

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 41

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

File No. * SR 2023 - * 10

Amendment No. (req. for Amendments *)

Filing by MIAX PEARL, LLC

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

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
---	--------------------------------------	-------------------------------------	---	---	--

Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	Rule		
			<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010
Section 806(e)(1) *

Section 806(e)(2) *

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 3C(b)(2) *

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

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

Amend the MIAX Pearl Equities Fee Schedule to reduce the Adding Liquidity Non-Displayed Order rebate, increase the Removing Liquidity fee, make conforming reductions to certain associated rebates and increases in certain associated fees in the Liquidity Indicator Codes and Associated Fees Table, and amend the Remove Volume Tiers.

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 * Katherine Last Name * Comly

Title * AVP, Associate Counsel

E-mail * kcomly@miami-holdings.com

Telephone * (609) 613-1396 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 02/28/2023 (Title *)

By Katherine S. Comly AVP, Associate Counsel
(Name *)

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

Katherine S. Comly Date: 2023.02.28 17:21:14 -05'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

Add Remove View

SR-PEARL-2023-10 - 19b4.docx

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-2023-10- 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-2023-10 - Exhibit 5.docx

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) Inapplicable.

(c) Inapplicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Chief Executive Officer of the Exchange or his designee pursuant to authority delegated by the Exchange Board of Directors on February 2, 2023. 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 Katherine Comly, AVP and Associate Counsel, at (609) 613-1396.

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) reduce the Adding Liquidity Non-Displayed Order rebate in Section 1)a); (ii) increase the Removing Liquidity fee in Section 1)a); (iii) make conforming reductions to certain associated rebates and increases in certain associated fees in the Liquidity Indicator Codes and Associated Fees Table in Section 1)b); and (iv) amend the Remove Volume Tiers for executions of orders in securities priced at or above \$1.00 in Section 1)d).

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 18% of the total market share of executed volume of equities trading.³

Reduced Standard Rebate for Added Liquidity Non-Displayed Volume

The Exchange proposes to reduce the standard rebate for executions of Added Non-Displayed Volume. Currently, the Exchange provides a standard rebate of (\$0.0021) per share for executions of Added Non-Displayed Volume for securities priced at or above \$1.00. The Exchange now proposes to reduce the standard rebate for executions of Added Non-Displayed

³ Market share percentage calculated as of February 27, 2023. The Exchange receives and processes data made available through consolidated data feeds.

Volume to (\$0.00205) per share.⁴ The Exchange notes that executions of orders in securities priced below \$1.00 per share that add non-displayed liquidity to the Exchange will continue to receive the standard rebate applicable to such executions (i.e., 0.10% of the total dollar value of the transaction).

The purpose of reducing the standard rebate for executions of Added Non-Displayed Volume is for business and competitive reasons. The Exchange notes that despite the modest reduction proposed herein, the proposed standard rebate for execution of Added Non-Displayed Volume (i.e., \$0.00205 per share) remains higher than, and competitive with, the standard rebates provided by other exchanges for executions of orders in securities priced at or above \$1.00 per share that add displayed liquidity.⁵

Increase Standard Fee for Removed Volume

The Exchange also proposes to increase the standard fee charged for executions of Removed Volume. Currently, the Exchange charges a standard fee of \$0.0029 per share for executions of Removed Volume in securities priced at or above \$1.00. The Exchange now proposes to increase the standard fee charged for executions of Removed Volume to \$0.00295

⁴ The standard pricing for executions of Added Non-Displayed Volume is referred to by the Exchange on its Fee Schedule in section 1)a) Standard Rates.

⁵ See e.g., the Nasdaq PSX equities trading fee schedule on its public website (available at http://www.nasdaqtrader.com/Trader.aspx?id=PSX_Pricing), which reflects a standard rebate of \$0.00050 per share to add non-displayed liquidity in securities priced at or above \$1.00 per share; see also the Cboe BZX equities trading fee schedule on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/), which reflects a standard rebate of \$0.0010 per share to add non-displayed liquidity in securities priced at or above \$1.00 per share; see also the NYSE equities trading fee schedule on its public website (available at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf), which reflects a standard rebate of \$0.00000 per share to add non-displayed liquidity in securities priced at or above \$1.00 per share.

per share.⁶ The fee charged for Removed Volume in securities priced below \$1.00 will remain unchanged.

