SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71542; File No. SR–NYSEArca–2014–17]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Options Fee Schedule Regarding Transaction Fees and Credits

February 12, 2014.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on February 3, 2014, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Fee Schedule (''Fee Schedule'') regarding transaction fees and credits. The Exchange proposes to implement the fee change effective February 3, 2014. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, 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

In its filing with the Commission, the self-regulatory organization 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 those 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 parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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

1. Purpose

The purpose of this filing is to modify the Exchange's transaction fees to provide an incentive for more business to be executed on the Exchange. The Exchange proposes to implement the fee change effective February 3, 2014.

NYSE Arca is proposing to adopt volume based incentives to bring more business to the Exchange as well as fee changes to offset the incentives.

The Exchange will offset the incentives by raising the Take Liquidity fees for Lead Market Makers (''LMMs''), NYSE Arca Market Makers, and Firms and Broker Dealers to $0.49 per contract in Penny Pilot issues.[4] The Exchange is also proposing to raise the Take Liquidity fee in non-Penny Pilot issues to $0.87 per contract for LMMs and for NYSE Arca Market Makers; to $0.89 for Firms and Broker Dealers; and to $0.85 for Customers.[5]

NYSE Arca is proposing modifications to its Customer Monthly Posting Credit Tiers and Qualifications. The proposal will reduce the number of tiers from six to five; and will offer two alternatives to achieve the highest tier. The Exchange is proposing that to earn the highest posting credit of $0.47, the qualifying market share of Total Industry Customer equity and ETF option volume Average Daily Volume (''ADV'') from executed Customer Posted Orders in both Penny Pilot and non-Penny Pilot Issues be reduced from 0.95% to 0.75%. In addition, the Exchange proposes to increase the posting credit for achieving 0.85% of Total Industry Customer equity and ETF option ADV from Posted Orders in Penny Pilot issues from all account types from $0.44 to the highest posting credit of $0.47.

The Exchange is also proposing to adopt a Customer Incentive Program to provide four alternative ways for an OTP Firm to achieve an additional posting credit on Customer Posting Credits. By doing so, an OTP Firm may use increased business directed to NYSE Arca to provide a greater benefit to Customers that post orders on the Exchange. An OTP Firm may receive an additional posting credit, but only one additional credit, in the following ways:

- If an OTP Firm achieves at least 0.75% of Total Industry Customer equity and ETF option ADV [6] from executed Customer Posted Orders in both Penny Pilot and non-Penny Pilot Issues, of which at least 0.28% of Total Industry Customer equity and ETF option ADV is from executed Customer Posted Orders in non-Penny Pilot Issues, they will earn an additional $0.02 credit on all Customer Posting Credits.
- If an OTP Firm achieves an ADV from executed Market Maker Posted Orders equal to 0.70% of Total Industry Customer equity and ETF option ADV they will earn an additional $0.01 credit on all executed Customer Posting Credits.
- If an OTP Firm achieves an ADV from executed Market Maker Posted Orders equal to 1.40% of Total Industry Customer equity and ETF option ADV they will earn an additional $0.02 credit on all executed Customer Posting Credits.
- If an OTP Firm achieves Executed ADV of Retail Orders of 0.3% ADV of U.S. Equity Market Share Posted and Executed on NYSE Arca Equity Market they will earn an additional $0.02 credit on all Customer Posting Credits.

The Exchange also proposes to add a Market Maker Incentive to encourage OTP Firms to augment an increase in executed Customer Posted Volume on NYSE Arca with increased ADV from executed Market Maker Posted orders. An OTP Firm that achieves both a level of at least 0.75% of Total Industry Customer equity and ETF option ADV from executed Customer Posted Orders in both Penny Pilot and non-Penny Pilot Issues and an ADV from executed Market Maker Posted Orders equal to 0.70% of Total Industry Customer equity and ETF option ADV will have a $0.41 credit applied to posted electronic Market Maker executions in Penny Pilot Issues, rather than the standard $0.28 credit.

