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Page 1 of * 40

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2022 - * 26

Amendment No. (req. for Amendments *)

Filing by MIAX PEARL, LLC

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>
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Rule

<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)
<input checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)
<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) *

Section 806(e)(2) *

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) *

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Amend Pearl Equities Fee Schedule to New Adopt Liquidity Indicator Codes

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Greg **Last Name *** Ziegler

Title * Senior Counsel

E-mail * gziegler@miaxoptions.com

Telephone * (609) 897-1483 **Fax**

Signature

Pursuant to the requirements of the Securities Exchange of 1934, MIAX PEARL, LLC has duty caused this filing to be signed on its behalf by the undersigned thereunto duty authorized.

Date 07/05/2022 **(Title *)**

By Gregory P. Ziegler **Senior Counsel**
(Name *)

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Gregory Ziegler Date: 2022.07.05 14:54:30 -04'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information *

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SR-PEARL-2022-26 19b4_20220702.

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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SR-PEARL-2022-26-Exhibit 1.docx

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2- Notices, Written Comments, Transcripts, Other Communications

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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SR-PEARL-2022-26 - Exhibit 5 FINAL

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) MIAX PEARL, LLC (“MIAX Pearl” or “Exchange”), pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² proposes to amend the fee schedule (the “Fee Schedule”) applicable to MIAX Pearl Equities, an equities trading facility of the Exchange.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1, and a copy of the applicable section of the Fee Schedule is attached hereto as Exhibit 5.

(b) Inapplicable.

(c) Inapplicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Chief Executive Officer of the Exchange or duly appointed designee pursuant to authority delegated by the MIAX Pearl Board of Directors on June 16, 2022. Exchange staff will advise the Board of Directors of any action taken pursuant to delegated authority. No other action by the Exchange is necessary for the filing of the proposed rule change.

Questions and comments on the proposed rule changes may be directed to Greg Ziegler, VP and Senior Counsel, at (609) 897-1483.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

a. Purpose

The purpose of the proposed rule change is to amend the Exchange's Fee Schedule to adopt new liquidity indicator codes and associated fees and rebates to the Liquidity Indicator Codes and Associated Fees table. The Exchange originally filed this proposal on June 23, 2022, (SR-PEARL-2022-24). On July 5, 2022, the Exchange withdrew SR-PEARL-2022-24 and resubmitted this proposal.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly available information, no single registered equities exchange currently has more than approximately 17% of the total market share of executed volume of equities trading, and the Exchange currently represents approximately 1% of the overall market share.³

Background

The Exchange filed a proposal⁴ to adopt a new routing option called Route to Primary Auction ("PAC") that would be available to orders in equity securities traded on the Exchange's equity trading platform. The PAC routing option would enable an Equity

³ See MIAX's "The market at a glance, MTD Average", available at <https://www.miaxoptions.com/>, (last visited June 30, 2022).

⁴ See Securities Exchange Act Release No.94301 (February 23, 2022), 87 FR 11739 (March 2, 2022) (SR-PEARL-2022-06).

Member⁵ (“Member”) to designate that their order be routed to the primary listing market to participate in the primary listing market’s opening, re-opening or closing process.⁶

Exchange Rule 2617(b)(5)(B) provides that PAC is a routing option for Market Orders⁷ and displayed Limit Orders⁸ designated with a time-in-force of Regular Hours Only (“RHO”)⁹ that the entering firm wishes to designate for participation in the opening, re-opening (following a regulatory halt, suspension, or pause), or closing process¹⁰ of a primary listing market (Cboe BZX Exchange, Inc. (“BZX”), the New York Stock Exchange LLC (“NYSE”), The Nasdaq Stock Market LLC (“Nasdaq”), NYSE American LLC (“NYSE American”), or NYSE Arca, Inc. (“NYSE Arca”)) if received before the opening, re-opening, or closing process of such market.

The Exchange currently has a liquidity indicator code of “X” for routed liquidity. This code will continue to be applied to an order that is routed to and executed on an away market. Additionally, this code will be used to identify orders that were routed to an away market (including orders that were routed using the PAC routing strategy) and executed as “Taker.” The proposed liquidity indicator codes described below are specifically related to

⁵ The term “Equity Member” is a Member authorized by the Exchange to transact business on MIAX Pearl Equities. See Exchange Rule 1901.

⁶ See Exchange Rule 2617(b)(5)(B).

⁷ See Exchange Rule 2614(a)(2).

⁸ See Exchange Rule 2614(a)(1).

⁹ Exchange Rule 2614(b)(2) defines “Regular Hours Only” or “RHO” as “[a]n order that is designated for execution only during Regular Trading Hours, which includes the Opening Process for equity securities. An order with a time-in-force of RHO entered into the System before the opening of business on the Exchange as determined pursuant to Exchange Rule 2600 will be accepted but not eligible for execution until the start of Regular Trading Hours.”

¹⁰ The Exchange notes that it will not route Market Orders to the primary listing market’s closing process.

the PAC routing strategy.

New Liquidity Indicator Codes

In conjunction with the Exchange's proposal to provide a PAC routing option as described above, the Exchange now proposes to amend the Liquidity Indicator Codes and Associated Fees Table to adopt new routing fees and rebates as follows:

- Add new liquidity indicator code XA, Re-routed by Primary Listing Exchange. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XA would be charged a fee \$0.003 per share in securities priced at or above \$1.00 and 0.3% of the transaction's dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XB, Routed Primary Listing Exchange Execution (Other). The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XB would be charged a fee \$0.003 per share in securities priced at or above \$1.00 and 0.3% of the transaction's dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XC, Routed to NYSE, Opening/Re-Opening Auction. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XC would be charged a fee \$0.00105 per share in securities priced at or above \$1.00 and 0.3% of the transaction's dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XD, Routed to NYSE, Closing Auction. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XD would be charged a fee \$0.00085 per share

in securities priced at or above \$1.00 and 0.3% of the transaction's dollar value in securities priced below \$1.00.

