October 15, 2018

Brent J. Fields
Secretary
Securities and Exchange Commission
100 F Street NE., Washington, DC 20549

Re: ***SIFMA Comment Letter on the Suspension of BOX, MIAX and Pearl SEC Rule Proposals to Increase Connectivity Fees: File Nos. SR-BOX-2018-24; SR-MIAX-2018-25; SR-PEARL-2018-19***

Dear Mr. Fields:

The Securities Industry and Financial Markets Association ("SIFMA")[1] submits this letter in connection with the above-referenced proposed rule changes filed with the U.S. Securities and Exchange Commission ("Commission") by BOX Exchange ("BOX"), Miami International Securities Exchange ("MIAX"), and MIAX PEARL ("PEARL" and, collectively with BOX and MIAX, the "Exchanges").[2] We support the Commission's decision to suspend the proposed rule changes and institute proceedings to determine whether to approve or disapprove the filings. After the Commission's Division of Trading and Markets suspended the above-referenced filings, BOX petitioned the Commission to review the decision made by the Division of Trading and Markets pursuant to its delegated authority to suspend the amended fee schedule, and[3] MIAX and PEARL filed new proposed rule changes identical to the suspended filings. MIAX and PEARL subsequently withdrew their original filings,[4] and the Division of Trading and

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[1]   SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry's nearly 1 million employees, we advocate for legislation, regulation and business policy, affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit http://www.sifma.org.

[2]   Securities Exchange Act Release No. 84168; File No. SR-BOX-2018-24 (September 17, 2018). Securities Exchange Act Release No. 84175; File No. SR-MIAX-2018-19 (September 17, 2018). Securities Exchange Act Release No. 84177; File No. SR-PEARL-2018-16 (September 17, 2018).

[3]   In the Matter of the Petition of BOX Exchange LLC

[4]   Securities Exchange Act Release No. 84398; File No. SR-MIAX-2018-19 (October 10, 2018). Securities Exchange Act Release No. 84397; File No. SR-PEARL-2018-16 (October 10, 2018).

Markets suspended the re-filings by MIAX and PEARL.[5] In the filings, the Exchanges proposed to increase fees for certain of their connectivity services.

Without necessarily supporting the legal arguments given for suspending the filings, SIFMA supports the Commission decision to conduct a further review of the Exchanges' proposed connectivity fee increases before determining whether to approve or disapprove the fee increases. For more than a decade, SIFMA has opposed the increases in exchange fees for market data products. In particular, we have argued that the exchanges' market data fees are not constrained by significant competitive forces, and therefore no sufficient basis for finding the fees to be fair and reasonable absent evidence regarding the cost of producing the market data.

A similar situation to exchanges' market data fees is present with the Exchanges' connectivity fees that the Commission suspended. The trade-through requirements under Regulation NMS[6] and the Options Order Protection Plan[7] effectively require most broker-dealers to have direct connectivity to all exchanges. As a result, there are no significant competitive constraints on exchange connectivity fees. Broker-dealers cannot simply disconnect from an exchange because of excessive fees without potentially violating order protection requirements or sacrificing execution quality. This issue is particularly notable in the options markets. Over the last 8 years, the number of options exchanges has increased from 7 to 15,[8] with corresponding connectivity costs at each one.

Given the requirement for broker-dealers to connect to all the exchanges, the exchanges should be providing comprehensive information, including cost information, on why their connectivity fees are reasonable. It is not enough for exchanges to justify connectivity fee increases simply by pointing to similar fees at other exchanges. Additionally, the connectivity fees cannot be based on the "market value" of the connection when broker-dealers are effectively required to connect to each exchange.

In its consideration of whether to approve or disapprove the proposed rule changes, the Commission should establish a framework for determining whether fees for exchange products and services are reasonable when those products and services are not constrained by significant competitive forces. This framework should be based on the Exchanges' direct costs incurred in connection with those products and services.

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[5]   Securities Exchange Act Release No. 84357; File No. SR-MIAX-2018-25 (October 3, 2018). Securities Exchange Act Release No. 84358; File No. SR-Pearl-2018-19 (October 3, 2018).

[6]   17 CFR 242.611.

[7]   Securities Exchange Act Release No. 60405; File No. 4-546 (July 30, 2009).

[8]   MIAX additionally plans to launch another exchange in the first quarter of 2019

SIFMA appreciates the Commission's consideration of the issues raised above and would be pleased to discuss these comments in greater detail. If you have any questions or need any additional information, please contact T.R. Lazo (at ▮▮▮▮▮▮ or ▮▮▮▮▮▮▮) or Ellen Greene (at ▮▮▮▮▮ or ▮▮▮▮▮▮▮).

Sincerely,

Theodore R. Lazo
Managing Director and
Associate General Counsel

Ellen Greene
Managing Director
Financial Services Operations

cc: The Honorable Jay Clayton, Chairman
        The Honorable Kara M. Stein, Commissioner
        The Honorable Robert J. Jackson, Jr., Commissioner
        The Honorable Hester M. Peirce, Commissioner
        The Honorable Elad L. Roisman, Commissioner

        Brett Redfearn, Director, Division of Trading and Markets