

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-88352; File No. SR-PEARL-2020-04)

March 10, 2020

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Chapter XVII, Consolidated Audit Trail Compliance Rule

Pursuant to 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 February 27, 2020, MIAX PEARL, LLC (“MIAX PEARL” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a 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 Chapter XVII, Consolidated Audit Trail Compliance Rule (“Compliance Rule”) regarding the National Market System Plan Governing the Consolidated Audit Trail (the “CAT NMS Plan” or “Plan”)³ to be consistent with an exemption from the CAT NMS Plan regarding Options Market Makers’ reporting obligations.

The text of the proposed rule change is available on the Exchange’s website at <http://www.miaxoptions.com/rule-filings/pearl> at MIAX PEARL’s principal office, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 67457 (July 18, 2012), 77 FR 45722 (August 1, 2012) (“Adopting Release”). Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the Compliance Rule.

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

Rule 613(c)(7) sets forth data recording and reporting requirements for the CAT NMS Plan. Specifically, Rule 613(c)(7), in relevant part, requires every member of a national securities exchange or national securities association to record and electronically report to the Central Repository details for each order and each Reportable Event. Options Market Maker quotes are included within the meaning of an "order" under Rule 613(j)(8), which defines an "order" to include "any bid or offer." As a result, Rule 613(c)(7) states that the CAT NMS Plan must require every market maker on an options exchange to record and report all quotes and related Reportable Events to the Central Repository. Rule 613(c)(7) also requires the options exchanges to record and report the details of Options Market Maker quotes received by the options exchanges to the Central Repository. Given that the options exchanges and the Options Market Makers will be submitting virtually identical details concerning the Options Market Maker quotes to the Central Repository, the dual reporting of this information will at least double the size of the options quotation data reported to the CAT, which will create extensive overlap in the data elements reported.

To address the issue of double reporting of quote data, the Participants filed with the Commission a request for exemptive relief from certain provisions Rule 613(c)(7) such that the CAT NMS Plan could be amended so that only options exchanges would record and report details for each Options Market Maker quote and related Reportable Event to the Central Repository, while Options Market Makers would be relieved of their obligation to record and report their quotes and related Reportable Events to the Central Repository.⁴ As a condition to this exemption, each Industry Member that is an Options Market Maker shall report to the Exchange the time at which its quote in a Listed Option is sent to the Exchange (and, if applicable, any subsequent quote modification time and/or cancellation time when such modification or cancellation is originated by the Options Market Maker).

MIAX PEARL's Compliance Rule incorporates by reference Chapter XVII of the rules of its affiliate, Miami International Securities Exchange, LLC ("MIAX"), which is MIAX's Consolidated Audit Trail Compliance Rule.⁵ Consistent with the above exemptive request, MIAX Rule 1703(a)(3) states that "[e]ach Industry Member that is an Options Market Maker is not required to report to the Central Repository the Industry Member Data regarding the routing, modification or cancellation of its quotes in Listed Options." MIAX Rule 1703(a)(3) further provides that "[e]ach Industry Member that is an Options Market Maker shall report to the

⁴ Letter from Participants to Brent J. Fields, Secretary, Commission, Request for Exemptive Relief from Certain Provisions of SEC Rule 613 of Regulation NMS under the Securities Exchange Act of 1934 (January 31, 2015), available at <https://www.catnmsplan.com/wp-content/uploads/2017/03/p602383.pdf>. See also Letter from Participants to Brent J. Fields, Commission, Supplement to Request for Exemptive Relief from Certain Provisions of SEC Rule 613 of Regulation NMS under the Securities Exchange Act of 1934 (April 3, 2015), available at <https://www.catnmsplan.com/wp-content/uploads/2017/03/exemptivesupplement1-allocationsreports.pdf>.

⁵ See Securities Exchange Act Release No. 80256 (March 15, 2017), 82 FR 14526 (March 21, 2017) (SR-PEARL-2017-04) (Order Approving Proposed Rule Changes To Adopt Consolidated Audit Trail Compliance Rules).

Exchange the time at which its quote in a Listed Option is sent to the Exchange (and, if applicable, any subsequent quote modification time and/or cancellation time when such modification or cancellation is originated by the Options Market Maker).”

MIAX Rule 1703(a)(3) relieves Options Market Makers from reporting Industry Member Data to the Central Repository for quotes only and does not apply to orders. While MIAX Rule 1703(a)(3) applies to MIAX PEARL by virtue of being incorporated by reference, it does not relieve Options Market Makers from reporting Industry Member Data to the Central Repository because on MIAX PEARL, Options Market Makers submit orders and not quotes for display on the MIAX PEARL Book. On MIAX PEARL, orders submitted by Options Market Makers function like quotes on other options exchanges, including MIAX. Like quotes on MIAX, order submitted by Options Market Makers with a time-in-force of Day or GTC that are not executed upon entry are posted to the MIAX PEARL Book.

To implement the above exemption and avoid duplicative reporting, MIAX PEARL proposes to amend its own compliance rule to state that orders submitted by Options Market Makers that are posted to the MIAX PEARL Book are considered quotes for purposes of the above exemption. Specifically, the Compliance Rule would state that “[f]or purposes of MIAX Rule 1703(a)(3), orders that are posted to the MIAX PEARL Book are considered quotes when submitted by an Options Market Maker in an assigned symbol on MIAX PEARL.”

