



## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81998; File No. SR-MIAX-2017-45]

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

November 2, 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 October 30, 2017, Miami International Securities Exchange LLC (“MIAX Options” or “Exchange”) filed with the Securities and Exchange Commission (“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 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

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

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

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 the list of MIAX Select Symbols<sup>3</sup> contained in the Priority Customer Rebate Program (the "Program")<sup>4</sup> of the Exchange's Fee Schedule to 1. delete the symbol "SUNE" associated with SunEdison, Inc. ("SunEdison") and 2. replace the symbol "BBRY" with "BB" associated with BlackBerry Limited ("BlackBerry").

The Exchange initially created the list of MIAX Select Symbols on March 1, 2014,<sup>5</sup> and has added and removed option classes from that list since that time.<sup>6</sup> On April 26, 2016, the

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<sup>3</sup> The term "MIAX Select Symbols" means options overlying AAL, AAPL, AIG, AMAT, AMD, AMZN, BA, BABA, BBRY, BIDU, BP, C, CAT, CBS, CELG, CLF, CVX, DAL, EBAY, EEM, FB, FCX, GE, GILD, GLD, GM, GOOGL, GPRO, HAL, HTZ, INTC, IWM, JCP, JNJ, JPM, KMI, KO, MO, MRK, NFLX, NOK, NQ, ORCL, PBR, PFE, PG, QCOM, QQQ, RIG, S, SPY, SUNE, T, TSLA, USO, VALE, VXX, WBA, WFC, WMB, WY, X, XHB, XLE, XLF, XLP, XOM, and XOP.

<sup>4</sup> See section 1)a)iii) of the Fee Schedule for a complete description of the Program.

<sup>5</sup> See Securities Exchange Act Release No. 71700 (March 12, 2014), 79 FR 15188 (March 18, 2014) (SR-MIAX-2014-13).

<sup>6</sup> See Securities Exchange Act Release Nos. 8109 (June 26, 2017), 82 FR 29962 (June 30, 2017) (SR-MIAX-2017-29); 79301 (November 14, 2016), 81 FR 81854 (November 18, 2016) (SR-MIAX-2016-42); 74291 (February 18, 2015), 80 FR 9841 (February 24, 2015) (SR-MIAX-2015-09); 74288 (February 18, 2015), 80 FR 9837 (February 24, 2015) (SR-MIAX-2015-08); 73328 (October 9, 2014), 79 FR 62230 (October 16, 2014) (SR-MIAX-2014-50); 72567 (July 8, 2014), 79 FR 40818 (July 14, 2014) (SR-MIAX-2014-34); 72356 (June 10, 2014), 79 FR 34384 (June 16, 2014) (SR-MIAX-2014-26); 71700 (March 12, 2014), 79 FR 15188 (March 18, 2014) (SR-MIAX-2014-13).

New York Stock Exchange announced that it was delisting SunEdison since it was no longer suitable for listing. SunEdison had announced on the same day that it and certain of its domestic and international subsidiaries had filed voluntary petitions for reorganization under Chapter 11 of the U.S. Bankruptcy Code.<sup>7</sup>

As a result, the Exchange delisted SunEdison options. Accordingly, the Exchange is amending its Fee Schedule to delete the symbol SUNE from the list of MIAX Select Symbols contained in the Program to correspond with the delisting. This amendment is intended to eliminate any potential confusion and to make it clear to market participants that SunEdison will not be a MIAX Select Symbol contained in the Program as SunEdison options are no longer listed on the Exchange.

BlackBerry recently announced that it was transferring its listing from the Nasdaq Global Select Market to the New York Stock Exchange and, as a result, BlackBerry changed its symbol from “BBRY” and is now trading under the new symbol “BB” effective October 16, 2017.<sup>8</sup> The Exchange is amending its Fee Schedule to change BlackBerry’s symbol in the MIAX Select Symbols from “BBRY” to “BB” to correspond with this change. This amendment is designed to ensure that there is no confusion amongst market participants that BlackBerry, under its new ticker, will continue to remain in the MIAX Selected Symbols.

## 2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with Section 6(b) of the Act<sup>9</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act,<sup>10</sup> in

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<sup>7</sup> See the press release located at <http://ir.theice.com/press/press-releases/nyse-regulation/2016/042116suspensionrelease>.

<sup>8</sup> See the press release located at <https://us.blackberry.com/company/newsroom/press?id=21b4315>.

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

that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities, and 6(b)(5) of the Act,<sup>11</sup> 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.

In particular, the proposal to delete the symbol SUNE from the list of MIAX Select Symbols contained in the Program and to change the symbol from BBRY to BB is consistent with Section 6(b)(4) of the Act because the proposed changes will allow for continued benefit to investors by providing them an updated list of MIAX Select Symbols contained in the Program on the Fee Schedule. In particular, the proposal to change the BlackBerry symbol to its new designation is consistent with the Act because the proposed change is merely updating the corresponding symbol to allow for BlackBerry to continue to remain in the MIAX Select Symbols.

The Exchange believes that the proposal to amend an option class that qualifies for the credit for transactions in MIAX Select Symbols is fair, equitable and not unreasonably discriminatory. The Exchange believes that the Program itself is reasonably designed because it incentivizes providers of Priority Customer<sup>12</sup> order flow to send that Priority Customer order flow to the Exchange in order to receive a credit in a manner that enables the Exchange to improve its overall competitiveness and strengthen its market quality for all market participants.

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<sup>10</sup> 15 U.S.C. 78f(b)(4).

<sup>11</sup> 15 U.S.C. 78f(b)(1) and (b)(5).

<sup>12</sup> The term “Priority Customer” means a person or entity that 1. is not a broker or dealer in securities, and 2. 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 Exchange Rule 100.

The Program, which provides increased incentives in certain tiers in high volume select symbols, is also reasonably designed to increase the competitiveness of the Exchange with other options exchanges that also offer increased incentives to higher volume symbols.

The Exchange also believes that its proposal is consistent with Section 6(b)(5) of the Act because it will apply equally to all Priority Customer orders in MIAX Select Symbols in the Program. All similarly situated Priority Customer orders in MIAX Select Symbols are subject to the same rebate schedule, and access to the Exchange 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 result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is a not a competitive filing but rather is designed to update the list of MIAX Select Symbols contained in the Program in order to avoid potential confusion on the part of market participants.

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,<sup>13</sup> and Rule 19b-4(f)(2)<sup>14</sup> 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

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<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>14</sup> 17 CFR 240.19b-4(f)(2).

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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-MIAX-2017-45 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-2017-45. 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. 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-2017-45 and should be submitted on or before **[INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

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

**Eduardo A. Aleman,**

*Assistant Secretary.*

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

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