Required fields are shown with yellow backgrounds and asterisks.

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

File No. * SR 2022 - * 33
Amendment No. (req. for Amendments *)

Filing by MIAX PEARL, LLC

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

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
☑	☐	☐	☐	☑	☐

Pilot	Extension of Time Period for Commission Action *	Date Expires *
☐	☐	

Rule

☐ 19b-4(f)(1)	☐ 19b-4(f)(4)
☑ 19b-4(f)(2)	☐ 19b-4(f)(5)
☐ 19b-4(f)(3)	☐ 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 MIAX Pearl Equities Fee Schedule

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 08/17/2022

By Gregory P. Ziegler
(Name *)

(Title *)
Senior Counsel

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: 2022.08.17 17:05:57 -04'00'

Required fields are shown with yellow backgrounds and astericks.

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

Form 19b-4 Information * Add / Remove / View SR-PEARL-2022-33 19b4_20220816.	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 * Add / Remove / View SR-PEARL-2022-33-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 * Add / Remove / View	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 Add / Remove / View	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 Add / Remove / View	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 Add / Remove / View	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 Add / Remove / View SR-PEARL-2022-33 - Exhibit 5 20220	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 Add / Remove / View	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) Not Applicable.

(c) Not Applicable.

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.

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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 (i) adopt a new volume based pricing incentive, referred to as the "Step-Up Added Liquidity Rebate," in which a qualifying Equity Member[3] (or "Member") will receive a rebate for executions of certain orders in securities priced at or above $1.00 per share that add displayed liquidity to the Exchange; (ii) increase the rebate provided under Tier 2 of the Market Quality Tiers table; and (iii) add an additional qualifying requirement to the Remove Volume Tiers table. The Exchange originally filed this proposal on August 9, 2022, (SR-PEARL-2022-32). On August 18, 2022, the Exchange withdrew SR-PEARL-2022-32 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 16% of the total market share of executed volume of equities trading, and the Exchange currently represents approximately 1% of the overall market share.[4]

Adoption of Step-Up Added Liquidity Rebate

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

4 See MIAX's "The market at a glance, MTD Average", available at https://www.miaxoptions.com/, (last visited July 25, 2022).

The Exchange currently provides a standard rebate of $0.0029 per share for executions of orders in securities priced at or above $1.00 per share that add displayed liquidity to the Exchange (such orders, “Added Displayed Volume”). The Exchange also currently offers various volume-based tiers and incentives through which a Member may receive an enhanced rebate for executions of Added Displayed Volume by achieving the specified criteria that corresponds to a particular tier/incentive.

The Exchange now proposes to adopt a new volume-based incentive, referred to by the Exchange as the Step-Up Added Liquidity Rebate, in which the Exchange will provide a rebate of $0.0031 per share for executions of certain orders that constitute Added Displayed Volume for a Member that qualifies for the Step-Up Added Liquidity Rebate by achieving a Step-Up

ADAV[5] as a % of TCV[6] of at least 0.03% over the baseline month of July 2022.[7] For example, assume a Member has an ADAV as a percent of TCV of 0.01% in July 2022. That Member must achieve an ADAV as a percent of TCV[8] equal to or greater than 0.04% in a month in order to qualify for the Step-Up Added Liquidity Rebate. As proposed, a Member that qualifies for the Step-Up Added Liquidity Rebate will receive a rebate of $0.0031 per share for each of such Member's executions of orders that constitute Added Displayed Volume. The Exchange notes that the Step-Up Added Liquidity Rebate will not apply to executions of orders in securities

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5 ADAV means average daily added volume calculated as the number of shares added per day and "ADV" means average daily volume calculated as the number of shares added or removed, combined, per day. ADAV and ADV are calculated on a monthly basis. The Exchange excludes from its calculation of ADAV and ADV shares added or removed on any day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during regular trading hours, on any day with a scheduled early market close, and on the "Russell Reconstitution Day" (typically the last Friday in June). Routed shares are not included in the ADAV or ADV calculation. With prior notice to the Exchange, an Equity Member may aggregate ADAV or ADV with other Equity Members that control, are controlled by, or are under common control with such Equity Member (as evidenced on such Equity Member's Form BD). See MIAX Pearl Equities Exchange Fee Schedule, Definitions, on its public website (available at https://www.miaxoptions.com/fees/pearl-equities).

6 TCV means total consolidated volume calculated as the volume in shares reported by all exchanges and reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply. The Exchange excludes from its calculation of TCV volume on any given day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during Regular Trading Hours, on any day with a scheduled early market close, and on the "Russell Reconstitution Day" (typically the last Friday in June). See MIAX Pearl Equities Exchange Fee Schedule, Definitions, on its public website (available at https://www.miaxoptions.com/fees/pearl-equities).

7 The Exchange will use a baseline ADAV of 0.00% of TCV for firms that become Members of the Exchange after July 2022 for the purpose of the Step-Up Added Liquidity Rebate calculation.

8 The Exchange proposes to define "Step-Up ADAV as a % of TCV" on its Fee Schedule to mean, "ADAV as a percent of TCV in the relevant baseline month subtracted from the current month's ADAV as a percent of TCV."

priced below $1.00 per share or executions of orders that constitute added non-displayed liquidity.