The Exchange offers three time-in-force modifiers that Options Market Makers may attach to their orders: Day, Immediate-Or-Cancel (“IOC”), and Good-Till Cancel (“GTC”) and two interfaces of order entry, FIX and the MIAX Express Order interface (“MEO”).⁶ An

⁶ See Exchange Rule 516, Order Types. Not all order types and modifiers are available for use on each of the MEO Interface and the FIX Interface

Options Market Maker must include a time-in-force of Day or GTC on its order for it to be posted on the MIAX PEARL Book and to meet its continuous quoting obligations under Exchange Rule 605(d).⁷ The Exchange does not propose to exempt orders submitted by an Options Market Maker with a time-in-force of IOC because those orders do not post to the PEARL Book and, therefore, do not count towards its continuous quoting obligations.⁸ For the above reasons, the Exchange believes it is appropriate to only include Options Market Maker orders that are posted to the MIAX PEARL Book under this exemption because they function like quotes as they post on the MIAX PEARL Book and count towards an Options Market Maker's continuous quoting obligations.

Absent this proposed rule change, orders submitted to the Exchange would not be eligible for the exemption afforded to quotes as Options Market Makers would be required to report the details of their order and each Reportable Event to the Central Repository. This would result in the same duplicative reporting that the exemption prevents for quotes to occur for orders because both Options Market Makers and MIAX PEARL would submit virtually identical data to the Central Repository. As a result of this filing, double reporting would be avoided as only the Exchange will report all orders and Reportable Events to the Central Repository, as described above and required by the CAT NMS Plan. Options Market Makers on MIAX PEARL would be required to report to the Exchange the time at which its order in a Listed Option is sent to the

⁷ Only the time-in-force modifiers of IOC and Day are available on the MEO interface. See *id.* (noting that “[n]ot all order types and modifiers are available for use on each of the MEO Interface and the FIX Interface). See also Section 4.1.1.2 of the MEO Interface Specification, available at https://www.miaxoptions.com/sites/default/files/page-files/MIAX_Express_Orders_MEO_v2.0.pdf (indicating that the time--in-force instructions of IOC and Day are available on the MEO interface).

⁸ See Interpretation and Policies .01 to Exchange Rule 605 (stating that IOC orders from Market Makers will not be counted for the continuous quoting obligations set forth in paragraph (d) of this Rule 605).

Exchange and, if applicable, any subsequent order modification time and/or cancellation time when such modification or cancellation is originated by the Options Market Maker.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act⁹, which requires, among other things, that the Exchange rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 6(b)(8) of the Act¹⁰, which requires that the Exchange rules not impose any burden on competition that is not necessary or appropriate.

The exemption for quotes described above would avoid the submission to the Central Repository by exchange and Options Market Makers of virtually identical details concerning the Options Market Maker quotes to the Central Repository. This proposed rule change seeks to serve the same purpose regarding orders submitted by Options Market Makers on MIAX PEARL, dual reporting of information that will at least double the size of the options quotation data reported to the CAT and create extensive overlap in the data elements reported. As described above, on MIAX PEARL orders posted to the MIAX PEARL Book operate in an identical manner as quotes on other options exchanges.

The Exchange believes it is appropriate to limit the proposal to orders posted to the MIAX PEARL Book because those orders satisfy the Options Market Maker's two-sided quoting obligation. IOC orders would not be covered by the exemption because such orders do not post to the MIAX PEARL Book and do not count towards the Options Market Maker satisfying its

⁹ 15 U.S.C. 78f(b)(6).

¹⁰ 15 U.S.C. 78f(b)(8).

two-sided quoting obligation.¹¹ The Exchange believes that this proposal is consistent with the Act because it would avoid the same dual reporting that was the subject of the exemption for orders and is currently covered by MIAX Rule 1703(a)(3). The proposal is consistent with this exemption from the CAT NMS Plan and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan.

In approving the Plan, the SEC noted that the Plan “is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.”¹² As it will do for the quotes under the exemption, the Exchange will report all orders posted to the MIAX PEARL Book and Reportable Events to the Central Repository as required by the CAT NMS Plan. Options Market Makers on MIAX PEARL would be required to report to the Exchange the time at which its order in a Listed Option is sent to the Exchange and, if applicable, any subsequent order modification time and/or cancellation time when such modification or cancellation is originated by the Options Market Maker. Therefore, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

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 Exchange notes that the proposed rule changes are consistent with the exemption from the CAT NMS Plan to avoid duplicative reporting for quotes and is designed to assist the Exchange and its

¹¹ See supra note 8.

¹² Adopting Release, supra note 3 at 84697.

Options Market Makers in meeting their regulatory obligations pursuant to the Plan. The Exchange also notes that this amendment to the Compliance Rule will apply equally to all Industry Members that are Options Market Makers. In addition, all options exchanges that accept orders and not quotes from their market makers are proposing similar amendments to their Compliance Rules. Therefore, this is not a competitive rule filing and does not impose a burden on competition.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act¹³ and Rule 19b-4(f)(6)¹⁴ 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 protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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-PEARL-2020-04 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-PEARL-2020-04. 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-PEARL-2020-04 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

J. Matthew DeLesDernier
Assistant Secretary

¹⁵ 17 CFR 200.30-3(a)(12).