

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 26

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

File No. * SR 2023 - * 22

Amendment No. (req. for Amendments *)

Filing by MIAX PEARL, LLC

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

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

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

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

Section 806(e)(2) *

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

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

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

Proposal to amend the MIAX Pearl Equities Fee Schedule to modify the fees for orders in all securities routed to a primary listing market's opening process pursuant to the PAC routing option.

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 * Michael Last Name * Slade

Title * AVP, Associate Counsel

E-mail * mslade@miami-holdings.com

Telephone * (609) 955-0460 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 05/09/2023

(Title *)

By Michael Slade

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.

Michael Slade Date: 2023.05.09 14:35:47 -04'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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SR-PEARL-2023-22 - 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 *

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SR-PEARL-2023-22 - Exhibit 1.docx

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

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

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

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

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

Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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

Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

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

Exhibit 5 - Proposed Rule Text

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SR-PEARL-2023-22 - 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

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

1. **Text of the Proposed Rule Change**

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

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

(b) Inapplicable.

(c) Inapplicable.

2. **Procedures of the Self-Regulatory Organization**

The proposed rule change was approved by the Chief Executive Officer of the Exchange or his duly appointed designee pursuant to authority delegated by the MIAX Pearl 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 Michael Slade, AVP and Associate Counsel, at (609) 897-8499.

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

a. Purpose

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

The Exchange proposes to amend the Fee Schedule to: (i) reduce the fees for orders in securities priced at or above \$1.00 per share that are routed to the primary listing market's opening or re-opening process pursuant to the Route to Primary Auction ("PAC") routing option³; and (ii) reduce the fees for orders in securities priced below \$1.00 per share that are routed to the primary listing market's opening or re-opening process pursuant to the PAC routing option. The Exchange initially filed this proposal on April 28, 2023, with the proposed fee changes effective beginning May 1, 2023 (SR-PEARL-2023-20). On May 9, 2023, the Exchange withdrew SR-PEARL-2023-20 and refiled this proposal as SR-PEARL-2023-22.

Background

The PAC routing option enables an Equity Member⁴ to designate that their order be routed to the primary listing market to participate in the primary listing market's opening, re-opening or closing process.⁵ Exchange Rule 2617(b)(5)(B) provides that PAC is a routing option for Market Orders⁶ and displayed Limit Orders⁷ designated with a time-in-force of Regular Hours Only ("RHO")⁸ that the entering firm wishes to designate for participation in the

³ See Exchange Rule 2617(b)(5)(B).

⁴ The term "Equity Member" is a Member authorized by the Exchange to transact business on MIAAX Pearl Equities. See Exchange Rule 1901.

⁵ See Exchange Rule 2617(b)(5)(B).

⁶ See Exchange Rule 2614(a)(2).

⁷ See Exchange Rule 2614(a)(1).

⁸ Exchange Rule 2614(b)(2) defines "Regular Hours Only" or "RHO" as "[a]n order that is designated for execution only during Regular Trading Hours, which includes the Opening Process for equity securities. An order with a time-in-force of RHO entered into the System before the opening of business on the Exchange as determined pursuant to Exchange Rule 2600 will be accepted but not eligible for execution until the start of Regular Trading Hours."

opening, re-opening (following a regulatory halt, suspension, or pause), or closing process⁹ of a primary listing market (Cboe BZX Exchange, Inc. (“Cboe BZX”), the New York Stock Exchange LLC (“NYSE”), The Nasdaq Stock Market LLC (“Nasdaq”), NYSE American LLC (“NYSE American”), or NYSE Arca, Inc. (“NYSE Arca”)), if received before the opening, re-opening, or closing process of such market. For displayed Limit Orders designated with the PAC routing option, any shares that remain unexecuted after attempting to execute in the primary listing market’s opening or re-opening process will either be posted to the MIAX Pearl Equities Book, executed, or routed pursuant to the Price Improvement (“PI”) routing option.¹⁰

The Exchange adopted the standard liquidity indicator code of “X” in its Fee Schedule for routed liquidity. This code applies to an order that is routed to and executed on an away market. Additionally, this code is used to identify orders that were routed to an away market (including orders that were routed using the PAC routing strategy) and executed as “Taker.”