The Exchange believes that the proposed Step-Up Added Liquidity Rebate provides an incremental incentive for Members to strive for higher ADAV on the Exchange (above their ADAV in the baseline month of July 2022) to receive the proposed rebate for qualifying executions of Added Displayed Volume. As such, the proposed Step-Up Added Liquidity Rebate is designed to incentivize Members that provide liquidity on the Exchange to increase their orders that add liquidity to the Exchange in order to qualify for the $0.0031 per share rebate for qualifying executions of Added Displayed Volume, which, in turn, the Exchange believes would encourage the submission of additional Added Displayed Volume to the Exchange, thereby promoting price discovery and contributing to a deeper and more liquid market to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue. The Exchange notes that the proposed Step-Up Added Liquidity Rebate is comparable to other volume-based incentives and discounts, which have been adopted by other exchanges,[9] including pricing incentives that provide an enhanced rebate for firms that achieve a specified Step-Up ADAV threshold.[10]

Market Quality Tier 2 Rebate Increase

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9 See e.g. the CBOE EDGX Exchange, Inc. ("Cboe EDGX") Equities Fee Schedule, Add/Remove Volume Tiers, on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/); and the MEMX LLC, ("MEMX") Fee Schedule, Liquidity Provision Tiers, on its public website (available at https://info.memxtrading.com/fee-schedule/).

10 See e.g. the CBOE BZX Exchange, Inc. ("Cboe BZX") Equities Fee Schedule, Step-Up Tiers, on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/); and the MEMX LLC, ("MEMX") Fee Schedule, Step-Up Additive Rebate, on its public website (available at https://info.memxtrading.com/fee-schedule/).

The Exchange offers a tiered pricing structure, Market Quality Tiers, designed to improve market quality on the Exchange in certain specific securities, the "Market Quality Securities" or "MQ Securities,"[11] in the form of an enhanced rebate for executions of displayed orders in securities priced at or above $1.00 per share that add liquidity to the Exchange for Members that meet certain minimum quoting requirements as defined in Tier 1 and Tier 2 of the Market Quality Tiers table. The Exchange now proposes to increase the rebate provided for executions that meet the Tier 2 criteria from $0.0034 to $0.0035 per share (the Tier 1 rebate remains unchanged under this proposal). The proposed change is for business and competitive reasons.

Adopt New Requirement for Remove Volume Tiers

Currently the Exchange offers a tiered pricing structure, Remove Volume Tiers, applicable to fees charged for executions of Removed Volume on the Exchange in securities priced at or above $1.00. Specifically, the Exchange charges a fee of $0.0028 per share for executions of Removed Volume for Members that qualify for Tier 1 by achieving an ADV that is equal to or greater than 0.10% of the TCV; and a fee of $0.0027 per share for Members that qualify for Tier 2 by achieving an ADV that is equal to or greater than 0.15% of the TCV.

The Exchange now proposes to adopt a new requirement that must be satisfied by Members in addition to the aforementioned Tier 1 and Tier 2 criteria. Specifically, the Exchange proposes to require Members to execute at least 1,000 shares of added liquidity during the month to be eligible for the lower fees provided for by either Tier 1 or Tier 2 in the Remove Volume Tiers table. The proposed change is designed to incentivize Members to be active participants on the Exchange by both adding and removing liquidity. Additionally, as a result of adopting this

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11 A list of the MQ Securities may be found on the Exchange's public website (available at https://www.miaxoptions.com/fees/pearl-equities).

requirement, the Exchange proposes to change the column heading from “Percentage Threshold” to “Required Criteria” to more accurately describe the information contained in that column of the Remove Volume Tiers table.

Implementation

The proposed changes are immediately effective.

b. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act[12] in general, and furthers the objectives of Section 6(b)(4) of the Act[13] 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

12 15 U.S.C. 78f(b).

13 15 U.S.C. 78f(b)(4).

14 15 U.S.C 78f(b)(5).

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 16% 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 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 reflects a reasonable and competitive pricing structure designed to incentivize market

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15 See supra note 4.

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

participants to direct additional orders that add liquidity to the Exchange, which the Exchange believes would deepen liquidity and promote market quality on the Exchange to the benefit of all market participants.

Step-Up Added Liquidity Rebate

As noted above, volume based incentives and discounts have been widely adopted by exchanges (including the Exchange),[17] and are reasonable, equitable and not unfairly discriminatory because they are open to all Members on an equal basis and provide additional benefits that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and the introduction of higher volumes of orders into the price and volume discovery process. The Exchange believes that the proposed Step-Up Added Liquidity Rebate is comparable to other incentives currently offered by other exchanges,[18] and is reasonable, equitable and not unfairly discriminatory for these same reasons, as it provides Members with an additional incentive to achieve a certain volume threshold on the Exchange, is available to all Members and, as noted above, is designed to encourage Members to increase their orders that add liquidity on the Exchange in order to qualify for an enhanced rebate for qualifying executions of Added Displayed Volume, which, in

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17 See supra note 10.

18 See MEMX LLC, ("MEMX") Fee Schedule on its public website (available at https://info.memxtrading.com/fee-schedule/) which reflects an additive per share rebate of $0.0002 for executions of added displayed volume for firms that qualify for the Step-Up Additive Rebate" by achieving certain specified volume thresholds based upon Step-Up ADAV; see also Cboe BZX Exchange, Inc. ("Cboe BZX") Equities Fee Schedule on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/) which reflects enhanced rebates for executions of added displayed volume for firms that qualify for the "Step-Up Tiers" by achieving certain specified volume thresholds, including thresholds based upon Step-Up ADAV.

turn, the Exchange believes would encourage the submission of additional Added Displayed Volume to the Exchange, thereby promoting price discovery and contributing to a deeper and more liquid market to the benefit of all market participants.