- Add new liquidity indicator code XE, Routed to NYSE, Adds Displayed Liquidity. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XE would receive a rebate of \$0.0015 per share in securities priced at or above \$1.00 and would be charged a fee of 0.01% of the transaction's dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XF, Routed to NYSE Arca, Opening/Re-Opening Auction. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XF would be charged a fee of \$0.00155 per share in securities priced at or above \$1.00 and 0.105% of the transaction's dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XG, Routed to NYSE Arca, Closing Auction. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XG would be charged a fee of \$0.00105 per share in securities priced at or above \$1.00 and a fee of 0.105% of the transaction's dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XH, Routed to NYSE Arca, Adds Displayed Liquidity. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XH would receive a rebate of \$0.0015 per share in securities priced at or above \$1.00 and would be charged a fee of 0.01% of the transaction's dollar value in securities priced below \$1.00.

- Add new liquidity indicator code XI, Routed to NYSE American, Opening/Re-Opening Auction. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XI would be charged a fee of \$0.00055 per share in securities priced at or above \$1.00 and 0.055% of the transaction's dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XJ, Routed to NYSE American, Closing Auction. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XJ would be charged a fee of \$0.00055 per share in securities priced at or above \$1.00 and 0.055% of the transaction's dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XK, Routed to NYSE American, Adds Displayed Liquidity. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XK would receive a rebate of \$0.001 per share in securities priced at or above \$1.00 and would be charged a fee of 0.01% of the transaction's dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XL, Routed to Cboe BZX, Opening/Re-Opening Auction. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XL would be charged a fee of \$0.0008 per share in securities priced at or above \$1.00 and 0.08% of the transaction's dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XM, Routed to Cboe BZX, Closing Auction. The Liquidity Indicator Codes and Associated Fees table would specify that

orders that yield liquidity indicator code XM would be charged a fee of \$0.00105 per share in securities priced at or above \$1.00 and 0.105% of the transaction's dollar value in securities priced below \$1.00.

- Add new liquidity indicator code XN, Routed to Cboe BZX, Adds Displayed Liquidity. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XN would receive a rebate of \$0.0015 per share in securities priced at or above \$1.00 and be charged a fee of 0.01% of the transaction's dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XO, Routed to Nasdaq, Opening/Re-Opening Auction. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XO would be charged a fee of \$0.00155 per share in securities priced at or above \$1.00 and 0.30% of the transaction's dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XP, Routed to Nasdaq, Closing Auction. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XP would be charged a fee of \$0.00085 per share in securities priced at or above \$1.00 and 0.09% of the transaction's dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XQ, Routed to Nasdaq, Adds Displayed Liquidity. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XQ would receive a rebate of \$0.0015 per share in securities priced at or above \$1.00 and be charged a fee of 0.01% of the transaction's dollar value in securities priced below \$1.00.

As part of the PAC order routing strategy the Exchange will route a limit order to participate in the primary listing market's closing process prior to the primary listing market's order entry cut-off time.¹¹ These orders may rest on the primary listing market's book until such time as the closing auction commences. During this period these orders are subject to standard order handling and may be executed or routed by the primary listing market depending upon market conditions. Therefore the Exchange is proposing to adopt liquidity indicator codes to reflect the disposition of the order (i.e., an order routed to NYSE that rests on the book and is executed prior to the closing auction would receive liquidity indicator code XE; an order routed to NYSE Arca that rests on the book and is executed prior to the closing auction would receive liquidity indicator code XH; an order routed to NYSE American that rests on the book and is executed prior to the closing auction would receive liquidity indicator code XK; an order routed to Cboe BZX that rests on the book and is executed prior to the closing auction would receive liquidity indicator code XN; and an order routed to Nasdaq that rests on the book and is executed prior to the closing auction would receive liquidity indicator code XQ; further an order routed to a primary listing market that is subsequently routed by the primary listing market prior to the start of the closing auction would receive liquidity indicator code XA).

Implementation

The proposed changes are immediately effective.

b. Statutory Basis

¹¹ See Exchange Rule 2617(b)(5)(B)(1)(ii)(a).

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act¹² in general, and furthers the objectives of Section 6(b)(4) of the Act¹³ in particular, in that it is an equitable allocation of reasonable fees and other charges among its Members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5)¹⁴ that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, and 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, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange operates in a highly fragmented and competitive market in which market participants can readily direct their order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of sixteen registered equities exchanges, and there are a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly available information, no single registered equities exchange currently has more than approximately 17% of the total market share of executed volume of equities trading.¹⁵ Thus, in such a low-concentrated and highly competitive market, no single equities exchange

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(4).

¹⁴ 15 U.S.C 78f(b)(5).

¹⁵ See supra note 3.

possesses significant pricing power in the execution of order flow, and the Exchange currently represents less than 1% of the overall market share. The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and also recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”¹⁶

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange’s transaction fees and rebates, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. The Exchange believes the proposal will further remove impediments to and perfect the mechanism of a free and open market and a national market system, and will introduce the PAC routing strategy on the Exchange which will provide Members with greater flexibility in routing orders to other exchanges.

