miaxoptions.com/filter/wotitle/rule\\_filing](http://www.miaxoptions.com/filter/wotitle/rule_filing), at MIAX’s principal office, and at the Commission’s Public Reference Room.

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

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

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

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

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

1. Purpose

The Exchange is proposing to amend Exchange Rule 404 to eliminate the cap on the number of additional series that may be listed per expiration month for each QOS in ETF options.<sup>3</sup> This is a competitive filing that is based on proposals recently submitted by NYSE Arca, Inc. (“NYSE Arca”) and NYSE MKT LLC (“NYSE MKT”).<sup>4</sup> As set out in Exchange Rule 404.03, the Exchange may list QOS for up to five currently listed options classes that are options on ETFs. The Exchange may also list QOS on any option classes that are selected by other securities exchanges that employ a similar program under their respective rules. Currently, for each QOS in ETF options that has been initially listed on the Exchange, the Exchange may list up to 60 additional series per expiration month.<sup>5</sup>

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<sup>3</sup> A Quarterly Option Series is a series of an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any business day, and that expires at the close of business on the last business day of a calendar quarter. The Exchange lists series that expire at the end of the next consecutive four (4) calendar quarters, as well as the fourth quarter of the next calendar year. See Rule 404.03.

<sup>4</sup> See Securities Exchange Act Release Nos. 70855 (November 13, 2013) 78 FR 69493 (November 19, 2013) (SR-NYSEArca-2013-120); 70854 (November 13, 2013) 78 FR 69465 (November 19, 2013) (SR-NYSEMKT-2013-90).

<sup>5</sup> See Exchange Rule 404.03(d).

The Exchange is proposing to amend Rule 404.03(d) to make the treatment of QOS in ETF options consistent with the treatment of QOS on other options exchanges.<sup>6</sup> The Exchange believes that the proposed revision to the QOS Program would provide market participants with the ability to better tailor their trading to meet their investment objectives, including hedging securities positions, by permitting the Exchange to list additional QOS in ETF options that meet such objectives. The Exchange has observed that situations arise in which additional strike prices in smaller intervals would be valuable to investors. However, due to the cap on additional QOS series the Exchange cannot always provide these important at-the-money strikes. Elimination of the cap would remedy this issue.

Currently, the Exchange lists quarterly expiration options on ETFs, but the cap restricts the number of strikes on these options, which often results in a lack of strike continuity. For example, the Exchange lists quarterly expiration options on SPDR Gold Trust (“GLD”). On January 2, 2013, the Exchange could have initially listed December 31, 2013 quarterly expiration options (“December 2013 Quarterlies”) on GLD, which closed the previous trading day at \$162.02, with initial strikes from \$115 to \$210, and additional strikes in \$1 intervals from \$131 to \$189. But during 2013, GLD has closed at a range of \$115.94 to \$163.67 and is currently trading around \$118. As a result of the cap, the Exchange could not offer December 2013 Quarterlies on GLD in \$1 intervals within \$10 of the closing price of GLD because the number of strikes would exceed the cap of 60 additional strikes. Consequently, the Exchange is not able to list important at-the-money strikes due to the cap on additional strikes. While the Exchange has the ability to delist strikes with no open interest so that it may list strikes that are closer to the

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<sup>6</sup> See NYSE Arca Rule 6.4 Commentary .08(ii) and NYSE MKT Rule 903 Commentary .09(d).

money, delisting is not always possible. If all of the existing strikes have open interest, the Exchange cannot delist strikes so that it may list strikes closer to the money.

But the Exchange is not subject to a similar cap on the number of additional monthly expiration options it can list on ETFs. So, for example, the Exchange can list additional monthly expiration options on GLD in \$1 intervals from \$85 to \$178. Therefore, due to the cap, the Exchange cannot list, and an investor cannot structure an investment on a quarterly basis with the same granularity that can be achieved on monthly basis.

Similarly, the Exchange lists quarterly options on SPDR S&P 500 ETF (“SPY”), which during 2013 closed at a range of \$145.55 to \$173.05. Again, due to the cap, the Exchange cannot offer quarterly expiration options on SPY in \$1 intervals above \$170 because the number of additional strikes would exceed the cap of 60. Instead, the Exchange is forced to list quarterly expiration options on SPY at \$5 intervals above \$170, despite the fact that SPY has recently traded between \$165 and \$170. As such, if SPY would again increase to \$170, then the Exchange would only be able to offer options with a strike price \$5 away from the price of the underlying ETF due to the cap on additional strikes.