The purpose of increasing the standard fee for executions of Removed Volume is for business and competitive reasons. The Exchange notes that despite the modest increase proposed herein, the Exchange's proposed standard fee for executions of Removed Volume \$0.00295 remains competitive with the standard fee to remove liquidity in securities priced at or above \$1.00 per share charged by other equity exchanges.⁷

Liquidity Indicator Codes and Associated Fees Table Conforming Changes

In conjunction with the Exchange's proposal to (i) reduce the rebate for Non-Displayed Orders that Add Liquidity from (\$0.0021) to (\$0.00205), and (ii) increase the fee for Removing Liquidity from \$0.0029 to \$0.00295, the Exchange now proposes to update the Liquidity Indicator Codes and Associated Fees table to reflect the aforementioned changes. Specifically, the Exchange proposes to reduce certain Adding Liquidity Non-Displayed Order rebates in Section 1)b), and increase certain Removing Liquidity fees in Section 1)b). The Exchange proposes to update the liquidity indicator codes as follows:

- Liquidity indicator code Aa, Adds Liquidity, Non-Displayed Order (Tape A).

The Liquidity Indicator Code and Associated Fees table would specify that orders

⁶ The proposed pricing is referred to by the Exchange on the Fee Schedule under the existing description "Removing Liquidity" in Section 1)a) Standard Rates.

⁷ See e.g., the Cboe BZX equities trading fee schedule on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/) which reflects a standard fee of \$0.0030 per share to remove liquidity in securities priced at or above \$1.00 per share; see also the Cboe EDGX equities trading fee schedule on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/edgx/) which reflects a standard fee of \$0.0030 per share to remove liquidity in securities priced at or above \$1.00; see also MEMX equities trading fee schedule on its public website (available at <https://info.memxtrading.com/fee-schedule/>) which reflects a standard fee of \$0.0030 per share to remove liquidity in securities priced at or above \$1.00 per share.

that yield liquidity indicator code Aa would receive a rebate of (\$0.00205) per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.

- Liquidity indicator code Ab, Adds Liquidity, Non-Displayed Order (Tape B). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ab would receive a rebate of (\$0.00205) per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Ac, Adds Liquidity, Non-Displayed Order (Tape C). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ac would receive a rebate of (\$0.00205) per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Ap, Adds Liquidity and Executes at the Midpoint, Non-Displayed Midpoint Peg Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ap would receive a rebate of (\$0.00205) per share in securities priced at or above \$1.00 or 0.10% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Ar, Retail Order, Adds Liquidity, Non-Displayed Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ar would receive a rebate of (\$0.00205) per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.

- Liquidity indicator code RA, Removes Liquidity, Displayed Order (Tape A). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RA would be subject to a fee of \$0.00295 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code RB, Removes Liquidity, Displayed Order (Tape B). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RB would be subject to a fee of \$0.00295 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code RC, Removes Liquidity, Displayed Order (Tape C). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RC would be subject to a fee of \$0.00295 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code RR, Retail Order, Removes Liquidity, Displayed Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RR would be subject to a fee of \$0.00295 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Ra, Removes Liquidity, Non-Displayed Order (Tape A). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ra would be subject to a fee of \$0.00295 per

share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.

- Liquidity indicator code Rb, Removes Liquidity, Non-Displayed Order (Tape B). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Rb would be subject to a fee of \$0.00295 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Rc, Removes Liquidity, Non-Displayed Order (Tape C). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Rc would be subject to a fee of \$0.00295 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Rr, Retail Order, Removes Liquidity, Non-Displayed Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Rr would be subject to a fee of \$0.00295 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.

Increased Fee for Remove Volume Tiers

In conjunction with the Exchange's proposal to (i) reduce the rebate for Non-Displayed Orders that Add Liquidity from (\$0.0021) to (\$0.00205), and (ii) increase the fee for Removing Liquidity from \$0.0029 to \$0.00295, the Exchange also proposes to amend its volume-based tiered pricing structure applicable to the fees charged for executions of Removed Volume on the Exchange. Currently, the Exchange charges either: a fee of \$0.0028 per share for executions of

Removed Volume for Equity Members⁸ (“Members”) that qualify for Tier 1 by achieving an ADV⁹ that is equal to or greater than 0.10% of TCV¹⁰ and equal to or greater than 1,000 shares of added liquidity; or 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 TCV and equal to or greater than 1,000 shares of added liquidity. The Exchange now proposes to increase the fee to \$0.00285 per share for executions of Removed Volume Members that qualify for Tier 1 and \$0.00275 per share for Members that qualify for Tier 2.