New Liquidity Indicator Codes

The Exchange believes that its proposal to adopt liquidity indicator codes is reasonable, consistent with an equitable allocation of fees, and not unfairly discriminatory. The use of

¹⁶ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37499 (June 29, 2005).

liquidity indicator codes is not unique to the Exchange as liquidity indicator codes are currently utilized and described in the fee schedules of other equity exchanges.¹⁷ Additionally, the Exchange believes its fee changes proposed for each liquidity indicator code are reasonable because competing exchanges that offer similar functionality charge similar fees as those proposed herein.¹⁸

Specifically, the proposed fee of \$0.003 for liquidity indicator code XA, Re-routed by Primary Listing Exchange and the proposed fee of \$0.003 for liquidity indicator code XB, Routed Primary Listing Exchange Execution (Other) are equal to the current fee charged for liquidity indicator code X, Routed, on the Exchange. The proposed fee of \$0.00105 for liquidity indicator code XC, Routed to NYSE Opening/Re-Opening Auction, is comparable to the fee charged by NYSE Arca of \$0.001 to route orders to NYSE Auctions.¹⁹ Similarly, the proposed fee of \$0.00085 for liquidity indicator code XD, Closing Auction, is comparable to the fee

¹⁷ See NYSE Arca Equities Exchange Fee Schedule, Section V., Standard Rates-Routing, on its public website (available at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf); see also Cboe BZX U.S. Equities Exchange Fee Schedule, Fees Codes and Associated Fees, on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/); see also Cboe EDGX U.S. Equities Exchange Fee Schedule, Fee Codes and Associate Fees, on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/edgx/).

¹⁸ See NYSE Arca Equities Exchange Fee Schedule, Section V., Standard Rates-Routing, on its public website (available at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf); see also Cboe BZX U.S. Equities Exchange Fee Schedule, Fees Codes and Associated Fees, on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/); see also Cboe EDGX U.S. Equities Exchange Fee Schedule, Fee Codes and Associate Fees, on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/edgx/).

¹⁹ See NYSE Arca Equities Exchange Fee Schedule, Section V., Standard Rates-Routing, on its public website (available at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf).

charged by NYSE Arca of \$0.001 to route orders to NYSE Auctions.²⁰ The proposed fee of \$0.00055 for liquidity indicator code XI, Routed to NYSE American Opening/Re-Opening Auction, is comparable to the fee charged by NYSE Arca of \$0.0005 to route orders to NYSE American Auctions.²¹ Similarly, the proposed fee of \$0.00055 for liquidity indicator code XJ, Routed to NYSE American, Closing Auction, is comparable to the fee charged by NYSE Arca of \$0.0005 to route orders to NYSE American Auctions.²² The proposed fee of \$0.0008 for liquidity indicator code XL, Routed to Cboe BZX, Opening/Re-Opening Auction, is comparable to the fee charged by NYSE Arca of \$0.003 for routing orders to Cboe BZX auctions.²³ Similarly, the proposed fee of \$0.00105 for liquidity indicator code XM, Routed to Cboe BZX, Closing Auction, is less than the fee charged by NYSE Arca of \$0.003 to route orders to Cboe BZX auctions.²⁴ The proposed fee of \$0.00155 for liquidity indicator code XO, Routed to Nasdaq, Opening/Re-Opening Auction, is less than the fee charged by NYSE Arca of \$0.003 for routing orders to Nasdaq auctions.²⁵ Similarly, the proposed fee of \$0.00085 for liquidity indicator code XP, Routed to Nasdaq, Closing Auction, is comparable to the fee charged by NYSE Arca of \$0.003 to route orders to Nasdaq auctions.²⁶ The proposed fee of \$0.00155 for liquidity indicator code XF, Routed to NYSE Arca, Opening/Re-Opening Auction, is comparable to the fee charged by Cboe BZX of \$0.0015 for routing orders to a listing market's opening or

²⁰ Id.

²¹ See Id.

²² See Id.

²³ See Id.

²⁴ See Id.

²⁵ See Id.

²⁶ See Id.

re-opening cross.²⁷ Similarly, the proposed fee of \$0.00105 for liquidity indicator code XG, Routed to NYSE Arca, Closing Auction, is comparable to the fee charged by Cboe BZX of \$0.001 to route orders to a listing market's closing process.²⁸ The proposed fee of \$0.00085 for liquidity indicator code XP, Routed to Nasdaq, Closing Auction, is comparable to the fee charged by Cboe EDGX of \$0.001 for fee code "CL" to route orders to a listing market's closing process.²⁹ The proposed credit of \$0.0015 for liquidity indicator code XE, Routed to NYSE, Adds Displayed Liquidity, is comparable to the credit of \$0.0015 provided by Cboe BZX for fee code "F", routed to NYSE, adds liquidity.³⁰ The proposed credit of \$0.0015 for liquidity indicator code XH, Routed to NYSE Arca, Adds Displayed Liquidity, is comparable to the credit of \$0.0022 provided by Cboe BZX for fee code "10" routed to NYSE Arca, adds liquidity.³¹ The proposed credit of \$0.001 for liquidity indicator code XK, Routed to NYSE American, Adds Displayed Liquidity, is comparable to the credit of \$0.002 provided by NYSE American for Adding Displayed Liquidity.³² The proposed credit of \$0.0015 for liquidity indicator code XN, Routed to Cboe BZX, Adds Displayed Liquidity, is comparable to the credit of \$0.002 provided

²⁷ See Cboe BZX U.S. Equities Exchange Fee Schedule, Fees Codes and Associated Fees, on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/).

²⁸ Id.

²⁹ See supra note 27.

³⁰ Id.

³¹ See Id.