The Exchange notes that the calculations for the qualification thresholds for tiered Customer posting credits only include electronic executions. Qualified Contingent Cross (''QCC'') orders are neither posted nor taken; thus QCC transactions are not included in the calculation of posted or

[4] As provided under NYSE Arca Options Rule 6.72, options on certain issues have been approved to trade with a minimum price variation of $0.01 as part of a pilot program that is currently scheduled to expire on June 30, 2014. *See* Securities Exchange Act Release No. 71159 (December 20, 2013), 78 FR 79042 (December 27, 2013) (SR–NYSEArca–2013–145).

[5] Under NYSE Arca Options Rule 6.1(b)(29), the term ''Customer'' has the same definition as Rule 15c3–1(c)(6) under the Act, which excludes certain broker-dealers.

[6] Total Industry Customer equity and ETF option ADV includes Options Clearing Corporations calculated Customer volume of all types, including Complex Order Transactions, QCC transactions, and mini options transactions, in equity and ETF options.

taken execution volumes. The calculations do not include volume from mini-option transactions, nor do they include volume from Complex Order transactions. Orders routed to another market for execution are not included in the calculation of taking volume.

The Exchange notes that the proposed change is not otherwise intended to address any other issues, and the Exchange is not aware of any problems that OTP Holders and OTP Firms, including Market Makers, would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[8] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed increase in the Take Liquidity fee for LMMs, Market Makers, and Firm and Broker Dealer orders in Penny Pilot issues is reasonable because it will result in the Exchange's fees remaining comparable to the Take Liquidity fees charged in Penny Pilot issues by other exchanges.[9] In addition, the proposed fee change is reasonable because it will generate revenue that will help to support the credits offered for posting liquidity, which are available to all market participants.

The Exchange believes that the proposed increase in the Take Liquidity fee for LMMs, Market Makers, and Firm and Broker Dealers and Customer orders in non-Penny Pilot issues is reasonable because it will result in the Exchange's fees remaining comparable to the Take Liquidity fees charged in non-Penny Pilot issues by other exchanges.[10] In addition, the proposed fee change is reasonable because it will generate revenue that will help to support the credits offered for posting liquidity, which are available to all market participants.

Similarly, the Exchange believes that the proposed changes in Take Liquidity fees in Penny Pilot issues are equitable and not unfairly discriminatory because the Exchange would uniformly assess all market participants, except Customers, the same fee. Customer order flow benefits the market by increasing liquidity, which benefits all market participants, thus Customers are assessed lower fees.

The Exchange believes that the proposed changes in Take Liquidity fees in non-Penny Pilot issues are equitable and not unfairly discriminatory because the increases are being applied in a similar manner to both non-Customers and Customers. It is equitable and not unfairly discriminatory to charge a lower fee for Market Makers and LMMs than for Firms or Broker Dealers because LMMs and Market Makers carry obligations to quote and commit capital that are not imposed on Firms or Broker Dealers. It is also not unfairly discriminatory to charge a lower fee for Customer transactions, as Customers do not have direct access to the market as do Market Makers, Firms, and Broker Dealers.

The Exchange believes the modifications to the Customer Monthly Posting Credit Tiers are reasonable because they are designed to attract additional Customer electronic equity and ETF option volume to the Exchange, and provide alternative methods of achieving the highest tier, which would benefit all participants by offering greater price discovery, increased transparency, and an increased opportunity to trade on the Exchange. The changes are also reasonable in that they make it less difficult for an OTP Holder or OTP Firm to achieve the qualifications. Additionally, the exchange believes the proposed credits are reasonable because they would incent OTP Holders and OTP Firms to submit Customer electronic equity and ETF option orders to the Exchange and would result in credits that are reasonably related to the Exchange's market quality that is associated with higher volumes.

The Exchange believes that the proposed changes in the credits are equitable and not unfairly discriminatory because they will be available to all OTP Holders and OTP Firms that execute posted electronic Customer orders on the Exchange on an equal and non-discriminatory basis, in particular because they provide alternative means of achieving the same credit. The Exchange believes that providing methods for achieving the credits not based solely on posted electronic Customer Executions in Penny Pilot issues is equitable and not unfairly discriminatory because it would continue to result in more OTP Holders and OTP Firms qualifying for the credits and therefore reducing their overall transaction costs on the Exchange.