The Exchange believes that the proposed change to the Remove Volume Tiers table provides an incentive for Members to strive for higher ADV on the Exchange in order to qualify for the proposed lower fee for executions of Removed Volume. As such, the Remove Volume Tiers is designed to encourage Members to maintain or increase their order flow directed to the Exchange, thereby 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

⁸ The term “Equity Member” is a Member authorized by the Exchange to transact business on MIAAX Pearl Equities. See Exchange Rule 1901.

⁹ The “ADV” means average daily volume calculated as the number of shares added or removed, combined, per day. ADV is calculated on a monthly basis, and the Exchange excludes from its calculation of 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). See the Definitions Section of the Exchange Fee Schedule.

¹⁰ The “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 the Definitions Section of the Exchange Fee Schedule.

notes that the proposed fees for executions of Remove Volume applicable to Members that qualify for one of the Remove Volume Tiers (i.e., \$0.00285 or \$0.00275) is related to the proposed changes to increase the fee for Removing Liquidity, discussed above.

Implementation

The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal on March 1, 2023.

b. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act¹¹ in general, and furthers the objectives of Section 6(b)(4) of the Act¹² in particular, in that it is an equitable allocation of reasonable fees and other charges among its Equity 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)¹³ requirements 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.

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(4).

¹³ 15 U.S.C 78f(b)(5).

The Exchange operates in a highly fragmented and competitive market in which market participants can readily direct their order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of sixteen registered equities exchanges, and there are a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly available information, no single registered equities exchange currently has more than approximately 18% of the total market share of executed volume of equities trading.¹⁴ 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 2% of the overall market share.¹⁵ 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

¹⁴ See supra note 3.

¹⁵ Id.

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

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 their order flow to the Exchange, which the Exchange believes would enhance liquidity and market quality to the benefit of all Members and market participants.

Reduce Standard Rebate for Added Non-Displayed Volume

The Exchange believes that the proposed reduced standard rebate for executions of Added Non-Displayed Volume (\$0.00205 per share) is reasonable and appropriate because it represents a modest decrease from the current standard rebate for executions of Added Non-Displayed Volume, and remains competitive with the standard rebates provided by at least one other exchange for orders in securities priced at or above \$1.00 per share that add liquidity.¹⁷ The Exchange further believes that the proposed reduced standard rebate for executions of Added Non-Displayed Volume are equitably allocated and not unfairly discriminatory because each will apply equally to all Members.

Increased Standard Fee for Removed Volume

The Exchange believes the proposed increased standard fee for executions of Removed Volume is reasonable and appropriate because it represents a modest increase from the current standard fee and, as noted above, remains lower than, and competitive with, the standard fee charged by several other exchanges to remove liquidity in securities priced at or above \$1.00 per share.¹⁸ The Exchange further believes that the proposed increased standard fee for executions

¹⁷ See supra notes 5 and 7.

¹⁸ See the MEMX equities trading fee schedule on its public website (available at <https://info.memxtrading.com/fee-schedule/>) which reflects a standard fee of \$0.0029; Cboe EDGX equities trading fee schedule on its public website (available at

of Removed Volume is equitably allocated and not unfairly discriminatory because it will apply to all Members.

Conforming Changes to Liquidity Indicator Codes

The Exchange believes its proposal to decrease the rebate provided for Non-Displayed Orders that add liquidity in securities priced at or above \$1.00 from (\$0.0021) to (\$0.00205) per share is reasonable and equitably allocated among all Members of the Exchange. Liquidity indicator codes Aa, Ab, Ac, Ap, and Ar are appended to orders that add non-displayed liquidity. The Exchange believes its proposal is equitable and not unfairly discriminatory as it will apply to all Members equally.

The Exchange believes its proposal to increase the fee applied for orders that remove liquidity in securities priced at or above \$1.00 per share is reasonable and equitably allocated among all Members of the Exchange. The Exchange believes its proposal to update the Liquidity Indicator Codes and Associated Fees table to reflect the new rate of \$0.00295 per share for securities priced at or above \$1.00 with liquidity indicator codes RA, RB, RC, RR, Ra, Rb, Rc, and Rr is equitable and reasonable because it will apply equally to all Members of the Exchange. Additionally, the Exchange believes its proposed change is reasonable as the Exchange is also proposing to amend the Remove Volume Tiers by which a Member can achieve reduced fees of \$0.00285 or \$0.0275 per share for securities priced at or above \$1.00 upon satisfying certain criteria.

