SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-96334; File No. SR-PEARL-2022-48)

November 16, 2022

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 2614(f), Self-Trade Protection Modifiers

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on November 7, 2022, MIAX PEARL, LLC ("MIAX Pearl" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposed rule change expand the availability of the Exchange's existing Self-Trade Protection ("STP") modifiers to more Equity Members[3] on the Exchange's equity trading platform (referred to herein as "MIAX Pearl Equities").

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

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

2 17 CFR 240.19b-4.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to amend Exchange Rule 2614(f) to expand the availability of the Exchange's existing STP modifiers to more Equity Members on MIAX Pearl Equities.[4] Specifically, the Exchange proposes to allow Equity Members to apply STP to orders submitted by an Affiliate[5] that is also an Equity Member (an Equity Member Affiliate), if they choose.

The Exchange offers optional anti-internalization functionality to Users[6] in the form of STP modifiers that enable a User to prevent two of its orders from executing against each other. Currently, Users can set the STP modifier to apply at the market participant identifier ("MPID"), Exchange Member identifier, or trading group identifier (any such existing identifier, a "Unique

---

4 The Exchange notes that provisions of Exchange Rule 2614 that are not subject to this proposed rule change were amended in separate filings, but those amendments have not yet been implemented. See, e.g., Securities Exchange Act Release Nos. 95679 (September 6, 2022), 87 FR 55866 (September 12, 2022) (SR-PEARL-2022-34); and 96205 (November 1, 2022) (SR-PEARL-2022-43).

5 The term "affiliate" of or person "affiliated with" another person means a person who, directly, or indirectly, controls, is controlled by, or is under common control with, such other person. See Exchange Rule 100. The term "person" refers to a natural person, corporation, partnership (general or limited), limited liability company, association, joint stock company, trust, trustee of a trust fund, or any organized group of persons whether incorporated or not and a government or agency or political subdivision thereof. Id.

6 The term "User" means any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Exchange Rule 2602. See Exchange Rule 1901.

Identifier").[7] The STP modifier on the order with the most recent time stamp controls the interaction between two orders marked with STP modifiers. STP functionality assists market participants in reducing trading costs from unwanted executions potentially resulting from the interaction of executable buy and sell trading interest from the same firm.

The proposed rule change would permit Equity Members to direct that orders entered into the System not execute against orders entered across MPIDs that are Equity Member Affiliates. The Exchange believes that this enhancement will provide helpful flexibility for Equity Members that wish to prevent trading against all orders entered by market participants that are affiliated with each other, instead of just orders that are entered under the same Unique Identifier (as currently defined).

The Exchange offers the following four (4) STP modifiers to Equity Members: Cancel Newest, Cancel Oldest, Decrement and Cancel, and Cancel Both. An order marked with the Cancel Newest modifier will not execute against a contra-side order marked with any STP modifier originating from the same Unique Identifier (as currently defined) and the order with the most recent time stamp marked with the Cancel Newest modifier will be cancelled. The contra-side order with the older timestamp marked with an STP modifier will remain on the MIAX Pearl Equities Book.[8] An order marked with the Cancel Oldest modifier will not execute against a contra-side order marked with any STP modifier originating from the same Unique Identifier and the order with the older time stamp marked with the STP modifier will be cancelled. The contra-side order with the most recent timestamp marked with the STP modifier will remain on the MIAX Pearl Equities Book. An order marked with the Decrement and Cancel

---

7 See Exchange Rule 2614(f).

8 Exchange Rule 1901 defines the term "MIAX Pearl Equities Book" as "the electronic book of orders in equity securities maintained by the System."

modifier will not execute against contra-side interest marked with any STP modifier originating from the same Unique Identifier. If both orders are equivalent in size, both orders will be cancelled. If both orders are not equivalent in size, the equivalent size will be cancelled and the larger order will be decremented by the size of the smaller order, with the balance remaining on the MIAX Pearl Equities Book. Finally, an order marked with the Cancel Both modifier will not execute against contra-side interest marked with any STP modifier originating from the same Unique Identifier and the entire size of both orders will be cancelled.

The Exchange understands that some Equity Members would like to apply STP to orders submitted by their Affiliates who are also Equity Members. For example, if Equity Member A is under common control with Equity Member B, the two Equity Members would like the option of applying STP to orders submitted by the two Equity Member Affiliates. Therefore, the Exchange proposes to expand the availability of the anti-internalization functionality it offers by allowing STP groups to be set at the Equity Member Affiliate level in addition to the current options of settings at the MPID, Exchange Member identifier, or trading group identifier level. This proposal is designed to offer STP functionality to Equity Member Affiliates that have divided their business activities between separate corporate entities without disadvantaging them when compared to Equity Members that operate those business activities within a single corporate entity. This proposal would expand the levels at which STP groups can be set by an Equity Member, but nothing in this proposal would change the manner in which two orders in the same STP group interact.