³² See NYSE American Equities Price List on its public website (available at https://www.nyse.com/publicdocs/nyse/markets/nyse-american/NYSE_America_Equities_Price_List.pdf.)

by Cboe EDGX for fee code “RZ” routed to Cboe BZX, adds liquidity.³³ The proposed credit of \$0.0015 for liquidity indicator code XQ, Routed to Nasdaq, Adds Displayed Liquidity is comparable to the credit provided by Cboe BZX of \$0.0015 for fee code “A” routed to Nasdaq, adds liquidity.³⁴

Regarding the proposed rates for securities priced below \$1.00, the Exchange believes its rates are reasonable because, as indicated above, in order to operate in the highly competitive equities markets, the Exchange, and its competing exchanges, seek to offer similar pricing structures, including assessing comparable standard fees and rebates. The Exchange currently charges a fee of 0.30% of the total dollar value of the transaction for executions in securities priced below \$1.00 that occur on away exchanges under liquidity indicator code “X.” Other competing exchanges charge similar fees, such as NYSE American, that assesses a fee of 0.30% of the total dollar value of the transaction for executions in securities priced below \$1.00 occurring in an away market auction. The Exchange notes that none of its proposed fees for executions in securities priced below \$1.00 exceed 0.30% and are thus reasonably priced and competitive with other competing equity exchanges.

The Exchange further believes the proposed fees and rebates are equitable and reasonable and not unfairly discriminatory because they will apply equally to all Members of the Exchange that submit orders with the PAC routing option to the Exchange. Further, routing through the Exchange is voluntary and the Exchange notes that it operates in a highly competitive market in

³³ See Cboe EDGX U.S. Equities Exchange Fee Schedule, Fee Codes and Associated Fees, on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/edgx/).

³⁴ See Id.

which market participants can readily direct order flow to competing venues or providers of routing services if they deem fee levels to be excessive.

For the reasons discussed above, the Exchange submits that the proposal satisfies the requirements of Sections 6(b)(4) and 6(b)(5) of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities and is not designed to unfairly discriminate between customers, issuers, brokers, or dealers. As described more fully below in the Exchange's statement regarding the burden on competition, the Exchange believes that its transaction pricing is subject to significant competitive forces, and that the proposed fees and rebates described herein are appropriate to address such forces.

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

The Exchange does not believe that the proposed change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed fees are competitive in that they provide comparable fees and credits for routing orders as other exchanges. The Exchange notes that Members may opt not to select the PAC routing option on orders submitted to the Exchange and accordingly will not incur the associated routing fees proposed herein.

Intramarket Competition

The Exchange does not believe that the proposal will impose any burden on intramarket competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed fees and rebates would be available to all similarly situated market participants, and, as such the proposed change would not impose a disparate burden on competition among market participants on the Exchange. Specifically, all Members that use the PAC routing option will be subject to the same fees and rebates. The Exchange does not believe its adoption of new liquidity indicator

codes for orders that use the PAC routing option would impose any burden on intramarket competition as the use of liquidity indicator codes is not new or novel and liquidity indicator codes are used on other equity exchanges.³⁵ The use of liquidity indicator codes provides additional specificity to the fee schedule so that Equity Members may connect an execution to the applicable fee or rebate. As such the Exchange does not believe the proposed changes would impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purpose of the Act.

Intermarket Competition

The Exchange believes its proposal will benefit competition, and the Exchange notes that it operates in a highly competitive market. Members have numerous alternative venues they may participate on and direct their order flow to, including fifteen other equities exchanges and numerous alternative trading systems and other off-exchange venues. As noted above, no single registered equities exchange currently has more than 17% of the total market share of executed volume of equities trading.³⁶ Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. Moreover, the Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow in response to new or different pricing structures being introduced to the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates generally, including with respect to executions of Removed Volume, and market participants can readily choose to send their orders

³⁵ See Cboe BZX U.S. Equities Fee Schedule ("CboeBZX") available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/; and also MEMX LLC ("MEMX") Fee Schedule available on their public website at <https://info.memxtrading.com/fee-schedule/>.

³⁶ See supra note 3.

to other exchanges and off-exchange venues if they deem fee levels at those other venues to be more favorable.

Accordingly, the Exchange believes its proposal would not burden, but rather promote, intermarket competition by enabling it to better compete with other exchanges that offer routing strategies.

Additionally, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”³⁷

The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. circuit stated: “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possess a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’ . . .”³⁸

Accordingly, the Exchange does not believe its proposed pricing changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

³⁷ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

³⁸ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSE-2006-21)).

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

No written comments were either solicited or received.

6. **Extension of Time Period for Commission Action**

Not applicable.

7. **Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)**

Pursuant to Section 19(b)(3)(A)(ii) of the Act,³⁹ and Rule 19b-4(f)(2) thereunder⁴⁰ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

8. **Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**

Not applicable.

9. **Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act**

Not applicable.

10. **Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act**

Not applicable.

11. **Exhibits**

1. Completed notice of proposed rule change for publication in the Federal Register.
5. Copy of the applicable section of the Fee Schedule.

³⁹ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴⁰ 17 CFR 240.19b-4.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-PEARL-2022-26)

July____, 2022

Self-Regulatory Organizations: Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by MIAX PEARL, LLC to Amend the MIAX Pearl Equities Fee Schedule

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 July 5, 2022, MIAX PEARL, LLC (“MIAX Pearl” or “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 the fee schedule (the “Fee Schedule”) applicable to MIAX Pearl Equities, an equities trading facility of the Exchange.

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.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 purpose of the proposed rule change is to amend the Exchange's Fee Schedule to adopt new liquidity indicator codes and associated fees and rebates to the Liquidity Indicator Codes and Associated Fees table. The Exchange originally filed this proposal on June 23, 2022, (SR-PEARL-2022-24). On July 5, 2022, the Exchange withdrew SR-PEARL-2022-24 and resubmitted this proposal.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly available information, no single registered equities exchange currently has more than approximately 17% of the total market share of executed volume of equities trading, and the Exchange currently represents approximately 1% of the overall market share.³

Background

The Exchange filed a proposal⁴ to adopt a new routing option called Route to Primary Auction ("PAC") that would be available to orders in equity securities traded on

³ See MIAX's "The market at a glance, MTD Average", available at <https://www.miaxoptions.com/>, (last visited June 30, 2022).