Cboe BZX provides a comparable volume based incentive, referred to as Step-Up Tiers, where the exchange will provide a rebate of $0.0032 for displayed orders that add liquidity provided the required criteria for the Tier is satisfied.[19] Tier 1 criteria requires (1) MPID has a Step-Up Add TCV[20] from May 2019 ≥ 0.10% and (2) MPID has an ADV ≥ 0.50% of the TCV; Tier 2 criteria requires (1) Member has a Step-Up ADAV from January 2022 ≥ 10,000,000 or Member has a Step-Up Add TCV from January 2022 ≥ 0.10%; and (2) Member has an ADV ≥ 0.30% of the TCV or Member has an ADV ≥ 35,000,000; and Tier 3 criteria requires (1) MPID has a Step-Up ADAV[21] from May 2021 ≥ 30,000,000 or MPID has a Step-up Add TCV from May 2021 ≥ 0.30%; and (2) MPID has an ADV ≥ 0.30% of the TCV or MPID has an ADV ≥ 35,000,000.

The MEMX Exchange offers a similar volume-based incentive, referred to as the Step-Up Additive Rebate, in which a qualifying Member will receive an additive rebate for executions of certain orders in securities priced at or above $1.00 per share that add displayed liquidity to

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19 See Cboe BZX Fee Schedule, Step-Up Tiers, on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/).

20 "Step-Up Add TCV" means ADAV as a percentage of TCV in the relevant baseline month subtracted from current ADAV as a percentage of TCV. See Cboe BZX Fee Schedule, Definitions, on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/).

21 "Step-Up ADAV" means ADAV in the relevant baseline month subtracted from current ADAV. See Cboe BZX Fee Schedule, Definitions, on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/).

the Exchange. To qualify for the incentive MEMX members must have (1) a Step-Up ADAV[22] (excluding Retail Orders) from April 2022 ≥ 0.07% of the TCV;[23] or (2) a Step-Up ADAV from July 2022 ≥ 0.05% of the TCV and an ADAV ≥ 0.30% of the TCV.[24]

The Exchange proposes to adopt a single Tier under its Step-Up Added Liquidity Rebate table where Members that satisfy the required criteria of having a Step-Up ADAV as percentage of TCV from July 2022 ≥ 0.03% of the TCV qualify for an enhanced rebate for of $0.0031 for Added Displayed Volume in securities priced at or above $1.00. As such, the Exchange believes the proposed rebate for qualifying executions of Added Displayed Volume provided under the Step-Up Added Liquidity Rebate for qualifying Members is comparable to other exchanges[25] and is reasonably related to the market quality benefits that such incentive is designed to promote.

The Exchange notes that the proposed Step-Up Added Liquidity Rebate will not adversely impact any Member's ability to qualify for reduced fees or enhanced rebates offered

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22 MEMX defines Step-UP ADAV as the ADAV in the relevant baseline month subtracted from the current ADAV. ADAV is defined as the average daily added volume calculated as the number of shares added per day. ADAV is calculated on a monthly basis. See MEMX Fee Schedule, Definitions, available on its public website, (available at https://info.memxtrading.com/fee-schedule/).

23 MEMX defines TCV as the total consolidated volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply. See MEMX Fee Schedule, Definitions, available on its public website, (available at https://info.memxtrading.com/fee-schedule/).

24 See MEMX LLC, ("MEMX") Fee Schedule on its public website (available at https://info.memxtrading.com/fee-schedule/); see also Cboe BZX Exchange, Inc. ("Cboe BZX") Equities Fee Schedule on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/) which reflects enhanced rebates for executions of added displayed volume for firms that qualify for the "Step-Up Tiers" by achieving certain specified volume thresholds, including thresholds based upon Step-Up ADAV.

25 See supra note 18.

under other pricing tiers/incentives on the Exchange. Should a Member not meet the required criteria, the Member will merely not receive the corresponding rebate.

Market Quality Tier 2 Rebate Increase

The Exchange believes the proposed increased rebate for executions of displayed orders in securities priced at or above $1.00 per share that add liquidity to the Exchange for Members that meet the Tier 2 criteria of the Market Quality Tiers table is reasonable, equitable, and consistent with the Act because it is designed to incentivize Members to improve the market quality by quoting at the NBBO for a significant portion of each day in a large number of securities generally, and in a targeted group of securities specifically (the MQ Securities), thereby benefitting the Exchange and other investors by providing improved trading conditions for all market participants through narrower bid-ask spreads and increasing the depth of liquidity available the NBBO in a broad base of securities, including the MQ Securities. The Exchange further believes the proposed increased rebate is reasonable and appropriate because it is comparable to, and competitive with, the rebate provided by at least one other exchange with a similar incentive program.[26] The Exchange further believes that this fee is equitably allocated and not unfairly discriminatory because it applies equally to all Members and is designed to facilitate increased activity on the Exchange to the benefit of all Members by providing more trading opportunities and promoting price discovery.

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26 See e.g., MEMX Fee Schedule on its public website, (available at https://info.memxtrading.com/fee-schedule/), which provides for a rebate of $0.0033 per share in Tier 1 under MEMX's Displayed Liquidity Incentive (DLI) Tiers for executions of liquidity providing displayed orders in securities priced at or above $1.00 per share for members that have an NBBO Time of at least 25% in an average of at least 1,000 securities per trading day during the month, and a rebate of $0.0029 per share in Tier 2 for executions of liquidity providing displayed orders in securities priced at or above $1.00 per share for members that have an NBBO Time of at least 25% in an average of at least 400 securities per trading day during the month.

