

its proposed expansion of the use of Snapshot will make the functionality simpler, more consistent, and more useful in a greater number of circumstances than it is currently.¹⁰ To effectuate these changes, the Exchange proposes several modifications to Phlx Rules 1000, 1064, and 1069.¹¹

The Exchange represents that it does not anticipate that the use of Snapshot to provisionally execute *all* orders, rather than just multi-leg or simple orders in options on ETFs that are included in the Options Penny Pilot, will materially increase the risk that Snapshot will be overused or abused relative to its current use.¹² Therefore, the Exchange proposes to utilize the same methods it currently uses to surveil its members' use of the Snapshot functionality and represents that if Surveillance detects a significant uptick in improper usage, the Exchange will evaluate whether additional controls are necessary.¹³

Finally, the Exchange notes that it expects to make Snapshot available for all orders before the end of the fourth quarter of 2018 and represents that it will notify its members via an Options Trader Alert, to be posted on the Exchange's website, at least seven calendar days prior to the date when Snapshot will be available for expanded use.¹⁴

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁵ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹⁶ which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities and, in general, to protect investors and the public interest, and not be designed

use of Snapshot are currently set forth in Phlx Rule 1069 and will continue to apply.

¹⁰ See Notice, *supra* note 3, at 49597.

¹¹ A more detailed description of the proposal appears in the Notice.

¹² See Notice, *supra* note 3, at 49597.

¹³ See *id.*

¹⁴ See *id.*

¹⁵ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁶ 15 U.S.C. 78f(b)(5).

to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission notes that use of the Snapshot functionality for certain orders is one of the current exceptions set forth in Phlx Rule 1000(f), and allows Floor Brokers, ROTS, and Specialists to provisionally execute, in the options trading crowd (as opposed to through FBMS), multi-leg orders and simple orders in options on ETFs that are included in the Options Penny Pilot.¹⁷ According to the Exchange, Snapshot promotes just and equitable principles of trade and serves the interests of investors and the public by increasing the likelihood that investors will be able to execute their orders and do so in line with their expectations.¹⁸ The Exchange further represents that Snapshot is designed to mitigate the risk that the Trading System will reject a trade due to a change in market conditions that occurs between the time when the parties to a trade negotiate a valid trade on the trading floor and the time when the Trading System receives the trade. The Exchange believes that expanding the availability of Snapshot to all orders will broaden the scope of these protections to the benefit of investors and will make the exchange's trading floor more competitive with other trading venues because it will make the trading floor operate more efficiently.¹⁹

Further, the Exchange represents that the proposal is consistent with Rule 611 of Regulation NMS, which requires the Exchange to establish policies and procedures that are reasonably designed to prevent trade-throughs of protected quotations. The Exchange notes that although the proposal will change the time of execution of a trade for purposes of verifying compliance with trade-through and priority rules, the current automated compliance verification process will continue to apply and will systematically prevent any violation of the trade-through and priority rules.²⁰ Finally, as noted above, the Exchange does not believe that the proposal will increase the risk that Snapshot will be used improperly and believes that its existing design controls are sufficient to continue to closely monitor Snapshot usage by its members.²¹

The Commission notes that, at the time Snapshot was adopted, the Exchange adopted several measures to help ensure that Snapshot operates, and is used by members, in a manner that is consistent with the Act and Phlx's

¹⁷ See Phlx Rule 1000(f)(iii)(E).

¹⁸ See Notice, *supra* note 3, at 49597.

¹⁹ See *id.* at 49597–98.

²⁰ See *id.* at 49598.

²¹ See *id.* at 49597.

rules.²² The Commission notes that these measures will continue to apply to the expanded application of Snapshot to all orders and should continue to ensure that the Snapshot functionality will be used in a manner that is consistent with the Act and Phlx's Rules. For example, Phlx Rule 1069(a)(i)(B) will continue to prohibit all members from triggering the Snapshot feature for the purpose of obtaining favorable, or avoiding unfavorable, priority or trade-through conditions. In addition, the Exchange represents that its surveillance staff will monitor the expanded use of Snapshot and will evaluate whether additional controls are needed if the Exchange detects a significant uptick in improper usage.²³

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act²⁴ and the rules and regulations thereunder applicable to national securities exchanges.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²⁵ that the proposed rule change (SR-Phlx-2018-59) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁶

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–172, OMB Control No. 3235–0169]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:

Form N–5.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the “Commission”) is soliciting comments on the collection of information summarized below. The Commission

²² See Snapshot Approval, *supra* note 5, at 51316.