⁴ See Securities Exchange Act Release No.94301 (February 23, 2022), 87 FR 11739 (March 2, 2022) (SR-PEARL-2022-06).

the Exchange's equity trading platform. The PAC routing option would enable an Equity Member⁵ ("Member") to designate that their order be routed to the primary listing market to participate in the primary listing market's opening, re-opening or closing process.⁶

Exchange Rule 2617(b)(5)(B) provides that PAC is a routing option for Market Orders⁷ and displayed Limit Orders⁸ designated with a time-in-force of Regular Hours Only ("RHO")⁹ that the entering firm wishes to designate for participation in the opening, re-opening (following a regulatory halt, suspension, or pause), or closing process¹⁰ of a primary listing market (Cboe BZX Exchange, Inc. ("BZX"), the New York Stock Exchange LLC ("NYSE"), The Nasdaq Stock Market LLC ("Nasdaq"), NYSE American LLC ("NYSE American"), or NYSE Arca, Inc. ("NYSE Arca")) if received before the opening, re-opening, or closing process of such market.

The Exchange currently has a liquidity indicator code of "X" for routed liquidity. This code will continue to be applied to an order that is routed to and executed on an away market. Additionally, this code will be used to identify orders that were routed to an away market (including orders that were routed using the PAC routing strategy) and executed as

⁵ The term "Equity Member" is a Member authorized by the Exchange to transact business on MIAAX Pearl Equities. See Exchange Rule 1901.

⁶ See Exchange Rule 2617(b)(5)(B).

⁷ See Exchange Rule 2614(a)(2).

⁸ See Exchange Rule 2614(a)(1).

⁹ Exchange Rule 2614(b)(2) defines "Regular Hours Only" or "RHO" as "[a]n order that is designated for execution only during Regular Trading Hours, which includes the Opening Process for equity securities. An order with a time-in-force of RHO entered into the System before the opening of business on the Exchange as determined pursuant to Exchange Rule 2600 will be accepted but not eligible for execution until the start of Regular Trading Hours."

¹⁰ The Exchange notes that it will not route Market Orders to the primary listing market's closing process.

“Taker.” The proposed liquidity indicator codes described below are specifically related to the PAC routing strategy.

New Liquidity Indicator Codes

In conjunction with the Exchange’s proposal to provide a PAC routing option as described above, the Exchange now proposes to amend the Liquidity Indicator Codes and Associated Fees Table to adopt new routing fees and rebates as follows:

- Add new liquidity indicator code XA, Re-routed by Primary Listing Exchange. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XA would be charged a fee \$0.003 per share in securities priced at or above \$1.00 and 0.3% of the transaction’s dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XB, Routed Primary Listing Exchange Execution (Other). The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XB would be charged a fee \$0.003 per share in securities priced at or above \$1.00 and 0.3% of the transaction’s dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XC, Routed to NYSE, Opening/Re-Opening Auction. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XC would be charged a fee \$0.00105 per share in securities priced at or above \$1.00 and 0.3% of the transaction’s dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XD, Routed to NYSE, Closing Auction. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XD would be charged a fee \$0.00085 per share

in securities priced at or above \$1.00 and 0.3% of the transaction's dollar value in securities priced below \$1.00.

- Add new liquidity indicator code XE, Routed to NYSE, Adds Displayed Liquidity. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XE would receive a rebate of \$0.0015 per share in securities priced at or above \$1.00 and would be charged a fee of 0.01% of the transaction's dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XF, Routed to NYSE Arca, Opening/Re-Opening Auction. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XF would be charged a fee of \$0.00155 per share in securities priced at or above \$1.00 and 0.105% of the transaction's dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XG, Routed to NYSE Arca, Closing Auction. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XG would be charged a fee of \$0.00105 per share in securities priced at or above \$1.00 and a fee of 0.105% of the transaction's dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XH, Routed to NYSE Arca, Adds Displayed Liquidity. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XH would receive a rebate of \$0.0015 per share in securities priced at or above \$1.00 and would be charged a fee of 0.01% of the transaction's dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XI, Routed to NYSE American, Opening/Re-Opening Auction. The Liquidity Indicator Codes and Associated Fees table

would specify that orders that yield liquidity indicator code XI would be charged a fee of \$0.00055 per share in securities priced at or above \$1.00 and 0.055% of the transaction's dollar value in securities priced below \$1.00.

- Add new liquidity indicator code XJ, Routed to NYSE American, Closing Auction. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XJ would be charged a fee of \$0.00055 per share in securities priced at or above \$1.00 and 0.055% of the transaction's dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XK, Routed to NYSE American, Adds Displayed Liquidity. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XK would receive a rebate of \$0.001 per share in securities priced at or above \$1.00 and would be charged a fee of 0.01% of the transaction's dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XL, Routed to Cboe BZX, Opening/Re-Opening Auction. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XL would be charged a fee of \$0.0008 per share in securities priced at or above \$1.00 and 0.08% of the transaction's dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XM, Routed to Cboe BZX, Closing Auction. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XM would be charged a fee of \$0.00105 per share in securities priced at or above \$1.00 and 0.105% of the transaction's dollar value in securities priced below \$1.00.

