

VIA ELECTRONIC SUBMISSION AND OVERNIGHT DELIVERY

June 25, 2013

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: File Number SR-MIAX-2013-23

Dear Ms. Murphy:

NYSE Euronext (“NYSE”), on behalf of its subsidiary options Exchanges, NYSE Arca, Inc. (“NYSE Arca”) and NYSE MKT LLC (“NYSE MKT”), appreciates the opportunity to comment on the above referenced filing of the Miami International Securities Exchange LLC (“MIAX”). MIAX proposes to amend MIAX Rule 404 to: (1) allow options series that expire at the close of business on each of the next five consecutive expirations under the Short Term Option Series Program (“STOS”); (2) expand the number of series in the STOS under certain circumstances; and (3) allow MIAX to delist certain series in the STOS that do not have open interest. NYSE Euronext strongly supports the STOS and generally believes expanding the program may be of benefit to investors. However, MIAX has not proposed to adopt any quote mitigation plan beyond the listing limitations codified in the Options Listings Procedures Plan (“OLPP”)¹ in order to mitigate the additional quote traffic that MIAX acknowledges its proposed expansion of the STOS will generate. Additionally, recent data, discussed in detail below, strongly suggests that MIAX’s existing quote mitigation strategies are inadequate. Accordingly, MIAX’s proposal should not be approved until such time as an adequate quote mitigation plan is implemented.

The Commission has long emphasized that “the public interest in maintaining fair and orderly markets is furthered by requiring the Participants to work jointly to evaluate issues resulting from increased message traffic and to develop and recommend strategies to address problems resulting from that increase.”² Accordingly, with respect to anticipated increases in options quote message traffic, the Commission has directed, pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934 (the “Act”), that options exchanges act jointly in planning, developing and

¹ The OLPP is a national market system plan that, among other things, sets forth procedures governing the listing of new options series and replaces and supersedes the Joint-Exchange Options Plan (“JEOP”). See Securities Exchange Act Release No. 44521 (July 6, 2009), 66 FR 36809 (July 13, 2001) (order approving OLPP); Securities Exchange Act Release No. 29698 (September 17, 1991), 56 FR 48954 (September 25, 1991) (order approving JEOP).

² See Securities Exchange Act Release No. 34-41843 (September 8, 1999).

discussing approaches and strategies with respect to options quote message traffic to (1) recommend and propose, individually or jointly, self-regulatory organization or Commission rules or plan amendments in connection therewith, or (2) undertake other strategies to avoid quote traffic congestion, including options quote traffic mitigation strategies and strategies to increase capacity.³ In response to this Commission direction, the options exchanges have, individually, implemented a number of internal quote message mitigation strategies and “the Commission expects the options exchanges to continue to consider and implement other quote message mitigation strategies as both long-term and short-term solutions.”⁴

NYSE Arca and NYSE MKT, each a participant in the Penny Pilot Program⁵ since 2007, continue to believe that the program helps investors by providing more competitive pricing, reducing payment for order flow, reducing costs, and tightening spreads. Notably, when the Commission approved the Penny Pilot Program, it explicitly stated its expectation that the program would increase quote message traffic. Thus the Commission approved, prior to the commencement of the Penny Pilot Program, independent quote mitigation plans for both NYSE Arca and for NYSE MKT’s predecessor, the American Stock Exchange LLC (“AMEX”), to reduce the number of quotations each of the two exchanges disseminates by limiting disseminated quotes to active option series only.⁶

MIAX asserts in its proposal that it has the necessary systems capacity to handle the additional quote traffic its expansion of the STOS is expected to generate. MIAX thus acknowledges that this expansion will result in additional quote traffic, traffic for which the only quote mitigation they will apply is simply adhering to the OLPP, which we believe is an insufficient quote mitigation program. In fact, as discussed in detail below, recent data suggests that MIAX’s current quote mitigation strategy is performing very poorly relative to industry standards. Thus its reliance solely on OLPP provisions for quote mitigation is inadequate, especially considering that most, if not all, of the STOS securities to be listed on an expanded basis under MIAX’s

³ Id.

⁴ See Securities Exchange Act Release No. 34-43621 (November 27, 2000).

⁵ In 2007, the Securities and Exchange Commission (the “Commission”) approved a pilot program for all 6 options exchanges to permit certain options classes to be quoted in pennies (the “Penny Pilot Program”). In approving the Penny Pilot Program, the Commission noted its belief that the program would “allow analysis of the impact of penny quoting on (1) spreads; (2) transactions costs; (3) payment for order flow; and (4) quote message traffic.... [and] that the Penny Pilot Program is sufficiently limited that it is unlikely to increase quote message traffic beyond the capacity of market participants’ systems and disrupt the timely receipt of quote information.”