Increased Fee for Remove Volume Tiers

https://www.cboe.com/us/equities/membership/fee_schedule/edgx/) which reflects a standard fee of \$0.0030; and Cboe BZX equities trading fee schedule on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/) which reflects a standard fee of \$0.0030.

The Exchange believes that the proposed change to the Remove Volume Tiers is reasonable because it would provide Members with an additional incentive to achieve certain volume thresholds on the Exchange. The modest increase in the fee to \$0.00285 per share for executions of Removed Volume Members that qualify for Tier 1 and \$0.00275 per share for Members that qualify for Tier 2 are reasonable, equitable, and not unfairly discriminatory because they are open to all Members on an equal basis and provide additional benefits or discounts 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 processes. The Exchange believes the proposed change to the Remove Volume Tier is equitable and not unfairly discriminatory for these same reasons, as it is open to all Members and is designed to encourage Members to maintain or increase their order flow directed to the Exchange, thereby 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. Moreover, the Exchange believes the proposed change to the Remove Volume Tiers is a reasonable means to incentivize such increased activity, as it provides two different thresholds that a Member may achieve by increasing their ADV to an amount equal to or greater than the specified TCV threshold.

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

competitive forces, and that the proposed fees and rebates described herein are appropriate to address such forces.

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

The Exchange does not believe that the proposed change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed change would encourage Members to maintain or increase their order flow to the Exchange, thereby 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. 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. For these reasons, the Exchange believes that the proposal furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."¹⁹

Intramarket Competition

The Exchange believes that the proposed changes would incentivize market participants to direct order flow to the Exchange, thereby 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, 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 orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all Members.

¹⁹ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 47396 (June 29, 2005).

The opportunity to qualify for the Remove Volume Tiers, and thus receive the proposed lower fees for executions of Removed Volume, would be available to all Members that meet the associated volume requirement in any month. The Exchange believes that meeting the volume requirement of the Remove Volume Tiers is attainable for market participants, as the Exchange believes the thresholds are relatively low and reasonably related to the enhanced liquidity and market quality that the Remove Volume Tiers is designed to promote. Similarly, the proposed increased standard fee for executions of Removed Volume would apply equally to all Members. As such, the Exchange believes the proposed changes would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intermarket Competition

The Exchange believes its proposal will benefit competition as the Exchange 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 18% of the total market share of executed volume of equities trading.²⁰ 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

²⁰ See supra note 3.

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 are competitive proposals through which the Exchange is seeking to encourage additional order flow to the Exchange. Such proposed changes to (i) reduce the Adding Liquidity Non-Displayed Order rebate and (ii) increase the Removing Liquidity fee are comparable to, and competitive with, rates charged by other exchanges.²¹ The proposed change to (iii) update the Liquidity Indicator Codes and Associated Fees table and (iv) increase the fee for Remove Volume Tiers is in conjunction with the Exchange's abovementioned proposed changes.

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."²² 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

²¹ See supra notes 5 and 7.

²² See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

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’”²³

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

Not applicable.

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act,²⁴ and Rule 19b-4(f)(2) thereunder²⁵ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

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

Not applicable.

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

Not applicable.

²³ 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)).

²⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

²⁵ 17 CFR 240.19b-4.

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

Not applicable.

11. Exhibits

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

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-PEARL-2023-10)

February____, 2023

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 February____, 2023, MIAX PEARL, LLC (“MIAX Pearl” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange is filing a proposal to amend the fee schedule (the “Fee Schedule”) applicable to MIAX Pearl Equities, an equities trading facility of the Exchange.

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

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's Fee Schedule to: (i) reduce the Adding Liquidity Non-Displayed Order rebate in Section 1)a); (ii) increase the Removing Liquidity fee in Section 1)a); (iii) make conforming reductions to certain associated rebates and increases in certain associated fees in the Liquidity Indicator Codes and Associated Fees Table in Section 1)b); and (iv) amend the Remove Volume Tiers for executions of orders in securities priced at or above \$1.00 in Section 1)d).

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 18% of the total market share of executed volume of equities trading.³

Reduced Standard Rebate for Added Liquidity Non-Displayed Volume

The Exchange proposes to reduce the standard rebate for executions of Added Non-Displayed Volume. Currently, the Exchange provides a standard rebate of (\$0.0021) per share for executions of Added Non-Displayed Volume for securities priced at or above \$1.00. The

³ Market share percentage calculated as of February 27, 2023. The Exchange receives and processes data made available through consolidated data feeds.