Accordingly, the Exchange believes that it is consistent with an equitable allocation of fees and is not unfairly discriminatory to increase the rebate provided under Tier 2 of the Market Quality Tiers table for executions of displayed liquidity in recognition of the benefits to the Exchange and market participants, particularly as the magnitude of the increase is not unreasonably high, and is reasonably related to enhanced market quality.

Adopt New Requirement for Remove Volume

The Exchange believes its proposal to adopt an additional requirement for Members to qualify for either Tier 1 or Tier 2 pricing under the Remove Volume Tiers is reasonable, equitable and not unfairly discriminatory because it is equally applicable to all Members. The Exchange believes its proposed requirement is comparable to incentives offered by at least one other exchange, and is reasonable, equitable and not unfairly discriminatory as it provides Members with an additional incentive to submit orders to the Exchange that add liquidity in order to qualify for the pricing provided for in Tier 1 and Tier 2 of the Remove Volume Tiers table. MEMX charges a fee of $0.0030 for removed volume from the MEMX Book.[27] However, MEMX members may qualify for a discounted fee of $0.0029 if the member has (1) an ADV ≥ 0.45% of the TCV and an ADAV ≥ 0.20% of the TCV; or (2) an ADV ≥ 1.00% of the TCV.[28]

The Exchange believes that the additional liquidity requirement is reasonably related to the market quality benefits that such incentive is designed to promote and that its Remove

27 See MEMX Fee Schedule, Transaction Fees, on its public website (available at https://info.memxtrading.com/fee-schedule/).

28 See MEMX Fee Schedule, Liquidity Removal Tier, on its public website, (available at https://info.memxtrading.com/fee-schedule/).

Volume Tiers incentive is comparable to that of at least one other exchange.[29] The proposed change is designed to incentivize Members to be active participants on the Exchange by both adding and removing liquidity.

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[30] 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 proposal is intended to incentivize market participants to direct additional orders that add liquidity to the Exchange, thereby deepening liquidity and promoting market quality on the Exchange to the benefit of all market participants. As a result, the Exchange believes the proposal would enhance its competitiveness as a market that attracts actionable orders, thereby making it a more desirable destination venue for its customers. Additionally, the Exchange's proposal to amend the column heading on the Remove Volume Tiers is non-substantive and is intended to accurately describe the information contained in that specific column.

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29 See id.

30 15 U.S.C. 78f(b)(4) and (5).

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 Exchange believes its proposal would incentivize Members to submit additional orders that add liquidity to the Exchange, thereby contributing to a deeper and more liquid market and promoting price discovery and market quality on the Exchange to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue, which the Exchange believes, in turn, would continue to encourage market participants to direct additional order flow to the Exchange. Greater liquidity benefits all Members by providing more trading opportunities and encourages Members to send additional orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants. As described above, the opportunity to qualify for the proposed new Step-Up Added Liquidity Rebate, and thus receive the proposed rebate for qualifying executions of Added Displayed Volume, would be available to all Members that meet the associated volume requirement, and the Exchange believes the proposed rebate provided under such incentive is reasonably related to the enhanced market quality that it is designed to promote. The Exchange's proposal to increase the Tier 2 incentive provided under the Market Quality Tiers table and its proposal to add an additional requirement to the Remove Volume Tiers both serve to incentivize Members to provide additional liquidity to the Exchange, thereby contributing to a deeper and more liquid market and promoting price discovery and market quality on the Exchange to the benefit of all market participants. 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 16% of the total market share of executed volume of equities trading.[31] 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.

As described above, the proposed changes represent a competitive proposal through which the Exchange is seeking to encourage additional order flow to the Exchange through a volume-based incentive that is comparable to volume-based incentives adopted by other exchanges.[32] The proposed change to increase the rebate provided for in Tier 2 of the Market Quality Tiers also serves to encourage additional order flow to the Exchange.

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[31] See supra note 4.

[32] See supra note 188.

Accordingly, the Exchange believes that its proposal would not burden, but rather promote, intermarket competition by enabling it to better compete with other exchanges that offer similar pricing incentives to market participants that achieve certain volume criteria and thresholds.

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."[33] 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' . . .".[34] 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.

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

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

34 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)).

No written comments were either solicited or received.

6. <u>Extension of Time Period for Commission Action</u>

Not applicable.

7. <u>Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)</u>

Pursuant to Section 19(b)(3)(A)(ii) of the Act,[35] and Rule 19b-4(f)(2) thereunder[36] 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. <u>Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission</u>

Not applicable.

9. <u>Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act</u>

Not applicable.

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

Not applicable.

11. <u>Exhibits</u>

1. Completed notice of proposed rule change for publication in the Federal Register.

5. Copy of the applicable section of the Fee Schedule.

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35 15 U.S.C. 78s(b)(3)(A)(ii).