⁶ NYSE Arca’s quote mitigation plan is provided for in *Commentary .03* to NYSE Arca Rule 6.86, adopted in 2007. See Securities Exchange Act Release No. 34-55156 (January 23, 2007). NYSE MKT’s predecessor, AMEX, first adopted quote mitigation plans in 2004, See Securities Exchange Act Release No. 49747 (May 20, 2004), and also adopted quote mitigation plans in conjunction with the Penny Pilot Program in 2007, See Securities Exchange Act Release No. 34-55162 (January 24, 2007). NYSE MKT’s quote mitigation plan is provided for in NYSE MKT Rule 970.1NY, adopted in 2009. See Securities Exchange Act Release No. 34-59472 (February 27, 2009). The NYSE MKT quote mitigation plan provided for in NYSE MKT Rule 970.1NY mirrors *Commentary .03* to NYSE Arca Rule 6.86 and referenced the NYSE Arca rule in its proposal to the Commission. See Securities Exchange Act Release No. 59142 (December 22, 2008).

proposal are also part of the Penny Pilot Program, and are thus even more likely to generate additional quote traffic.

Indeed, MIAX's particular inaction with respect to quote mitigation in connection with the Penny Pilot Program indicates the inadequacy of its approach; merely choosing to become a plan sponsor of the OLPP,⁷ as of December 2012, is insufficient to meet its quote mitigation responsibility. In fact, recent OPRA data strongly suggests that MIAX is currently failing to sufficiently mitigate quotes. In May of 2013, MIAX generated a total of 7.64 billion quote messages, compared to nearly 159,000 executed trades on MIAX, for a quote-to-trade ratio of more than 48,000 to one, more than six times higher than the average quote-to-trade ratio of the other ten options exchanges during the same month.⁸ MIAX acknowledges in its filing that its proposed expansion of the STOS is expected to generate even more quote traffic. In light of the May 2013 OPRA data evidencing MIAX's demonstrable failure to mitigate quotes in a manner consistent with the other exchanges that have already adopted quote mitigation plans that go beyond those that MIAX has codified in the OLPP, NYSE believes that MIAX should be required to adopt a quote mitigation plan rather than simply relying on the OLPP plan to be sufficient to address the likely increase in quote traffic that would result from its proposed expansion of the STOS.

In conclusion, NYSE believes that MIAX's proposed expansion of the STOS, without adoption of a quote mitigation plan sufficient to address additional quote traffic, would be inconsistent with the objectives and purposes of the Act, especially in light of the recent OPRA data cited above suggesting MIAX's failure to adequately mitigate even the current levels of quote traffic it is generating.

We appreciate the Commission's consideration of our comments. Should the Commission or its Staff have any questions, please feel free to contact Mike Babel at 212.656.4744.

Sincerely,

A handwritten signature in blue ink that reads "Janet McHinnery".

⁷ The sponsors of OLPP include NYSE MKT, LLC and NYSE Arca, Inc., Chicago Board Options Exchange, Incorporated; C2 Options Exchange, Incorporated; International Stock Exchange LLC; NASDAQ, NASDAQ OMX BX, Inc.; and NASDAQ OMX Phlx, Inc.; (together known as the "Plan Sponsor Exchanges").

⁸ See Table 1 (attached) – Full month of May 2013 OPRA data for all 11 U.S. options exchanges.

Full Month Of May 2013 OPRA Data

Exchange	Message Total	%Message Share	Quote	Trade	Quote to Trade Ratio
MIAX	7,639,796,818	5.70%	7,634,777,803	158,896	48,049
NOBO	5,729,017,434	4.30%	5,717,202,699	266,304	21,469
BOX	5,968,851,349	4.40%	5,951,997,770	897,912	6,629
C2	4,977,459,407	3.70%	4,970,578,937	377,022	13,184
AMEX	22,209,093,823	16.50%	22,195,944,350	3,415,041	6,499
CBOE	24,509,284,358	18.20%	24,482,157,107	3,513,917	6,967
BATS	5,306,424,878	3.90%	5,295,340,150	1,706,641	3,103
ISE	18,849,012,920	14.00%	18,819,032,077	2,878,607	6,538
PHLX	20,348,728,240	15.10%	20,324,950,791	2,205,922	9,214
NSDQ	8,697,674,297	6.50%	8,676,567,930	3,039,159	2,855
ARCA	10,351,751,813	7.70%	10,339,029,632	3,010,554	3,434

Total 134,587,095,337 134,407,579,246 21,469,975