On July 5, 2022, the Exchange filed its proposal to, among other things, adopt new liquidity indicator codes and associated fees and rebates for orders that the Exchange routes pursuant to the PAC routing option.¹¹ In particular, the Exchange adopted the following liquidity indicator codes and associated fees for orders that the Exchange routes to the primary listing market’s opening or re-opening process pursuant to the PAC routing option¹²:

⁹ The Exchange notes that it will route Market Orders to the primary listing market’s closing process in certain limited circumstances. See Exchange Rule 2617(b)(5)(B)(1)(ii)(b).

¹⁰ See Exchange Rule 2617(b)(5)(B)(1)(i)(a).

¹¹ See Securities Exchange Act Release No. 95210 (July 7, 2022), 87 FR 41750 (July 13, 2022) (SR-PEARL-2022-26).

¹² The Exchange notes that the proposed changes in this filing will not amend the fees or rebates for the following liquidity indicator codes that also correspond to orders routed away from the Exchange pursuant to the PAC routing option: XA, XB, XD, XE, XG, XH, XJ, XK, XM, XN, XP, XQ. See Fee Schedule, Section 1)b).

- Liquidity indicator code XC, Routed to NYSE, Opening/Re-Opening Auction. Orders that yield liquidity indicator code XC are charged a fee \$0.00105 per share in securities priced at or above \$1.00 and 0.30% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code XF, Routed to NYSE Arca, Opening/Re-Opening Auction. Orders that yield liquidity indicator code XF are charged a fee of \$0.00155 per share in securities priced at or above \$1.00 and 0.105% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code XI, Routed to NYSE American, Opening/Re-Opening Auction. Orders that yield liquidity indicator code XI are charged a fee of \$0.00055 per share in securities priced at or above \$1.00 and 0.055% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code XL, Routed to Cboe BZX, Opening/Re-Opening Auction. Orders that yield liquidity indicator code XL are charged a fee of \$0.0008 per share in securities priced at or above \$1.00 and 0.08% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code XO, Routed to Nasdaq, Opening/Re-Opening Auction. Orders that yield liquidity indicator code XO are charged a fee of \$0.00155 per share in securities priced at or above \$1.00 and 0.30% of the transaction's dollar value in securities priced below \$1.00.

Proposal to Reduce Fees for Orders in Securities Priced at or above \$1.00 Per Share

The Exchange now proposes to amend Section 1)b) of the Fee Schedule to reduce the fees for orders in securities priced at or above \$1.00 per share that are routed to the primary

listing market's opening or re-opening process pursuant to the PAC routing option. Specifically, the Exchange proposes to amend the fees for Liquidity Indicator Codes XC, XF, XI, XL and XO for securities priced at or above \$1.00 per share from the current rates (described above) to now be \$0.00005 per share. With the proposed changes, for securities priced at or above \$1.00 per share: (i) the fee for Liquidity Indicator Code XC will be reduced from \$0.00105 to \$0.00005 per share; (ii) the fee for Liquidity Indicator Code XF will be reduced from \$0.00155 to \$0.00005 per share; (iii) the fee for Liquidity Indicator Code XI will be reduced from \$0.00055 to \$0.00005 per share; (iv) the fee for Liquidity Indicator Code XL will be reduced from \$0.0008 to \$0.00005 per share; and (v) the fee for Liquidity Indicator Code XO will be reduced from \$0.00155 to \$0.00005 per share.

Proposal to Reduce Fees for Orders in Securities Priced Below \$1.00 Per Share

The Exchange also proposes to amend Section 1)b) of the Fee Schedule to reduce the fees for orders in securities priced below \$1.00 per share that are routed to the primary listing market's opening or re-opening process pursuant to the PAC routing option. Specifically, the Exchange proposes to amend the fees for Liquidity Indicator Codes XC, XF, XI, XL and XO for securities priced below \$1.00 per share from the current rates (described above) to now be 0.00% of the total dollar value of the transaction. With the proposed changes, for securities priced below \$1.00 per share: (i) the fee for Liquidity Indicator Code XC will be reduced from 0.30% to 0.00% of the total dollar value of the transaction; (ii) the fee for Liquidity Indicator Code XF will be reduced from 0.105% to 0.00% of the total dollar value of the transaction; (iii) the fee for Liquidity Indicator Code XI will be reduced from 0.055% to 0.00% of the total dollar value of the transaction; (iv) the fee for Liquidity Indicator Code XL will be reduced from 0.08% to

0.00% of the total dollar value of the transaction; and (v) the fee for Liquidity Indicator Code XO will be reduced from 0.30% to 0.00% of the total dollar value of the transaction.