Exchange now proposes to reduce the standard rebate for executions of Added Non-Displayed Volume to (\$0.00205) per share.⁴ The Exchange notes that executions of orders in securities priced below \$1.00 per share that add non-displayed liquidity to the Exchange will continue to receive the standard rebate applicable to such executions (i.e., 0.10% of the total dollar value of the transaction).

The purpose of reducing the standard rebate for executions of Added Non-Displayed Volume is for business and competitive reasons. The Exchange notes that despite the modest reduction proposed herein, the proposed standard rebate for execution of Added Non-Displayed Volume (i.e., \$0.00205 per share) remains higher than, and competitive with, the standard rebates provided by other exchanges for executions of orders in securities priced at or above \$1.00 per share that add displayed liquidity.⁵

Increase Standard Fee for Removed Volume

The Exchange also proposes to increase the standard fee charged for executions of Removed Volume. Currently, the Exchange charges a standard fee of \$0.0029 per share for executions of Removed Volume in securities priced at or above \$1.00. The Exchange now proposes to increase the standard fee charged for executions of Removed Volume to \$0.00295

⁴ The standard pricing for executions of Added Non-Displayed Volume is referred to by the Exchange on its Fee Schedule in section 1)a) Standard Rates.

⁵ See e.g., the Nasdaq PSX equities trading fee schedule on its public website (available at http://www.nasdaqtrader.com/Trader.aspx?id=PSX_Pricing), which reflects a standard rebate of \$0.00050 per share to add non-displayed liquidity in securities priced at or above \$1.00 per share; see also the Cboe BZX equities trading fee schedule on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/), which reflects a standard rebate of \$0.0010 per share to add non-displayed liquidity in securities priced at or above \$1.00 per share; see also the NYSE equities trading fee schedule on its public website (available at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf), which reflects a standard rebate of \$0.00000 per share to add non-displayed liquidity in securities priced at or above \$1.00 per share.

per share.⁶ The fee charged for Removed Volume in securities priced below \$1.00 will remain unchanged.

The purpose of increasing the standard fee for executions of Removed Volume is for business and competitive reasons. The Exchange notes that despite the modest increase proposed herein, the Exchange's proposed standard fee for executions of Removed Volume \$0.00295 remains competitive with the standard fee to remove liquidity in securities priced at or above \$1.00 per share charged by other equity exchanges.⁷

Liquidity Indicator Codes and Associated Fees Table Conforming Changes

In conjunction with the Exchange's proposal to (i) reduce the rebate for Non-Displayed Orders that Add Liquidity from (\$0.0021) to (\$0.00205), and (ii) increase the fee for Removing Liquidity from \$0.0029 to \$0.00295, the Exchange now proposes to update the Liquidity Indicator Codes and Associated Fees table to reflect the aforementioned changes. Specifically, the Exchange proposes to reduce certain Adding Liquidity Non-Displayed Order rebates in Section 1)b), and increase certain Removing Liquidity fees in Section 1)b). The Exchange proposes to update the liquidity indicator codes as follows:

- Liquidity indicator code Aa, Adds Liquidity, Non-Displayed Order (Tape A).

The Liquidity Indicator Code and Associated Fees table would specify that orders

⁶ The proposed pricing is referred to by the Exchange on the Fee Schedule under the existing description "Removing Liquidity" in Section 1)a) Standard Rates.

⁷ See e.g., the Cboe BZX equities trading fee schedule on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/) which reflects a standard fee of \$0.0030 per share to remove liquidity in securities priced at or above \$1.00 per share; see also the Cboe EDGX equities trading fee schedule on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/edgx/) which reflects a standard fee of \$0.0030 per share to remove liquidity in securities priced at or above \$1.00; see also MEMX equities trading fee schedule on its public website (available at <https://info.memxtrading.com/fee-schedule/>) which reflects a standard fee of \$0.0030 per share to remove liquidity in securities priced at or above \$1.00 per share.

that yield liquidity indicator code Aa would receive a rebate of (\$0.00205) per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.