- Add new liquidity indicator code XN, Routed to Cboe BZX, Adds Displayed Liquidity. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XN would receive a rebate of \$0.0015 per share in securities priced at or above \$1.00 and be charged a fee of 0.01% of the transaction's dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XO, Routed to Nasdaq, Opening/Re-Opening Auction. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XO would be charged a fee of \$0.00155 per share in securities priced at or above \$1.00 and 0.30% of the transaction's dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XP, Routed to Nasdaq, Closing Auction. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XP would be charged a fee of \$0.00085 per share in securities priced at or above \$1.00 and 0.09% of the transaction's dollar value in securities priced below \$1.00.
- Add new liquidity indicator code XQ, Routed to Nasdaq, Adds Displayed Liquidity. The Liquidity Indicator Codes and Associated Fees table would specify that orders that yield liquidity indicator code XQ would receive a rebate of \$0.0015 per share in securities priced at or above \$1.00 and be charged a fee of 0.01% of the transaction's dollar value in securities priced below \$1.00.

As part of the PAC order routing strategy the Exchange will route a limit order to participate in the primary listing market's closing process prior to the primary listing market's

order entry cut-off time.¹¹ These orders may rest on the primary listing market's book until such time as the closing auction commences. During this period these orders are subject to standard order handling and may be executed or routed by the primary listing market depending upon market conditions. Therefore the Exchange is proposing to adopt liquidity indicator codes to reflect the disposition of the order (i.e., an order routed to NYSE that rests on the book and is executed prior to the closing auction would receive liquidity indicator code XE; an order routed to NYSE Arca that rests on the book and is executed prior to the closing auction would receive liquidity indicator code XH; an order routed to NYSE American that rests on the book and is executed prior to the closing auction would receive liquidity indicator code XK; an order routed to Cboe BZX that rests on the book and is executed prior to the closing auction would receive liquidity indicator code XN; and an order routed to Nasdaq that rests on the book and is executed prior to the closing auction would receive liquidity indicator code XQ; further an order routed to a primary listing market that is subsequently routed by the primary listing market prior to the start of the closing auction would receive liquidity indicator code XA).

Implementation

The proposed changes are immediately effective.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act¹² in general, and furthers the objectives of Section 6(b)(4) of the Act¹³ in particular, in that it is an equitable allocation of reasonable fees and other charges among its Members and issuers and other persons using its facilities. The Exchange also believes that the

¹¹ See Exchange Rule 2617(b)(5)(B)(1)(ii)(a).

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(4).

proposed rule change is consistent with the objectives of Section 6(b)(5)¹⁴ that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, and 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, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange operates in a highly fragmented and competitive market in which market participants can readily direct their order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of sixteen registered equities exchanges, and there are a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly available information, no single registered equities exchange currently has more than approximately 17% of the total market share of executed volume of equities trading.¹⁵ Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow, and the Exchange currently represents less than 1% of the overall market share. The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and also recognized that current regulation of the market system “has been remarkably successful in

¹⁴ 15 U.S.C 78f(b)(5).

¹⁵ See supra note 3.

promoting market competition in its broader forms that are most important to investors and listed companies.”¹⁶

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange’s transaction fees and rebates, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. The Exchange believes the proposal will further remove impediments to and perfect the mechanism of a free and open market and a national market system, and will introduce the PAC routing strategy on the Exchange which will provide Members with greater flexibility in routing orders to other exchanges.

New Liquidity Indicator Codes

The Exchange believes that its proposal to adopt liquidity indicator codes is reasonable, consistent with an equitable allocation of fees, and not unfairly discriminatory. The use of liquidity indicator codes is not unique to the Exchange as liquidity indicator codes are currently utilized and described in the fee schedules of other equity exchanges.¹⁷ Additionally, the Exchange believes its fee changes proposed for each liquidity indicator code are reasonable

¹⁶ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37499 (June 29, 2005).

¹⁷ See NYSE Arca Equities Exchange Fee Schedule, Section V., Standard Rates-Routing, on its public website (available at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf); see also Cboe BZX U.S. Equities Exchange Fee Schedule, Fees Codes and Associated Fees, on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/); see also Cboe EDGX U.S. Equities Exchange Fee Schedule, Fee Codes and Associate Fees, on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/edgx/).

because competing exchanges that offer similar functionality charge similar fees as those proposed herein.¹⁸

Specifically, the proposed fee of \$0.003 for liquidity indicator code XA, Re-routed by Primary Listing Exchange and the proposed fee of \$0.003 for liquidity indicator code XB, Routed Primary Listing Exchange Execution (Other) are equal to the current fee charged for liquidity indicator code X, Routed, on the Exchange. The proposed fee of \$0.00105 for liquidity indicator code XC, Routed to NYSE Opening/Re-Opening Auction, is comparable to the fee charged by NYSE Arca of \$0.001 to route orders to NYSE Auctions.¹⁹ Similarly, the proposed fee of \$0.00085 for liquidity indicator code XD, Closing Auction, is comparable to the fee charged by NYSE Arca of \$0.001 to route orders to NYSE Auctions.²⁰ The proposed fee of \$0.00055 for liquidity indicator code XI, Routed to NYSE American Opening/Re-Opening Auction, is comparable to the fee charged by NYSE Arca of \$0.0005 to route orders to NYSE American Auctions.²¹ Similarly, the proposed fee of \$0.00055 for liquidity indicator code XJ, Routed to NYSE American, Closing Auction, is comparable to the fee charged by NYSE Arca of \$0.0005 to route orders to NYSE American Auctions.²² The proposed fee of \$0.0008 for

¹⁸ See NYSE Arca Equities Exchange Fee Schedule, Section V., Standard Rates-Routing, on its public website (available at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf); see also Cboe BZX U.S. Equities Exchange Fee Schedule, Fees Codes and Associated Fees, on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/); see also Cboe EDGX U.S. Equities Exchange Fee Schedule, Fee Codes and Associate Fees, on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/edgx/).