The purpose of the proposed changes to reduce the fees for all orders that are routed to the primary listing market's opening or re-opening process pursuant to the PAC routing option is for business and competitive reasons. The Exchange initially set such fees higher than, or similar to, the fees charged by competing equities exchanges for routing orders to the primary listing market's opening or re-opening process.¹³ The Exchange believes its proposal to reduce fees for all orders routed to the primary listing market's opening or re-opening process pursuant to the PAC routing option will encourage additional orders to be submitted to the Exchange with such designation, which should, in turn improve the Exchange's market quality. The Exchange believes that this will benefit all Equity Members by enhancing the attractiveness of the Exchange as a trading venue.

Implementation

The proposed changes are immediately effective.

b. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act¹⁴ in general, and furthers the objectives of Section 6(b)(4) of the Act¹⁵ in

¹³ See, e.g., Cboe BZX U.S. Equities Exchange Fee Schedule, Fees Codes and Associated Fees, available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/ (Cboe BZX fee of \$0.0015 to route orders to a listing market's opening or re-opening cross); NYSE Arca Equities Exchange Fee Schedule, Section V., Standard Rates-Routing, available at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf (NYSE Arca fee of \$0.001 to route orders to NYSE Auctions; NYSE Arca fee of \$0.003 to route orders to Cboe BZX opening/re-opening auction; NYSE Arca fee of \$0.003 to route orders to Nasdaq auctions).

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(4).

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 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 15-16% of the total market share of executed volume of equities trading.¹⁶ 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 represents approximately 1.64% of the overall market share as of April 27, 2023, for the month of April 2023. 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.”¹⁷

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

¹⁶ See the “Market Share” Section of the Exchange’s website, [available at https://www.miaxglobal.com/](https://www.miaxglobal.com/) (last visited April 27, 2023).

¹⁷ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37499 (June 29, 2005).

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 that its proposal to reduce the fees for all orders that are routed to the primary listing market's opening or re-opening process pursuant to the PAC routing option is reasonable, equitable, and not unfairly discriminatory. The Exchange initially set such fees higher than, or similar to, the fees charged by competing equities exchanges for routing orders to the primary listing market's opening or re-opening process.¹⁸ The Exchange believes that its proposal to reduce such fees will encourage additional orders designated with the PAC routing option to be submitted to the Exchange, which should, in turn improve the Exchange's market quality. The Exchange believes that this will benefit all Equity Members by enhancing the attractiveness of the Exchange as a trading venue.

The Exchange also believes that the proposed changes are equitable and not unfairly discriminatory as the lower fees would apply to all Equity Members that submit orders designated with the PAC routing option that route to the primary listing market's opening or re-opening process. Further, routing through the Exchange is voluntary and the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues or providers of routing services if they deem fee levels to be excessive.

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

¹⁸ See supra note 13.

The Exchange does not believe that the proposed change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed fees are competitive in that they provide lower fees for routing orders pursuant to the PAC routing option to a primary listing market's opening or re-opening process as compared to competing exchanges. The Exchange notes that Equity Members may opt not to select the PAC routing option on orders submitted to the Exchange and accordingly will not incur the associated routing fees proposed herein.

Intramarket Competition

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

Intermarket Competition

The Exchange believes its proposal will benefit competition, and the Exchange notes that it operates in a highly competitive market. Equity 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 approximately 15-16% of the total

market share of executed volume of equities trading.¹⁹ 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, the Exchange believes its proposal would not burden, but rather promote, intermarket competition by enabling it to better compete by providing lower fees than competing exchanges that offer similar routing strategies.

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,²⁰ and Rule 19b-4(f)(2) thereunder²¹ 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.

¹⁹ See *supra* note 16.

²⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

²¹ 17 CFR 240.19b-4.

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

Not applicable.

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

Not applicable.