- Liquidity indicator code Ab, Adds Liquidity, Non-Displayed Order (Tape B). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ab would receive a rebate of (\$0.00205) per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Ac, Adds Liquidity, Non-Displayed Order (Tape C). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ac would receive a rebate of (\$0.00205) per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Ap, Adds Liquidity and Executes at the Midpoint, Non-Displayed Midpoint Peg Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ap would receive a rebate of (\$0.00205) per share in securities priced at or above \$1.00 or 0.10% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Ar, Retail Order, Adds Liquidity, Non-Displayed Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ar would receive a rebate of (\$0.00205) per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.

- Liquidity indicator code RA, Removes Liquidity, Displayed Order (Tape A). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RA would be subject to a fee of \$0.00295 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code RB, Removes Liquidity, Displayed Order (Tape B). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RB would be subject to a fee of \$0.00295 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code RC, Removes Liquidity, Displayed Order (Tape C). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RC would be subject to a fee of \$0.00295 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code RR, Retail Order, Removes Liquidity, Displayed Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RR would be subject to a fee of \$0.00295 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Ra, Removes Liquidity, Non-Displayed Order (Tape A). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ra would be subject to a fee of \$0.00295 per

share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.

- Liquidity indicator code Rb, Removes Liquidity, Non-Displayed Order (Tape B). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Rb would be subject to a fee of \$0.00295 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Rc, Removes Liquidity, Non-Displayed Order (Tape C). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Rc would be subject to a fee of \$0.00295 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Rr, Retail Order, Removes Liquidity, Non-Displayed Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Rr would be subject to a fee of \$0.00295 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.

Increased Fee for Remove Volume Tiers

In conjunction with the Exchange's proposal to (i) reduce the rebate for Non-Displayed Orders that Add Liquidity from (\$0.0021) to (\$0.00205), and (ii) increase the fee for Removing Liquidity from \$0.0029 to \$0.00295, the Exchange also proposes to amend its volume-based tiered pricing structure applicable to the fees charged for executions of Removed Volume on the Exchange. Currently, the Exchange charges either: a fee of \$0.0028 per share for executions of

Removed Volume for Equity Members⁸ (“Members”) that qualify for Tier 1 by achieving an ADV⁹ that is equal to or greater than 0.10% of TCV¹⁰ and equal to or greater than 1,000 shares of added liquidity; or 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 TCV and equal to or greater than 1,000 shares of added liquidity. The Exchange now proposes to increase the fee to \$0.00285 per share for executions of Removed Volume Members that qualify for Tier 1 and \$0.00275 per share for Members that qualify for Tier 2.

The Exchange believes that the proposed change to the Remove Volume Tiers table provides an incentive for Members to strive for higher ADV on the Exchange in order to qualify for the proposed lower fee for executions of Removed Volume. As such, the Remove Volume Tiers is designed to encourage Members to maintain or increase their order flow directed to the Exchange, thereby 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 fees for executions of Remove Volume applicable to Members that

⁸ The term “Equity Member” is a Member authorized by the Exchange to transact business on MIA X Pearl Equities. See Exchange Rule 1901.

⁹ The “ADV” means average daily volume calculated as the number of shares added or removed, combined, per day. ADV is calculated on a monthly basis, and the Exchange excludes from its calculation of 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). See the Definitions Section of the Exchange Fee Schedule.

¹⁰ The “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 the Definitions Section of the Exchange Fee Schedule.

qualify for one of the Remove Volume Tiers (i.e., \$0.00285 or \$0.00275) is related to the proposed changes to increase the fee for Removing Liquidity, discussed above.

Implementation

The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal on March 1, 2023.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act¹¹ in general, and furthers the objectives of Section 6(b)(4) of the Act¹² in particular, in that it is an equitable allocation of reasonable fees and other charges among its Equity 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)¹³ requirements 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

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(4).

¹³ 15 U.S.C 78f(b)(5).

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 18% of the total market share of executed volume of equities trading.¹⁴ 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 2% of the overall market share.¹⁵ 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

¹⁴ See supra note 3.

¹⁵ Id.

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

participants to direct their order flow to the Exchange, which the Exchange believes would enhance liquidity and market quality to the benefit of all Members and market participants.

Reduce Standard Rebate for Added Non-Displayed Volume

The Exchange believes that the proposed reduced standard rebate for executions of Added Non-Displayed Volume (\$0.00205 per share) is reasonable and appropriate because it represents a modest decrease from the current standard rebate for executions of Added Non-Displayed Volume, and remains competitive with the standard rebates provided by at least one other exchange for orders in securities priced at or above \$1.00 per share that add liquidity.¹⁷ The Exchange further believes that the proposed reduced standard rebate for executions of Added Non-Displayed Volume are equitably allocated and not unfairly discriminatory because each will apply equally to all Members.