The Exchange believes the proposed Customer Incentive Program is reasonable because it is designed to attract both additional Customer electronic equity and ETF option volume to the Exchange, and also attract additional Market Maker volume to the Exchange, which would benefit all participants by offering greater price discovery, increased transparency, and an increased opportunity to trade on the Exchange. Additionally, the Exchange believes the proposed credits are reasonable because they would incent OTP Holders and OTP Firms to submit Customer electronic equity and ETF option orders to the Exchange and would result in credits that are reasonably related to the Exchange's market quality that is associated with higher volumes.

The Exchange also believes that the proposed qualifications for the Customer Incentive Program are equitable and not unfairly discriminatory because the Exchange is continuing to provide more than one method of qualifying for an incentive.[11] For example, an OTP Firm may achieve an additional credit by posting a certain volume of orders, or they may achieve the same incentive by posting a certain volume of Market Maker orders. The Exchange also believes that the aspect of the proposed change related to the activity of an affiliated ETP Holder on NYSE Arca Equities is equitable and not unfairly discriminatory because it is designed to continue to bring additional posted order flow to NYSE Arca Equities, so as to provide additional opportunities for all ETP Holders to trade on NYSE Arca Equities.

The proposed Market Maker incentive is also reasonable because it is designed to attract higher volumes of Market Maker posted orders to the Exchange, which would benefit all market participants by offering greater price discovery, increased transparency, and

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

[9] For example, BATS BZX Exchange Fee Schedule charges a fee of $0.48 per contract for Firm or Market maker orders that access liquidity in Penny Pilot issues; NASDAQ Options Market (''NOM''), Options Rules Chapter XV, Options Pricing, Section 2, charges Firms, non-NOM Market Makers and Broker Dealers, a fee of $0.49 for Removing Liquidity in Penny Pilot issues.

[10] For example, BATS BZX Exchange Fee Schedule charges a fee of $0.89 per contract for Firm or Market Maker orders that access liquidity in non-Penny Pilot issues; NOM Options Rules Chapter XV, Options Pricing, Section 2, charges Firms, non-NOM Market Makers and Broker Dealers a fee of $0.89 for Removing Liquidity in non-Penny Pilot issues, and charges Customers a fee of $0.85 for removing liquidity in non-Penny Pilot issues.

[11] Offering multiple ways to achieve a rebate has been deemed acceptable based on past and existing practice in the industry. For example see NOM Options Rules Chapter XV, Options Pricing, Section 2, which offers multiple methods of achieving the same rebate.

an increased opportunity to trade on the Exchange. Encouraging Market Makers to send higher volumes of orders to the Exchange would also contribute to the Exchange's depth of book as well as to the top of book liquidity. The Exchange also believes that the proposed credits are reasonable because they are within a range of similar credits available on other option exchanges.[12]

The Exchange believes that the proposed Market Maker Incentive is equitable and not unfairly discriminatory because it would apply to all Market Makers on an equal and non-discriminatory basis. The Exchange further believes that the proposed change is equitable and not unfairly discriminatory because it is reasonably related to the value to the Exchange's market quality associated with higher volumes in Market Maker posted orders, including both Penny Pilot issues and non-Penny Pilot issues.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[13] the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed fee change reduces the burden on competition because it takes into account the value that various market participants add to the marketplace, as discussed above.

The increases in Take Liquidity fees will impact all non-Customer transactions in Penny Pilot issues at the same rate, and will impact all market participants, including Customers, in non-Penny Pilot issues with a similar increase across all account types. The proposed changes to the Customer Monthly Posting Credit Tiers, and the proposed Customer Incentives and the Market Maker incentive are designed to attract additional volume, in particular posted electronic Customer executions and posted electronic Market Maker executions, to the Exchange, which would promote price discovery and transparency in the securities markets thereby benefitting competition in the industry. As stated above, the Exchange believes that the proposed change would impact all similarly situated OTP Holders and OTP Firms that post electronic Customer executions on the Exchange equally, and as such, the proposed change would not impose a disparate burden on competition either among or between classes of market participants. In addition, providing an alternative qualification basis for certain tiers by including volume from affiliates allows a firm with a diverse business structure, but not a concentration on Customer orders only, to earn a higher credit for their Customers by posting order flow that improves the overall market quality, and encourages posting competitive prices, which result in better available markets for Customer orders.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[14] of the Act and subparagraph (f)(2) of Rule 19b–4[15] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such 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 under Section 19(b)(2)(B)[16] of the Act to determine whether the proposed rule change 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 email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2014–17 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–NYSEArca–2014–17. This file number should be included on the subject line if email 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 Web site (*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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such 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–