36 17 CFR 240.19b-4.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-PEARL-2022-33)

August____, 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 August 18, 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

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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 (i) adopt a new volume based pricing incentive, referred to as the "Step-Up Added Liquidity Rebate," in which a qualifying Equity Member[3] (or "Member") will receive a rebate for executions of certain orders in securities priced at or above $1.00 per share that add displayed liquidity to the Exchange; (ii) increase the rebate provided under Tier 2 of the Market Quality Tiers table; and (iii) add an additional qualifying requirement to the Remove Volume Tiers table. The Exchange originally filed this proposal on August 9, 2022, (SR-PEARL-2022-32). On August 18, 2022, the Exchange withdrew SR-PEARL-2022-32 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 16% of the total market share of executed volume of equities trading, and the Exchange currently represents approximately 1% of the overall market share.[4]

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

4 See MIAX's "The market at a glance, MTD Average", available at https://www.miaxoptions.com/, (last visited July 25, 2022).

Adoption of Step-Up Added Liquidity Rebate

The Exchange currently provides a standard rebate of $0.0029 per share for executions of orders in securities priced at or above $1.00 per share that add displayed liquidity to the Exchange (such orders, “Added Displayed Volume”). The Exchange also currently offers various volume-based tiers and incentives through which a Member may receive an enhanced rebate for executions of Added Displayed Volume by achieving the specified criteria that corresponds to a particular tier/incentive.

The Exchange now proposes to adopt a new volume-based incentive, referred to by the Exchange as the Step-Up Added Liquidity Rebate, in which the Exchange will provide a rebate of $0.0031 per share for executions of certain orders that constitute Added Displayed Volume for a Member that qualifies for the Step-Up Added Liquidity Rebate by achieving a Step-Up

ADAV[5] as a % of TCV[6] of at least 0.03% over the baseline month of July 2022.[7] For example, assume a Member has an ADAV as a percent of TCV of 0.01% in July 2022. That Member must achieve an ADAV as a percent of TCV[8] equal to or greater than 0.04% in a month in order to qualify for the Step-Up Added Liquidity Rebate. As proposed, a Member that qualifies for the Step-Up Added Liquidity Rebate will receive a rebate of $0.0031 per share for each of such Member's executions of orders that constitute Added Displayed Volume. The Exchange notes that the Step-Up Added Liquidity Rebate will not apply to executions of orders in securities priced below $1.00 per share or executions of orders that constitute added non-displayed liquidity.

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5 ADAV means average daily added volume calculated as the number of shares added per day and "ADV" means average daily volume calculated as the number of shares added or removed, combined, per day. ADAV and ADV are calculated on a monthly basis. The Exchange excludes from its calculation of ADAV and ADV shares added or removed on any day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during regular trading hours, on any day with a scheduled early market close, and on the "Russell Reconstitution Day" (typically the last Friday in June). Routed shares are not included in the ADAV or ADV calculation. With prior notice to the Exchange, an Equity Member may aggregate ADAV or ADV with other Equity Members that control, are controlled by, or are under common control with such Equity Member (as evidenced on such Equity Member's Form BD). See MIAX Pearl Equities Exchange Fee Schedule, Definitions, on its public website (available at https://www.miaxoptions.com/fees/pearl-equities).

6 TCV means total consolidated volume calculated as the volume in shares reported by all exchanges and reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply. The Exchange excludes from its calculation of TCV volume on any given day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during Regular Trading Hours, on any day with a scheduled early market close, and on the "Russell Reconstitution Day" (typically the last Friday in June). See MIAX Pearl Equities Exchange Fee Schedule, Definitions, on its public website (available at https://www.miaxoptions.com/fees/pearl-equities).

7 The Exchange will use a baseline ADAV of 0.00% of TCV for firms that become Members of the Exchange after July 2022 for the purpose of the Step-Up Added Liquidity Rebate calculation.

8 The Exchange proposes to define "Step-Up ADAV as a % of TCV" on its Fee Schedule to mean, "ADAV as a percent of TCV in the relevant baseline month subtracted from the current month's ADAV as a percent of TCV."

The Exchange believes that the proposed Step-Up Added Liquidity Rebate provides an incremental incentive for Members to strive for higher ADAV on the Exchange (above their ADAV in the baseline month of July 2022) to receive the proposed rebate for qualifying executions of Added Displayed Volume. As such, the proposed Step-Up Added Liquidity Rebate is designed to incentivize Members that provide liquidity on the Exchange to increase their orders that add liquidity to the Exchange in order to qualify for the $0.0031 per share rebate for qualifying executions of Added Displayed Volume, which, in turn, the Exchange believes would encourage the submission of additional Added Displayed Volume to the Exchange, thereby promoting price discovery and contributing to a deeper and more liquid market to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue. The Exchange notes that the proposed Step-Up Added Liquidity Rebate is comparable to other volume-based incentives and discounts, which have been adopted by other exchanges,[9] including pricing incentives that provide an enhanced rebate for firms that achieve a specified Step-Up ADAV threshold.[10]

Market Quality Tier 2 Rebate Increase

The Exchange offers a tiered pricing structure, Market Quality Tiers, designed to improve market quality on the Exchange in certain specific securities, the "Market Quality Securities" or

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9 See e.g. the CBOE EDGX Exchange, Inc. ("Cboe EDGX") Equities Fee Schedule, Add/Remove Volume Tiers, on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/); and the MEMX LLC, ("MEMX") Fee Schedule, Liquidity Provision Tiers, on its public website (available at https://info.memxtrading.com/fee-schedule/).

10 See e.g. the CBOE BZX Exchange, Inc. ("Cboe BZX") Equities Fee Schedule, Step-Up Tiers, on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/); and the MEMX LLC, ("MEMX") Fee Schedule, Step-Up Additive Rebate, on its public website (available at https://info.memxtrading.com/fee-schedule/).