Increased Standard Fee for Removed Volume

The Exchange believes the proposed increased standard fee for executions of Removed Volume is reasonable and appropriate because it represents a modest increase from the current standard fee and, as noted above, remains lower than, and competitive with, the standard fee charged by several other exchanges to remove liquidity in securities priced at or above \$1.00 per share.¹⁸ The Exchange further believes that the proposed increased standard fee for executions of Removed Volume is equitably allocated and not unfairly discriminatory because it will apply to all Members.

¹⁷ See supra notes 5 and 7.

¹⁸ See the MEMX equities trading fee schedule on its public website (available at <https://info.memxtrading.com/fee-schedule/>) which reflects a standard fee of \$0.0029; Cboe EDGX equities trading fee schedule on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/edgx/) which reflects a standard fee of \$0.0030; and Cboe BZX equities trading fee schedule on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/) which reflects a standard fee of \$0.0030.

Conforming Changes to Liquidity Indicator Codes

The Exchange believes its proposal to decrease the rebate provided for Non-Displayed Orders that add liquidity in securities priced at or above \$1.00 from (\$0.0021) to (\$0.00205) per share is reasonable and equitably allocated among all Members of the Exchange. Liquidity indicator codes Aa, Ab, Ac, Ap, and Ar are appended to orders that add non-displayed liquidity. The Exchange believes its proposal is equitable and not unfairly discriminatory as it will apply to all Members equally.

The Exchange believes its proposal to increase the fee applied for orders that remove liquidity in securities priced at or above \$1.00 per share is reasonable and equitably allocated among all Members of the Exchange. The Exchange believes its proposal to update the Liquidity Indicator Codes and Associated Fees table to reflect the new rate of \$0.00295 per share for securities priced at or above \$1.00 with liquidity indicator codes RA, RB, RC, RR, Ra, Rb, Rc, and Rr is equitable and reasonable because it will apply equally to all Members of the Exchange. Additionally, the Exchange believes its proposed change is reasonable as the Exchange is also proposing to amend the Remove Volume Tiers by which a Member can achieve reduced fees of \$0.00285 or \$0.0275 per share for securities priced at or above \$1.00 upon satisfying certain criteria.

Increased Fee for Remove Volume Tiers

The Exchange believes that the proposed change to the Remove Volume Tiers is reasonable because it would provide Members with an additional incentive to achieve certain volume thresholds on the Exchange. The modest increase in the fee to \$0.00285 per share for executions of Removed Volume Members that qualify for Tier 1 and \$0.00275 per share for Members that qualify for Tier 2 are reasonable, equitable, and not unfairly discriminatory because they are open to all Members on an equal basis and provide additional benefits or

discounts 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 processes. The Exchange believes the proposed change to the Remove Volume Tier is equitable and not unfairly discriminatory for these same reasons, as it is open to all Members and is designed to encourage Members to maintain or increase their order flow directed to the Exchange, thereby 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. Moreover, the Exchange believes the proposed change to the Remove Volume Tiers is a reasonable means to incentivize such increased activity, as it provides two different thresholds that a Member may achieve by increasing their ADV to an amount equal to or greater than the specified TCV threshold.

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

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

The Exchange does not believe that the proposed change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed change would encourage Members to maintain or increase their order flow to the Exchange, thereby 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. 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. For these reasons, the Exchange believes that the proposal furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."¹⁹

Intramarket Competition

The Exchange believes that the proposed changes would incentivize market participants to direct order flow to the Exchange, thereby 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, 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 orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all Members.

The opportunity to qualify for the Remove Volume Tiers, and thus receive the proposed lower fees for executions of Removed Volume, would be available to all Members that meet the associated volume requirement in any month. The Exchange believes that meeting the volume requirement of the Remove Volume Tiers is attainable for market participants, as the Exchange believes the thresholds are relatively low and reasonably related to the enhanced liquidity and market quality that the Remove Volume Tiers is designed to promote. Similarly, the proposed increased standard fee for executions of Removed Volume would apply equally to all Members. As such, the Exchange believes the proposed changes would not impose any burden on

¹⁹ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 47396 (June 29, 2005).

intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intermarket Competition

The Exchange believes its proposal will benefit competition as the Exchange 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 18% of the total market share of executed volume of equities trading.²⁰ 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 are competitive proposals through which the Exchange is seeking to encourage additional order flow to the Exchange. Such proposed changes to (i) reduce the Adding Liquidity Non-Displayed Order rebate and (ii) increase the Removing Liquidity fee are comparable to, and competitive with, rates charged by other exchanges.²¹ The proposed change to (iii) update the Liquidity Indicator Codes and Associated Fees table and (iv)

²⁰ See supra note 3.