Specifically, the Exchange proposes to amend Exchange Rule 2614(f) to include "Equity Member Affiliate" as one of the possible levels for STP groupings (in addition to the current options of MPID, Exchange Member identifier, and trading group identifier). The

Exchange also proposes to amend Exchange Rule 2614(f) to specify that for purposes of the rule, the term "Equity Member Affiliate" shall mean an Equity Member that is affiliated with another Equity Member pursuant to Exchange Rule 100.[9] If Equity Members choose to have STP applied across Equity Member Affiliates, the anti-internalization functionality would prevent orders from such Equity Member Affiliates from trading against one another.

Assume Equity Member A and Equity Member B satisfy the definition of Equity Member Affiliate and instructed the Exchange to prohibit their orders that contain STP modifiers from executing against one another. Under this proposal, if Equity Member A submits an order to buy 100 shares of security ABC for $10.00 with an Equity Member-supplied STP modifier, and Equity Member B, an Equity Member Affiliate of Equity Member A, submits an order to sell 100 shares of security ABC for $10.00 also with an Equity Member-supplied STP modifier, the two otherwise executable orders will not execute, but will instead interact based upon the Equity Member-supplied STP modifier on the newer order.

An Equity Member must inform the Exchange's Membership Department which other Equity Member(s) it is affiliated with and meet the definition of Equity Member Affiliate for purposes of using STP. Equity Members will be responsible for having proper internal documentation in their books and records substantiating that two or more Equity Members using STP are Equity Member Affiliates of one another. The Exchange notes that it already utilizes this grouping of Equity Member Affiliates in its fee schedule so as not to penalize two affiliated members when calculating rebate tiers.[10] The Exchange also notes that other equity exchanges recently amended

---

9 See supra note 5.

10 See the definition of ADAV in the Exchange's fee schedule available at https://www.miaxoptions.com/sites/default/files/fee_schedule-files/MIAX_Pearl_Equities_Fee_Schedule_09012022.pdf (dated September 1, 2022).

their rules to allow affiliate grouping for their own anti-internalization functionality.[11]

This proposed rule change is designed to provide additional flexibility to Equity Members in how they implement self-trade prevention provided by the Exchange, and thereby better manage their order flow and prevent undesirable executions or the potential for "wash sales" that may occur as a result of the speed of trading in today's marketplace. Based on informal discussions with Equity Members, the Exchange believes that the proposed amendments will be useful to Equity Members in implementing their own compliance controls. Furthermore, the additional STP functionality may assist Members in complying with certain rules and regulations of the Employee Retirement Income Security Act ("ERISA") that preclude and/or limit managing broker-dealers of such accounts from trading as principal with orders generated for those accounts.

The Exchange notes that, as with the current anti-internalization functionality offered by the Exchange, use of the proposed new Equity Member Affiliate STP grouping will not alleviate, or otherwise exempt, Equity Members from their best execution obligations. As such, Equity Members and their Affiliates using STP will continue to be obligated to take appropriate steps to ensure customer orders which were prevented from execution due to anti-internalization ultimately receive the same price, or a better price, than they would have received had execution of the orders not been inhibited by anti-internalization. Further, as with current rule provisions, Market Makers and other Users may not use STP functionality to evade the firm quote

---

11 See, e.g., Securities Exchange Act Release Nos. 96187 (October 31, 2022), 87 FR 6674 (November 4, 2022) (SR-IEX-2022-08) (filed for immediate effectiveness on October 24, 2022); 96156 (October 25, 2022), 87 FR 65633 (October 31, 2022) (SR-BX-2022-020) (filed for immediate effectiveness on October 21, 2022); and 96154 (October 25, 2022), 87 FR 65631 (October 31, 2022) (SR-Phlx-2022-43) (filed for immediate effectiveness on October 21, 2022).

obligation, as specified in Exchange Rule 2606(b), and the STP functionality must be used in a manner consistent with just and equitable principles of trade.[12] For these reasons, the Exchange believes the proposed new Equity Member Affiliate level of STP grouping offers Equity Members enhanced order processing functionality that may prevent potentially undesirable executions without negatively impacting broker-dealer best execution obligations.

Implementation

Due to the technological changes associated with this proposed change, the Exchange will issue a trading alert publicly announcing the implementation date of this proposed rule change to provide Equity Members with adequate time to prepare for the associated technological changes. The Exchange anticipates that the implementation date will be in the fourth quarter of 2022.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Section 6(b)(5),[14] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, 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. Specifically, the Exchange believes that the proposed rule change is consistent with the protection of investors and the

12 See Exchange Rule 2100.

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

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

public interest because allowing Equity Member Affiliates to be part of the same STP group will provide Equity Members with additional flexibility with respect to how they implement self-trade protections provided by the Exchange that may better support their trading strategies and compliance controls. Equity Members that prefer the current anti-internalization groupings offered by the Exchange can continue to use them without any modification (i.e., if two Equity Member Affiliates do not wish to have orders from the two Equity Members be in the same STP group, the Equity Members will not have to make any changes to the manner in which they submit orders to the Exchange).