"MQ Securities,"[11] in the form of an enhanced rebate for executions of displayed orders in securities priced at or above $1.00 per share that add liquidity to the Exchange for Members that meet certain minimum quoting requirements as defined in Tier 1 and Tier 2 of the Market Quality Tiers table. The Exchange now proposes to increase the rebate provided for executions that meet the Tier 2 criteria from $0.0034 to $0.0035 per share (the Tier 1 rebate remains unchanged under this proposal). The proposed change is for business and competitive reasons.

Adopt New Requirement for Remove Volume Tiers

Currently the Exchange offers a tiered pricing structure, Remove Volume Tiers, applicable to fees charged for executions of Removed Volume on the Exchange in securities priced at or above $1.00. Specifically, the Exchange charges a fee of $0.0028 per share for executions of Removed Volume for Members that qualify for Tier 1 by achieving an ADV that is equal to or greater than 0.10% of the TCV; and a fee of $0.0027 per share for Members that qualify for Tier 2 by achieving an ADV that is equal to or greater than 0.15% of the TCV.

The Exchange now proposes to adopt a new requirement that must be satisfied by Members in addition to the aforementioned Tier 1 and Tier 2 criteria. Specifically, the Exchange proposes to require Members to execute at least 1,000 shares of added liquidity during the month to be eligible for the lower fees provided for by either Tier 1 or Tier 2 in the Remove Volume Tiers table. The proposed change is designed to incentivize Members to be active participants on the Exchange by both adding and removing liquidity. Additionally, as a result of adopting this requirement, the Exchange proposes to change the column heading from "Percentage Threshold" to "Required Criteria" to more accurately describe the information contained in that column of the Remove Volume Tiers table.

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11 A list of the MQ Securities may be found on the Exchange's public website (available at https://www.miaxoptions.com/fees/pearl-equities).

Implementation

The proposed changes are immediately effective.

b. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act[12] in general, and furthers the objectives of Section 6(b)(4) of the Act[13] 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

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12 15 U.S.C. 78f(b).

13 15 U.S.C. 78f(b)(4).

14 15 U.S.C 78f(b)(5).

more than approximately 16% 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 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 reflects a reasonable and competitive pricing structure designed to incentivize market participants to direct additional orders that add liquidity to the Exchange, which the Exchange believes would deepen liquidity and promote market quality on the Exchange to the benefit of all market participants.

Step-Up Added Liquidity Rebate

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15 See supra note 4.

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

As noted above, volume based incentives and discounts have been widely adopted by exchanges (including the Exchange),[17] and are reasonable, equitable and not unfairly discriminatory because they are open to all Members on an equal basis and provide additional benefits that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and the introduction of higher volumes of orders into the price and volume discovery process. The Exchange believes that the proposed Step-Up Added Liquidity Rebate is comparable to other incentives currently offered by other exchanges,[18] and is reasonable, equitable and not unfairly discriminatory for these same reasons, as it provides Members with an additional incentive to achieve a certain volume threshold on the Exchange, is available to all Members and, as noted above, is designed to encourage Members to increase their orders that add liquidity on the Exchange in order to qualify for an enhanced rebate for qualifying executions of Added Displayed Volume, which, in turn, the Exchange believes would encourage the submission of additional Added Displayed Volume to the Exchange, thereby promoting price discovery and contributing to a deeper and more liquid market to the benefit of all market participants.

Cboe BZX provides a comparable volume based incentive, referred to as Step-Up Tiers, where the exchange will provide a rebate of $0.0032 for displayed orders that add liquidity

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17 See supra note 10.

18 See MEMX LLC, ("MEMX") Fee Schedule on its public website (available at https://info.memxtrading.com/fee-schedule/) which reflects an additive per share rebate of $0.0002 for executions of added displayed volume for firms that qualify for the Step-Up Additive Rebate" by achieving certain specified volume thresholds based upon Step-Up ADAV; see also Cboe BZX Exchange, Inc. ("Cboe BZX") Equities Fee Schedule on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/) which reflects enhanced rebates for executions of added displayed volume for firms that qualify for the "Step-Up Tiers" by achieving certain specified volume thresholds, including thresholds based upon Step-Up ADAV.

provided the required criteria for the Tier is satisfied.[19] Tier 1 criteria requires (1) MPID has a Step-Up Add TCV[20] from May 2019 ≥ 0.10% and (2) MPID has an ADV ≥ 0.50% of the TCV; Tier 2 criteria requires (1) Member has a Step-Up ADAV from January 2022 ≥ 10,000,000 or Member has a Step-Up Add TCV from January 2022 ≥ 0.10%; and (2) Member has an ADV ≥ 0.30% of the TCV or Member has an ADV ≥ 35,000,000; and Tier 3 criteria requires (1) MPID has a Step-Up ADAV[21] from May 2021 ≥ 30,000,000 or MPID has a Step-up Add TCV from May 2021 ≥ 0.30%; and (2) MPID has an ADV ≥ 0.30% of the TCV or MPID has an ADV ≥ 35,000,000.

The MEMX Exchange offers a similar volume-based incentive, referred to as the Step-Up Additive Rebate, in which a qualifying Member will receive an additive rebate for executions of certain orders in securities priced at or above $1.00 per share that add displayed liquidity to the Exchange. To qualify for the incentive MEMX members must have (1) a Step-Up ADAV[22]

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19 See Cboe BZX Fee Schedule, Step-Up Tiers, on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/).