²³ See Notice, *supra* note 3, at 49597.

²⁴ 15 U.S.C. 78f(b)(5).

²⁵ 15 U.S.C. 78s(b)(2).

²⁶ 17 CFR 200.30–3(a)(12).

plans to submit this existing collection of information to the Office of Management and Budget (“OMB”) for extension and approval.

Form N-5 (17 CFR 239.24 and 274.5) is the form used by small business investment companies (“SBICs”) to register their securities under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) (“Securities Act”) and the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) (“Investment Company Act”). Form N-5 is the registration statement form adopted by the Commission for use by an SBIC that has been licensed as such under the Small Business Investment Act of 1958 or which has received the preliminary approval of the Small Business Administration (“SBA”) and has been notified by the SBA that the company may submit a license application Form N-5 is an integrated registration form and may be used as the registration statement under both the Securities Act and the Investment Company Act. The purpose of Form N-5 is to meet the filing and disclosure requirements of both the Securities Act and Investment Company Act, and to provide investors with information sufficient to evaluate an investment in an SBIC. The information that is required to be filed with the Commission permits verification of compliance with securities law requirements and assures the public availability and dissemination of the information.

The Commission did not receive any filings on Form N-5 in the last three years (and in the three years before that, received only one Form N-5 filing). Nevertheless, for purposes of this PRA, we conservatively estimate that at least one Form N-5 will be filed in the next three years, which translates to about 0.333 filings on Form N-5 per year. The currently approved internal burden of Form N-5 is 352 hours per response. We continue to believe this estimate for Form N-5’s internal hour burden is appropriate. Therefore, the number of currently approved aggregate burden hours, when calculated using the current estimate for number of filings, is about 117 internal hours per year. The currently approved external cost burden of Form N-5 is \$30,000 per filing. We continue to believe this estimate for Form N-5’s cost burden is appropriate. Therefore, we estimate that the aggregate cost burden, when calculated using the Commission’s estimate of 0.333 filings per year, is about \$10,000 in external costs per year.

Estimates of average burden hours and costs are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a

comprehensive or even representative survey or study of the costs of Commission rules and forms. Compliance with the collection of information requirements of Form N-5 is mandatory. Responses to the collection of information will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission’s estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, C/O Candace Kenner, 100 F Street NE, Washington, DC 20549; or send an email to: PRA_Mailbox@sec.gov.

Dated: November 16, 2018.

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-84613; File No. SR-MIAX-2018-36]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing of a Proposed Rule Change To Amend Exchange Rule 518, Complex Orders

November 16, 2018.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) ¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 9, 2018, Miami International Securities Exchange, LLC (“MIAX Options” 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 Exchange Rule 518, Complex Orders [sic]

The text of the proposed rule change is available on the Exchange’s website at <http://www.miaxoptions.com/rule-filings/> at MIAX Options’ 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

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 Exchange Rule 518, Complex Orders, to (i) adopt a new Simple Market Auction or Timer (“SMAT”) Event (defined below); (ii) amend the Response Time Interval and Defined Time Period for Complex Auctions (each defined below); (iii) adopt a new Complex Liquidity Exposure Process (“cLEP”); (iv) make minor changes to the Complex MIAX Options Price Collar Protection; and (v) clarify that the Calendar Spread Variance (“CSV”) price protection applies only to strategies in American-style option³ classes.

Specifically, the Exchange proposes to amend subsection (a)(16), to adopt a new Simple Market Auction or Timer (SMAT) Event. A SMAT Event is

³ The term “American-style option” means an option contract that, subject to the provisions of Rule 700 (relating to the cutoff time for exercise instructions) and to the Rules of the Clearing Corporation, can be exercised on any business day prior to its expiration date and on its expiration date. See Exchange Rule 100.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.