[12] For example, NOM Options Rules Chapter XV, Options Pricing, Section 2, offers a Market Maker credit of $0.40 per contract in Penny Pilot options for achieving a combination of Market Maker ADV and also qualifying for higher Tiered Customer and/or Professional Rebates.

[13] 15 U.S.C. 78f(b)(8).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(2).

[16] 15 U.S.C. 78s(b)(2)(B).

NYSEArca–2014–17, and should be submitted on or before March 12, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71541; File No. SR–MIAX–2013–58]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Amend the Exchange's By-Laws

February 12, 2014.

I. Introduction

On December 9, 2013, Miami International Securities Exchange, LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act''), and Rule 19b–4 thereunder,[2] a proposed rule change to amend the By-Laws of MIAX (''MIAX By-Laws'' and, as amended, the ''MIAX Amended and Restated By-Laws''). The proposed rule change was published for comment in the **Federal Register** on December 30, 2013.[3] The Commission received no comments on the proposal. On February 11, 2014, the Exchange filed Amendment No. 1 to the proposal.[4] The Commission is publishing this notice to solicit comments on Amendment No. 1 from interested persons and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Background and Description of the Proposal

On September 13, 2013, the Exchange filed an immediately effective proposed rule change to establish an Equity Rights Program (''ERP'').[5] Pursuant to the ERP, members of the Exchange that elected to participate in the program were issued units representing the right to acquire equity in the Exchange's parent holding company, Miami International Holdings (''MIH'') in exchange for (1) payment of an initial purchase price or the prepayment of certain transaction fees and (2) the achievement of certain liquidity volume thresholds on the Exchange over a 23-month period.[6] In that September 2013 filing to implement the ERP, the Exchange stated that ''[w]hen a participating Member acquires a certain number of units, the Member can appoint one director to the MIH Board [of Directors] and/or the MIAX Board [of Directors].''[7] In this December 2013 filing, the Exchange now proposes to amend the MIAX By-Laws to provide for the right of members that participate in the ERP to nominate or appoint a representative to the MIAX Board of Directors (''MIAX Board'' or ''Board''),[8] as well as to make other changes, including certain non-substantive changes.[9]

Specifically, the Exchange proposes that an ERP Member[10] that is not otherwise represented on the MIAX Board may have the right to nominate one ERP Director[11] or appoint an Observer[12] to the Board, as applicable.[13] As proposed, ERP Directors will be classified as ''Industry Directors''[14] with attendant voting rights, while Observers will be invited to attend meetings of the Board in a non-voting observer capacity.[15] If an

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 71172 (December 23, 2013), 78 FR 79530 (December 30, 2013) (SR–MIAX–2013–58) (''Notice'').

[4] In Amendment No. 1, the Exchange amended the proposed rule text to provide that an ERP Member that is already represented on the MIAX Board of Directors, including as a Member Representative Director, would not be permitted to also hold an ERP Director position. Such ERP Members could, however, hold an Observer appointment on the MIAX Board of Directors. *See infra* Section V; *see also infra* notes 17, 44.

[5] *See* Securities Exchange Act Release No. 70498 (September 25, 2013), 78 FR 60348 (October 1, 2013) (SR–MIAX–2013–43) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Implement an Equity Rights Program) (''ERP Notice'').

[6] *See* Notice, *supra* note 3, 78 FR at 79530–79531; *and* ERP Notice, *supra* note 5, 78 FR at 60348.