Elimination of the cap would also help market participants meet their investment objectives by providing expanded opportunities to roll ETF options into later quarters. For example, a market participant that holds one or more contracts in a QOS in an ETF put option that has a strike price of \$120 and an expiration date of the last day of the third quarter may wish to roll that position into the fourth quarter. That is, the market participant may wish to close out the contracts set to expire at the end of the third quarter and instead establish a position in the same number of contracts in a QOS in a put on the same ETF with the same strike price of \$120, but with an expiration date of the last day of the fourth quarter. Because of the cap on additional

QOS in ETF options, however, the Exchange may not be able to list additional QOS in the ETF. Elimination of the cap, though, would allow the Exchange to meet the investment needs of market participants in such situations.

The Exchange believes that it possesses sufficient capacity to handle increased quote and trade reporting traffic that might be expected to result from listing additional QOS in ETF options.<sup>7</sup> In the Exchange's view, it would be inconsistent to prohibit the listing of additional QOS beyond a specified cap when each exchange independently purchases capacity to meet its quote and trade reporting traffic needs.<sup>8</sup>

Moreover, the Exchange has in place a quote mitigation plan that helps it maintain sufficient capacity to handle quote traffic.<sup>9</sup>

To help ensure that only active options series are listed, the Exchange also has in place procedures to delist inactive series. Exchange Rule 404.03(f) requires the Exchange to review QOS that are outside of a range of five strikes above and five strikes below the current price of the underlying ETF. Based on that review, the Exchange must delist series with no open interest in both the call and the put series having (i) a strike price higher than the highest price with open interest in the put and/or call series for a given expiration month, and (ii) a strike price lower

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<sup>7</sup> The SEC has relied upon an exchange's representation that it has sufficient capacity to support new options series in approving a rule amendment permitting the listing of additional option series. See Securities Exchange Act Release No. 57410 (Jan. 17, 2008), 73 FR 12483, 12484 (Mar. 7, 2008) (SR-CBOE-2007-96) (amendments to CBOE Rule 5.5(e)(3)) ("In approving the proposed rule change, the Commission has relied upon the Exchange's representation that it has the necessary systems capacity to support new options series that will result from this proposal").

<sup>8</sup> See Securities Exchange Act Release No. 48822 (Nov. 21, 2003), 68 FR 66892 (Nov. 28, 2003) (SR-OPRA-2003-01) (requiring exchanges to acquire options market data transmission capacity independently, rather than jointly).

<sup>9</sup> See Exchange Rule 404A.

than the lowest strike price with open interest in the put and/or call series for a given expiration month.

## 2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b)<sup>10</sup> of the Act in general, and furthers the objectives of Section 6(b)(5)<sup>11</sup> 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.

The Exchange believes that the proposed rule change is designed to remove impediments to and perfect the mechanism of a free and open market because it will expand the investment options available to investors and will allow for more efficient risk management. The Exchange believes that removing the cap on the number of QOS in ETF options permitted to be listed on the Exchange will result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment and hedging decisions to their needs, and therefore, the proposal is designed to protect investors and the public interest. Additionally, by removing the cap, the proposed rule change will make the treatment of QOS in ETF options consistent with the treatment of QOS in index options on other option exchanges, thus resulting in similar regulatory treatment for similar options products.

While the expansion of the number of QOS in ETF options is expected to generate additional quote traffic, the Exchange believes that this increased traffic will be manageable and

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

<sup>11</sup> 15 U.S.C. 78f(b)(5).

will not present capacity problems. As previously stated, the Exchange has in place a quote mitigation plan that helps it maintain sufficient capacity to handle quote traffic. To help ensure that only active options series are listed, Exchange procedures are designed to delist inactive series, ensuring that any additional quote traffic is a result of interest in active series.

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. Specifically, the Exchange believes that investors would benefit from the introduction of additional QOS in ETF options by providing investors with more flexibility to closely tailor their investment and hedging decisions to their needs. Additionally, Exchange procedures for delisting inactive series will ensure that only active series with sufficient investor interest will be made available and maintained on 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

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup>

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<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that waiver of this requirement will allow the Exchange to make the treatment of QOS in ETF options consistent with the treatment of QOS in index options at other option exchanges. The proposal will also allow the Exchange to meet investor demand for an expanded number of QOS in ETF options, allowing investors to meet investment objectives, including hedging securities positions, currently unavailable because of the limited number of QOS in ETF options available. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest and will allow the Exchange to remain competitive with other exchanges. Therefore, the Commission designates the proposed rule change to be operative upon filing.<sup>14</sup>

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.

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days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

<sup>14</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

#### 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-MIAX-2014-01 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-MIAX-2014-01. This file number should be included on the subject line if e-mail 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; 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-2014-01 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).