¹⁹ See NYSE Arca Equities Exchange Fee Schedule, Section V., Standard Rates-Routing, on its public website (available at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf).

²⁰ Id.

²¹ See Id.

²² See Id.

liquidity indicator code XL, Routed to Cboe BZX, Opening/Re-Opening Auction, is comparable to the fee charged by NYSE Arca of \$0.003 for routing orders to Cboe BZX auctions.²³ Similarly, the proposed fee of \$0.00105 for liquidity indicator code XM, Routed to Cboe BZX, Closing Auction, is less than the fee charged by NYSE Arca of \$0.003 to route orders to Cboe BZX auctions.²⁴ The proposed fee of \$0.00155 for liquidity indicator code XO, Routed to Nasdaq, Opening/Re-Opening Auction, is less than the fee charged by NYSE Arca of \$0.003 for routing orders to Nasdaq auctions.²⁵ Similarly, the proposed fee of \$0.00085 for liquidity indicator code XP, Routed to Nasdaq, Closing Auction, is comparable to the fee charged by NYSE Arca of \$0.003 to route orders to Nasdaq auctions.²⁶ The proposed fee of \$0.00155 for liquidity indicator code XF, Routed to NYSE Arca, Opening/Re-Opening Auction, is comparable to the fee charged by Cboe BZX of \$0.0015 for routing orders to a listing market's opening or re-opening cross.²⁷ Similarly, the proposed fee of \$0.00105 for liquidity indicator code XG, Routed to NYSE Arca, Closing Auction, is comparable to the fee charged by Cboe BZX of \$0.001 to route orders to a listing market's closing process.²⁸ The proposed fee of \$0.00085 for liquidity indicator code XP, Routed to Nasdaq, Closing Auction, is comparable to the fee charged by Cboe EDGX of \$0.001 for fee code "CL" to route orders to a listing market's closing process.²⁹ The proposed credit of \$0.0015 for liquidity indicator code XE, Routed to NYSE,

²³ See Id.

²⁴ See Id.

²⁵ See Id.

²⁶ See Id.

²⁷ See Cboe BZX U.S. Equities Exchange Fee Schedule, Fees Codes and Associated Fees, on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/).

²⁸ Id.

²⁹ See supra note 27.

Adds Displayed Liquidity, is comparable to the credit of \$0.0015 provided by Cboe BZX for fee code “F”, routed to NYSE, adds liquidity.³⁰ The proposed credit of \$0.0015 for liquidity indicator code XH, Routed to NYSE Arca, Adds Displayed Liquidity, is comparable to the credit of \$0.0022 provided by Cboe BZX for fee code “10” routed to NYSE Arca, adds liquidity.³¹ The proposed credit of \$0.001 for liquidity indicator code XK, Routed to NYSE American, Adds Displayed Liquidity, is comparable to the credit of \$0.002 provided by NYSE American for Adding Displayed Liquidity.³² The proposed credit of \$0.0015 for liquidity indicator code XN, Routed to Cboe BZX, Adds Displayed Liquidity, is comparable to the credit of \$0.002 provided by Cboe EDGX for fee code “RZ” routed to Cboe BZX, adds liquidity.³³ The proposed credit of \$0.0015 for liquidity indicator code XQ, Routed to Nasdaq, Adds Displayed Liquidity is comparable to the credit provided by Cboe BZX of \$0.0015 for fee code “A” routed to Nasdaq, adds liquidity.³⁴

Regarding the proposed rates for securities priced below \$1.00, the Exchange believes its rates are reasonable because, as indicated above, in order to operate in the highly competitive equities markets, the Exchange, and its competing exchanges, seek to offer similar pricing structures, including assessing comparable standard fees and rebates. The Exchange currently charges a fee of 0.30% of the total dollar value of the transaction for executions in securities

³⁰ Id.

³¹ See Id.

³² See NYSE American Equities Price List on its public website (available at https://www.nyse.com/publicdocs/nyse/markets/nyse-american/NYSE_America_Equities_Price_List.pdf).

³³ See Cboe EDGX U.S. Equities Exchange Fee Schedule, Fee Codes and Associated Fees, on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/edgx/).

³⁴ See Id.

priced below \$1.00 that occur on away exchanges under liquidity indicator code “X.” Other competing exchanges charge similar fees, such as NYSE American, that assesses a fee of 0.30% of the total dollar value of the transaction for executions in securities priced below \$1.00 occurring in an away market auction. The Exchange notes that none of its proposed fees for executions in securities priced below \$1.00 exceed 0.30% and are thus reasonably priced and competitive with other competing equity exchanges.

The Exchange further believes the proposed fees and rebates are equitable and reasonable and not unfairly discriminatory because they will apply equally to all Members of the Exchange that submit orders with the PAC routing option to the Exchange. Further, routing through the Exchange is voluntary and the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues or providers of routing services if they deem fee levels to be excessive.

For the reasons discussed above, the Exchange submits that the proposal satisfies the requirements of Sections 6(b)(4) and 6(b)(5) of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities and is not designed to unfairly discriminate between customers, issuers, brokers, or dealers. As described more fully below in the Exchange’s statement regarding the burden on competition, the Exchange believes that its transaction pricing is subject to significant competitive forces, and that the proposed fees and rebates described herein are appropriate to address such forces.

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

The Exchange does not believe that the proposed change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed fees are competitive in that they provide comparable fees

and credits for routing orders as other exchanges. The Exchange notes that Members may opt not to select the PAC routing option on orders submitted to the Exchange and accordingly will not incur the associated routing fees proposed herein.