As noted in the Purpose section, the Exchange believes that providing Equity Members with more flexibility and control over the interactions of their orders will better prevent undesirable executions or the potential for "wash sales" that may occur as a result of the speed of trading in today's marketplace. The Equity Member Affiliate level STP grouping may better assist Equity Members in complying with certain ERISA rules and regulations that preclude and/or limit managing broker-dealers of such accounts from trading as principal with orders generated for those accounts.

Additionally, as discussed in the Purpose section, allowing Equity Members to apply STP to trades submitted by their Affiliates that are also Equity Members is intended to avoid disparate treatment of firms that have divided their various business activities between separate corporate entities as compared to firms that operate those business activities within a single corporate entity. Accordingly, the Exchange believes that this proposed rule change is fair and equitable, and not unreasonably discriminatory.

Further, the Exchange believes that providing expanded STP grouping options may streamline certain regulatory functions by reducing false positive results that may occur on wash trading surveillance reports when two orders in the same STP group are executed, notwithstanding that the transaction may not constitute a wash trade.

Finally, as discussed in the Purpose section, the Exchange notes other equity exchanges recently amended their rules to allow affiliate grouping for their own anti-internalization functionality.[15] Consequently, the Exchange does not believe that the proposed rule change raises any new or novel issues not already considered by the Commission.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the proposal is designed to enhance the Exchange's competitiveness by providing additional flexibility over the level at which orders are grouped, thereby incentivizing Equity Members to send orders to the Exchange and increase the liquidity available on the Exchange. Additionally, the proposed rule change is designed to assist Equity Members with compliance with the securities laws that prohibit wash trading as well as ERISA requirements. The Exchange also notes that the proposed new STP grouping option, like the Exchange's current anti-internalization functionality, is completely optional and Equity Members can determine on an order-by-order, MPID, Exchange Member identifier, trading group identifier, or Equity Member Affiliate identifier basis whether to apply anti-internalization protections to orders submitted to the Exchange. The proposed rule change would also improve the Exchange's ability to compete with other exchanges that recently amended their rules to allow affiliate grouping for their own anti-internalization functionality.[16]

---

15 See supra note 12 [sic].

16 See id.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Moreover, there is no barrier to other national securities exchanges adopting similar anti-internalization grouping at the Equity Member Affiliate level.

The Exchange also does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. All Equity Members will continue to be eligible to use the Exchange's anti-internalization functionality. While not every Equity Member engages in a business that might involve risks of self-matching against an Affiliate's orders, for the Equity Members that do face that risk, the proposed additional anti-internalization grouping is designed to help such Equity Members with their compliance with the securities laws and ERISA. Further, implementation of anti-internalization functionality impacts only an Equity Member's orders (and the orders of the Equity Member Affiliates), and not the orders of other, unaffiliated Equity Members. As discussed in the Purpose and Statutory Basis sections, allowing Equity Members to apply STP to trades submitted by their Affiliates that are also Equity Members is intended to avoid disparate treatment of firms that have divided their various business activities between separate corporate entities as compared to firms that operate those business activities within a single corporate entity.

C. 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.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition;

and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[17] and Rule 19b-4(f)(6)[18] thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)[19] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),[20] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange states that waiver of the operative delay would be consistent with the protection of investors and the public interest because it would enable the Exchange to implement the proposed rule change as soon as possible, which would allow Equity Member Affiliates to be part of the same STP group during the operative delay period and provide Equity Members with additional flexibility in the near term with respect to how they implement self-trade protections that may better support their trading strategies and compliance controls. The Exchange also states that waiver of the operative delay would allow the Exchange to avoid disparate treatment during the operative delay period of firms that have divided their various business activities between separate corporate entities as compared to firms that operate those

---

17 15 U.S.C. 78s(b)(3)(A).

18 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

19 17 CFR 240.19b-4(f)(6).

20 17 CFR 240.19b-4(f)(6)(iii).

business activities within a single corporate entity. Further, other equity exchanges recently amended their rules to allow affiliate grouping for their anti-internalization functionalities. For these reasons, and because the proposed rule change does not raise any novel regulatory issues, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[21]

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

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

---

21 For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-PEARL-2022-48 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-PEARL-2022-48. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-PEARL-2022-48 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.[22]

Sherry R. Haywood
Assistant Secretary

[22] 17 CFR 200.30-3(a)(12).