[7] *See* ERP Notice, *supra* note 5, 78 FR at 60350 n.9 and accompanying text. In that filing, the Commission noted that MIAX would need to submit a separate proposed rule change to make changes to its corporate governance documents to accommodate aspects of the proposal that involve or affect the boards of either MIAX or MIH. *See id.*

[8] Among other changes discussed herein, the Exchange proposes to add a number of definitions for key terms used to incorporate provisions related to the ERP. *See generally* MIAX Amended and Restated By-Laws, Article I. The Commission notes that MIAX has not proposed, and the Commission is therefore not presently approving, any changes that would impact directly the MIH Board of Directors.

[9] *See* Notice, *supra* note 3, 78 FR at 79530–79531. The non-substantive changes include the deletion from the MIAX By-Laws of provisions that specifically referenced past deadlines and events that have since occurred. *See id.* at 79532.

[10] *See* MIAX Amended and Restated By-Laws, Article I(n) defining ''ERP Member'' as ''an Exchange Member who acquired Units pursuant to an ERP Agreement sufficient to acquire an ERP Director or an Observer position.'' MIAX Amended and Restated By-Laws, Article I(qq) defines ''Unit'' as ''a combination of securities or types of securities packaged together as one.'' MIAX Amended and Restated By-Laws, Article I(q) generally defines ''Exchange Member'' as ''any registered broker or dealer that has been admitted to membership in the national securities exchange operated by [MIAX].'' MIAX Amended and Restated By-Laws, Article I(l) defines ''ERP Agreement'' as ''the agreement pursuant to which Units were issued.''

[11] *See* MIAX Amended and Restated By-Laws, Article I(m) defining ''ERP Director'' as ''an Industry Director who has been nominated by an ERP Member and appointed to the Board of Directors.''

[12] *See* MIAX Amended and Restated By-Laws, Article I(gg) and Article II, Section 2.2 providing that "'Observer' has the meaning set forth in Article II, Section 2.2 of [the MIAX] By-Laws.'' As described further below, an ''Observer'' is a person, appointed pursuant to Section 2.2 of the MIAX Amended and Restated By-Laws, that ''may be invited to attend meetings of the Board in a non-voting observer capacity.'' *See* MIAX By-Laws Article II, Section 2.2(g).

[13] *See* MIAX Amended and Restated By-Laws, Article II, Section 2.2(e).

[14] *See* MIAX Amended and Restated By-Laws, Article I(u) defining ''Industry Director'' to mean ''a Director who (i) is or has served in the prior three years as an officer, director, or employee of a broker or dealer, excluding an outside director or a director not engaged in the day-to-day management of a broker or dealer; (ii) is an officer, director (excluding an outside director), or employee of an entity that owns more than 10% of the equity of a broker or dealer, and the broker or dealer accounts for more than 5% of the gross revenues received by the consolidated entity; (iii) owns more than 5% of the equity securities of any broker or dealer, whose investments in brokers or dealers exceed 10% of his or her net worth, or whose ownership interest otherwise permits him or her to be engaged in the day-to-day management of a broker or dealer; (iv) provides professional services to brokers or dealers, and such services constitute 20% or more of the professional revenues received by the Director or 20% or more of the gross revenues received by the Director's firm or partnership; (v) provides professional services to a director, officer, or employee of a broker, dealer, or corporation that owns 50% or more of the voting stock of a broker or dealer, and such services relate to the director's, officer's, or employee's professional capacity and constitute 20% or more of the professional revenues received by the Director or member or 20% or more of the gross revenues received by the Director's or member's firm or partnership; or (vi) has a consulting or employment relationship with or provides professional services to the Company or any affiliate thereof or has had any such relationship or provided any such services at any time within the prior three years.''

[15] *See* MIAX Amended and Restated By-Laws, Article II, Section 2.2(g)(iii). Observers will not be permitted to vote at Board meetings, but will be provided copies of all materials provided to directors provided that the Observer agrees to hold in confidence and trust and to act in a fiduciary manner with respect to all information so provided. *See id.* Also, MIAX proposes that Observers have the same participation rights as other directors on the Board with respect to meetings pertaining to the self-regulatory function of the Exchange. *See* MIAX Amended and Restated By-Laws Article X, Section 10.3; *see also* Notice, *supra* note 3, 78 FR at 79532.