²¹ See supra notes 5 and 7.

increase the fee for Remove Volume Tiers is in conjunction with the Exchange's abovementioned proposed changes.

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."²²

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'"²³

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.

²² See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

²³ *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)).

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,²⁴ and Rule 19b-4(f)(2)²⁵ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>);
- or
- Send an e-mail [to rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-PEARL-2023-10 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-2023-10. This file number should be included on the subject line if e-mail is used. To help the Commission process and

²⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

²⁵ 17 CFR 240.19b-4(f)(2).

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-2023-10 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.²⁶

Vanessa Countryman
Secretary

²⁶ 17 CFR 200.30-3(a)(12).

Exhibit 5New text is underlined;

Deleted text is in [brackets]

MIAX Pearl Equities Exchange Fee Schedule

* * * * *

1) Transaction Rebates/Fees

a) Standard Rates

Category	Adding Liquidity Displayed Order	Adding Liquidity Non-Displayed Order	Removing Liquidity	Routing and Removing Liquidity	Opening or Re-Opening Process
Securities at or above \$1.00	No change.	(\$0.002[1]05)	\$0.00295	No change.	No change.
Securities below \$1.00	No change.	No change.	No change.	No change.	No change.
Standard Liquidity Indicator Codes	No change.	No change.	No change.	No change.	No change.

b) Liquidity Indicator Codes and Associated Fees

Liquidity Indicator Code	Description	Fee/(Rebate) Securities Priced at or Above \$1.00	Fee/(Rebate) Securities Priced Below \$1.00
AA	Adds Liquidity, Displayed Order (Tape A)	No change.	No change.
AB	Adds Liquidity, Displayed Order (Tape B)	No change.	No change.
AC	Adds Liquidity, Displayed Order (Tape C)	No change.	No change.
AR	Retail Order, Adds Liquidity, Displayed Order (All Tapes)	No change.	No change.
Aa	Adds Liquidity, Non-Displayed Order (Tape A)	(\$0.002[1]05)	No change.
Ab	Adds Liquidity, Non-Displayed Order (Tape B)	(\$0.002[1]05)	No change.

Liquidity Indicator Code	Description	Fee/(Rebate) Securities Priced at or Above \$1.00	Fee/(Rebate) Securities Priced Below \$1.00
Ac	Adds Liquidity, Non-Displayed Order (Tape C)	(\$0.002[1]05)	No change.
Ap	Adds Liquidity and Executes at the Midpoint, Non-Displayed Midpoint Peg Order (All Tapes)	(\$0.002[1]05)	No change.
Ar	Retail Order, Adds Liquidity, Non-Displayed Order (All Tapes)	(\$0.002[1]05)	No change.
O	Opening/Re-Opening Process	No change.	No change.
RA	Removes Liquidity, Displayed Order (Tape A)	\$0.00295	No change.
RB	Removes Liquidity, Displayed Order (Tape B)	\$0.00295	No change.
RC	Removes Liquidity, Displayed Order (Tape C)	\$0.00295	No change.
RR	Retail Order, Removes Liquidity, Displayed Order (All Tapes)	\$0.00295	No change.
Ra	Removes Liquidity, Non-Displayed Order (Tape A)	\$0.00295	No change.
Rb	Removes Liquidity, Non-Displayed Order (Tape B)	\$0.00295	No change.
Rc	Removes Liquidity, Non-Displayed Order (Tape C)	\$0.00295	No change.
Rp	Removes Liquidity and Executes at the Midpoint, Non-Displayed Midpoint Peg Order (All Tapes)	No change.	No change.
Rr	Retail Order, Removes Liquidity, Non-Displayed Order (All Tapes)	\$0.00295	No change.

* * * * *

c) No change.

d) Remove Volume Tiers

Tier	Required Criteria	Securities Priced at or Above \$1.00
1	ADV \geq 0.10% of TCv and \geq 1,000 shares of added liquidity	\$0.00285

2	ADV \geq 0.15% of TCV and \geq 1,000 shares of added liquidity	\$0.0027 <u>5</u>
---	--	-------------------

* * * * *