20 "Step-Up Add TCV" means ADAV as a percentage of TCV in the relevant baseline month subtracted from current ADAV as a percentage of TCV. See Cboe BZX Fee Schedule, Definitions, on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/).

21 "Step-Up ADAV" means ADAV in the relevant baseline month subtracted from current ADAV. See Cboe BZX Fee Schedule, Definitions, on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/).

22 MEMX defines Step-UP ADAV as the ADAV in the relevant baseline month subtracted from the current ADAV. ADAV is defined as the average daily added volume calculated as the number of shares added per day. ADAV is calculated on a monthly basis. See MEMX Fee Schedule, Definitions, available on its public website, (available at https://info.memxtrading.com/fee-schedule/).

(excluding Retail Orders) from April 2022 ≥ 0.07% of the TCV;[23] or (2) a Step-Up ADAV from July 2022 ≥ 0.05% of the TCV and an ADAV ≥ 0.30% of the TCV. [24]

The Exchange proposes to adopt a single Tier under its Step-Up Added Liquidity Rebate table where Members that satisfy the required criteria of having a Step-Up ADAV as percentage of TCV from July 2022 ≥ 0.03% of the TCV qualify for an enhanced rebate for of $0.0031 for Added Displayed Volume in securities priced at or above $1.00. As such, the Exchange believes the proposed rebate for qualifying executions of Added Displayed Volume provided under the Step-Up Added Liquidity Rebate for qualifying Members is comparable to other exchanges[25] and is reasonably related to the market quality benefits that such incentive is designed to promote.

The Exchange notes that the proposed Step-Up Added Liquidity Rebate will not adversely impact any Member's ability to qualify for reduced fees or enhanced rebates offered under other pricing tiers/incentives on the Exchange. Should a Member not meet the required criteria, the Member will merely not receive the corresponding rebate.

Market Quality Tier 2 Rebate Increase

The Exchange believes the proposed increased rebate for executions of displayed orders in securities priced at or above $1.00 per share that add liquidity to the Exchange for Members

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23 MEMX defines TCV as the total consolidated volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply. See MEMX Fee Schedule, Definitions, available on its public website, (available at https://info.memxtrading.com/fee-schedule/).

24 See MEMX LLC, ("MEMX") Fee Schedule on its public website (available at https://info.memxtrading.com/fee-schedule/); see also Cboe BZX Exchange, Inc. ("Cboe BZX") Equities Fee Schedule on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/) which reflects enhanced rebates for executions of added displayed volume for firms that qualify for the "Step-Up Tiers" by achieving certain specified volume thresholds, including thresholds based upon Step-Up ADAV.

25 See supra note 18.

that meet the Tier 2 criteria of the Market Quality Tiers table is reasonable, equitable, and consistent with the Act because it is designed to incentivize Members to improve the market quality by quoting at the NBBO for a significant portion of each day in a large number of securities generally, and in a targeted group of securities specifically (the MQ Securities), thereby benefitting the Exchange and other investors by providing improved trading conditions for all market participants through narrower bid-ask spreads and increasing the depth of liquidity available the NBBO in a broad base of securities, including the MQ Securities. The Exchange further believes the proposed increased rebate is reasonable and appropriate because it is comparable to, and competitive with, the rebate provided by at least one other exchange with a similar incentive program.[26] The Exchange further believes that this fee is equitably allocated and not unfairly discriminatory because it applies equally to all Members and is designed to facilitate increased activity on the Exchange to the benefit of all Members by providing more trading opportunities and promoting price discovery.

Accordingly, the Exchange believes that it is consistent with an equitable allocation of fees and is not unfairly discriminatory to increase the rebate provided under Tier 2 of the Market Quality Tiers table for executions of displayed liquidity in recognition of the benefits to the Exchange and market participants, particularly as the magnitude of the increase is not unreasonably high, and is reasonably related to enhanced market quality.

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26 See e.g., MEMX Fee Schedule on its public website, (available at https://info.memxtrading.com/fee-schedule/), which provides for a rebate of $0.0033 per share in Tier 1 under MEMX's Displayed Liquidity Incentive (DLI) Tiers for executions of liquidity providing displayed orders in securities priced at or above $1.00 per share for members that have an NBBO Time of at least 25% in an average of at least 1,000 securities per trading day during the month, and a rebate of $0.0029 per share in Tier 2 for executions of liquidity providing displayed orders in securities priced at or above $1.00 per share for members that have an NBBO Time of at least 25% in an average of at least 400 securities per trading day during the month.

Adopt New Requirement for Remove Volume

The Exchange believes its proposal to adopt an additional requirement for Members to qualify for either Tier 1 or Tier 2 pricing under the Remove Volume Tiers is reasonable, equitable and not unfairly discriminatory because it is equally applicable to all Members. The Exchange believes its proposed requirement is comparable to incentives offered by at least one other exchange, and is reasonable, equitable and not unfairly discriminatory as it provides Members with an additional incentive to submit orders to the Exchange that add liquidity in order to qualify for the pricing provided for in Tier 1 and Tier 2 of the Remove Volume Tiers table. MEMX charges a fee of $0.0030 for removed volume from the MEMX Book.[27] However, MEMX members may qualify for a discounted fee of $0.0029 if the member has (1) an ADV ≥ 0.45% of the TCV and an ADAV ≥ 0.20% of the TCV; or (2) an ADV ≥ 1.00% of the TCV.[28]

The Exchange believes that the additional liquidity requirement is reasonably related to the market quality benefits that such incentive is designed to promote and that its Remove Volume Tiers incentive is comparable to that of at least one other exchange.[29] The proposed change is designed to incentivize Members to be active participants on the Exchange by both adding and removing liquidity.