Intramarket Competition

The Exchange does not believe that the proposal will impose any burden on intramarket competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed fees and rebates would be available to all similarly situated market participants, and, as such the proposed change would not impose a disparate burden on competition among market participants on the Exchange. Specifically, all Members that use the PAC routing option will be subject to the same fees and rebates. The Exchange does not believe its adoption of new liquidity indicator codes for orders that use the PAC routing option would impose any burden on intramarket competition as the use of liquidity indicator codes is not new or novel and liquidity indicator codes are used on other equity exchanges.³⁵ The use of liquidity indicator codes provides additional specificity to the fee schedule so that Equity Members may connect an execution to the applicable fee or rebate. As such the Exchange does not believe the proposed changes would impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purpose of the Act.

Intermarket Competition

The Exchange believes its proposal will benefit competition, and the Exchange notes that it operates in a highly competitive market. Members have numerous alternative venues they may participate on and direct their order flow to, including fifteen other equities exchanges and

³⁵ See Cboe BZX U.S. Equities Fee Schedule (“CboeBZX”) available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/; and also MEMX LLC (“MEMX”) Fee Schedule available on their public website at <https://info.memxtrading.com/fee-schedule/>.

numerous alternative trading systems and other off-exchange venues. As noted above, no single registered equities exchange currently has more than 17% of the total market share of executed volume of equities trading.³⁶ Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. Moreover, the Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow in response to new or different pricing structures being introduced to the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates generally, including with respect to executions of Removed Volume, and market participants can readily choose to send their orders to other exchanges and off-exchange venues if they deem fee levels at those other venues to be more favorable.

Accordingly, the Exchange believes its proposal would not burden, but rather promote, intermarket competition by enabling it to better compete with other exchanges that offer routing strategies.

Additionally, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."³⁷

The fact that this market is competitive has also long been recognized by the courts. In

³⁶ See supra note 3.

³⁷ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

NetCoalition v. Securities and Exchange Commission, the D.C. circuit stated: “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possess a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’ . . .”.³⁸ Accordingly, the Exchange does not believe its proposed pricing changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,³⁹ and Rule 19b-4(f)(2)⁴⁰ 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 Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

³⁸ NetCoalition v. SEC, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSE-2006-21)).

³⁹ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴⁰ 17 CFR 240.19b-4(f)(2).

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:to-rule-comments@sec.gov). Please include File Number SR-PEARL-2022-26 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-PEARL-2022-26. 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 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 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; 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-PEARL-2022-26 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.⁴¹

Vanessa Countryman
Secretary

⁴¹ 17 CFR 200.30-3(a)(12).

New text is underlined;
Deleted text is in [brackets]

Exhibit 5

MIAX Pearl Equities Exchange

Fee Schedule

1) Transaction Rebates/Fees

a) No change.

b) Liquidity Indicator Codes and Associated Fees

Liquidity Indicator Code	Description	Fee/(Rebate) Securities Priced at or Above \$1.00	Fee/(Rebate) Securities Priced Below \$1.00

<u>XA</u>	<u>Re-routed by Primary Listing Exchange</u>	<u>\$0.0030</u>	<u>0.30% of Dollar Value</u>
<u>XB</u>	<u>Routed Primary Listing Exchange Execution (Other)</u>	<u>\$0.0030</u>	<u>0.30% of Dollar Value</u>
<u>XC</u>	<u>Routed to NYSE, Opening/Re-Opening Auction</u>	<u>\$0.00105</u>	<u>0.30% of Dollar Value</u>
<u>XD</u>	<u>Routed to NYSE, Closing Auction</u>	<u>\$0.00085</u>	<u>0.30% of Dollar Value</u>
<u>XE</u>	<u>Routed to NYSE, Adds Displayed Liquidity</u>	<u>(\$0.0015)</u>	<u>0.01% of Dollar Value</u>
<u>XF</u>	<u>Routed to NYSE Arca, Opening/Re-Opening Auction</u>	<u>\$0.00155</u>	<u>0.105% of Dollar Value</u>
<u>XG</u>	<u>Routed to NYSE Arca, Closing Auction</u>	<u>\$0.00105</u>	<u>0.105% of Dollar Value</u>
<u>XH</u>	<u>Routed to NYSE Arca, Adds Displayed Liquidity</u>	<u>(\$0.0015)</u>	<u>0.01% of Dollar Value</u>
<u>XI</u>	<u>Routed to NYSE American, Opening/Re-Opening Auction</u>	<u>\$0.00055</u>	<u>0.055% of Dollar Value</u>
<u>XJ</u>	<u>Routed to NYSE American, Closing Auction</u>	<u>\$0.00055</u>	<u>0.055% of Dollar Value</u>
<u>XK</u>	<u>Routed to NYSE American, Adds Displayed Liquidity</u>	<u>(\$0.001)</u>	<u>0.01% of Dollar Value</u>
<u>XL</u>	<u>Routed to Cboe BZX, Opening/Re-Opening Auction</u>	<u>\$0.0008</u>	<u>0.08% of Dollar Value</u>
<u>XM</u>	<u>Routed to Cboe BZX, Closing Auction</u>	<u>\$0.00105</u>	<u>0.105% of Dollar Value</u>
<u>XN</u>	<u>Routed to Cboe BZX, Adds Displayed Liquidity</u>	<u>(\$0.0015)</u>	<u>0.01% of Dollar Value</u>
<u>XO</u>	<u>Routed to Nasdaq, Opening/Re-Opening Auction</u>	<u>\$0.00155</u>	<u>0.30% of Dollar Value</u>
<u>XP</u>	<u>Routed to Nasdaq, Closing Auction</u>	<u>\$0.00085</u>	<u>0.09% of Dollar Value</u>
<u>XQ</u>	<u>Routed to Nasdaq, Adds Displayed Liquidity</u>	<u>(\$0.0015)</u>	<u>0.01% of Dollar Value</u>