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[30] in that it provides for the equitable

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27 See MEMX Fee Schedule, Transaction Fees, on its public website (available at https://info.memxtrading.com/fee-schedule/).

28 See MEMX Fee Schedule, Liquidity Removal Tier, on its public website, (available at https://info.memxtrading.com/fee-schedule/).

29 See id.

30 15 U.S.C. 78f(b)(4) and (5).

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 proposal is intended to incentivize market participants to direct additional orders that add liquidity to the Exchange, thereby deepening liquidity and promoting market quality on the Exchange to the benefit of all market participants. As a result, the Exchange believes the proposal would enhance its competitiveness as a market that attracts actionable orders, thereby making it a more desirable destination venue for its customers. Additionally, the Exchange's proposal to amend the column heading on the Remove Volume Tiers is non-substantive and is intended to accurately describe the information contained in that specific column.

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 Exchange believes its proposal would incentivize Members to submit additional orders that add liquidity to the Exchange, thereby contributing to a deeper and more liquid market and promoting price discovery and market quality on the Exchange to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue, which the Exchange believes, in turn, would continue to encourage market participants to direct additional order flow to the Exchange. Greater liquidity benefits all Members by providing more trading opportunities and encourages Members to send additional orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants. As described above, the opportunity to qualify for the proposed new Step-Up Added Liquidity Rebate, and thus receive the proposed rebate for qualifying executions of Added Displayed Volume, would be available to all Members that meet the associated volume requirement, and the Exchange believes the proposed rebate provided under such incentive is reasonably related to the enhanced market quality that it is designed to promote. The Exchange's proposal to increase the Tier 2 incentive provided under the Market Quality Tiers table and its proposal to add an additional requirement to the Remove Volume Tiers both serve to incentivize Members to provide additional liquidity to the Exchange, thereby contributing to a deeper and more liquid market and promoting price discovery and market quality on the Exchange to the benefit of all market participants. 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 16% of the total market share of executed volume of equities trading.[31] Thus, in such a low-concentrated and highly competitive market,

31 See supra note 4.

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.

As described above, the proposed changes represent a competitive proposal through which the Exchange is seeking to encourage additional order flow to the Exchange through a volume-based incentive that is comparable to volume-based incentives adopted by other exchanges.[32] The proposed change to increase the rebate provided for in Tier 2 of the Market Quality Tiers also serves to encourage additional order flow to the Exchange.

Accordingly, the Exchange believes that its proposal would not burden, but rather promote, intermarket competition by enabling it to better compete with other exchanges that offer similar pricing incentives to market participants that achieve certain volume criteria and thresholds.

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

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[32] See supra note 188.

competition in its broader forms that are most important to investors and listed companies."[33] 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' . . .".[34] 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,[35] and Rule 19b-4(f)(2)[36] 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

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

34 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)).

35 15 U.S.C. 78s(b)(3)(A)(ii).

36 17 CFR 240.19b-4(f)(2).

Commission takes such action, the 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. Please include File Number SR-PEARL-2022-33 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-2022-33. 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-2022-33 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.[37]

Vanessa Countryman
Secretary

[37] 17 CFR 200.30-3(a)(12).

New text is underlined;
Deleted text is in [brackets] **Exhibit 5**

MIAX Pearl Equities Exchange

Fee Schedule

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Definitions

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"Standard FIX Drop" means an FXD Port that only sends trade information, including Execution Reports and Trade Cancel/Correct messages.

"Step-Up ADAV as a % of TCV" means ADAV as a percent of TCV in the relevant baseline month subtracted from the current month's ADAV as a percent of TCV.

"TCV" means total consolidated volume calculated as the volume in shares reported by all exchanges and reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply. The Exchange excludes from its calculation of TCV volume on any given day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during Regular Trading Hours, on any day with a scheduled early market close, and on the "Russell Reconstitution Day" (typically the last Friday in June).

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1) Transaction Rebates/Fees

a) – c) No change.

d) Remove Volume Tiers

Tier	[Percentage Thresholds]Required Criteria	Securities Priced at or Above $1.00
1	ADV ≥ 0.10% of TCV and ≥1,000 shares of added liquidity	$0.0028
2	ADV ≥ 0.15% of TCV and ≥1,000 shares of added liquidity	$0.0027

The fees provided for by the above table are applicable to the following fee codes: RA, RB, RC, RR, Ra, Rb, Rc, and Rr.

e) No change.

f) Market Quality Tiers

Tier	Required Criteria	Securities Priced at or Above $1.00
1	No change	No change
2	Member has a Percent Time at NBBO of ≥ 25% in an average of at least 1,000 securities, at least 100 of which must be MQ Securities, per trading day during the month	($0.003[4]5)

The rebates provided for by the above table are applicable to the following fee codes: AA, AB, and AC.

g) Step-Up Added Liquidity Rebate

Tier	Required Criteria	Securities Priced at or Above $1.00
1	Step-Up ADAV as a % of TCV from July 2022 ≥ 0.03% of the TCV	($0.0031)

The rebate provided for by the above table is applicable to the following fee codes: AA, AB, and AC.

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