11. Exhibits

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

EXHIBIT 1SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-PEARL-2023-22)

May ____, 2023

Self-Regulatory Organizations; MIAX PEARL, LLC; 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 May 9, 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 the Fee Schedule to: (i) reduce the fees for orders in securities priced at or above \$1.00 per share that are routed to the primary listing market's opening or re-opening process pursuant to the Route to Primary Auction ("PAC") routing option³; and (ii) reduce the fees for orders in securities priced below \$1.00 per share that are routed to the primary listing market's opening or re-opening process pursuant to the PAC routing option. The Exchange initially filed this proposal on April 28, 2023, with the proposed fee changes effective beginning May 1, 2023 (SR-PEARL-2023-20). On May 9, 2023, the Exchange withdrew SR-PEARL-2023-20 and refiled this proposal as SR-PEARL-2023-22.

Background

The PAC routing option enables an Equity Member⁴ to designate that their order be routed to the primary listing market to participate in the primary listing market's opening, re-opening or closing process.⁵ Exchange Rule 2617(b)(5)(B) provides that PAC is a routing option for Market Orders⁶ and displayed Limit Orders⁷ designated with a time-in-force of

³ See Exchange Rule 2617(b)(5)(B).

⁴ The term "Equity Member" is a Member authorized by the Exchange to transact business on MIAAX Pearl Equities. See Exchange Rule 1901.

⁵ See Exchange Rule 2617(b)(5)(B).

⁶ See Exchange Rule 2614(a)(2).

⁷ See Exchange Rule 2614(a)(1).

Regular Hours Only (“RHO”)⁸ that the entering firm wishes to designate for participation in the opening, re-opening (following a regulatory halt, suspension, or pause), or closing process⁹ of a primary listing market (Cboe BZX Exchange, Inc. (“Cboe BZX”), the New York Stock Exchange LLC (“NYSE”), The Nasdaq Stock Market LLC (“Nasdaq”), NYSE American LLC (“NYSE American”), or NYSE Arca, Inc. (“NYSE Arca”)), if received before the opening, re-opening, or closing process of such market. For displayed Limit Orders designated with the PAC routing option, any shares that remain unexecuted after attempting to execute in the primary listing market’s opening or re-opening process will either be posted to the MIAX Pearl Equities Book, executed, or routed pursuant to the Price Improvement (“PI”) routing option.¹⁰

The Exchange adopted the standard liquidity indicator code of “X” in its Fee Schedule for routed liquidity. This code applies to an order that is routed to and executed on an away market. Additionally, this code is used to identify orders that were routed to an away market (including orders that were routed using the PAC routing strategy) and executed as “Taker.”

On July 5, 2022, the Exchange filed its proposal to, among other things, adopt new liquidity indicator codes and associated fees and rebates for orders that the Exchange routes pursuant to the PAC routing option.¹¹ In particular, the Exchange adopted the following

⁸ Exchange Rule 2614(b)(2) defines “Regular Hours Only” or “RHO” as “[a]n order that is designated for execution only during Regular Trading Hours, which includes the Opening Process for equity securities. An order with a time-in-force of RHO entered into the System before the opening of business on the Exchange as determined pursuant to Exchange Rule 2600 will be accepted but not eligible for execution until the start of Regular Trading Hours.”

⁹ The Exchange notes that it will route Market Orders to the primary listing market’s closing process in certain limited circumstances. See Exchange Rule 2617(b)(5)(B)(1)(ii)(b).

¹⁰ See Exchange Rule 2617(b)(5)(B)(1)(i)(a).

¹¹ See Securities Exchange Act Release No. 95210 (July 7, 2022), 87 FR 41750 (July 13, 2022) (SR-PEARL-2022-26).

liquidity indicator codes and associated fees for orders that the Exchange routes to the primary listing market's opening or re-opening process pursuant to the PAC routing option¹²:

- Liquidity indicator code XC, Routed to NYSE, Opening/Re-Opening Auction. Orders that yield liquidity indicator code XC are charged a fee \$0.00105 per share in securities priced at or above \$1.00 and 0.30% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code XF, Routed to NYSE Arca, Opening/Re-Opening Auction. Orders that yield liquidity indicator code XF are charged a fee of \$0.00155 per share in securities priced at or above \$1.00 and 0.105% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code XI, Routed to NYSE American, Opening/Re-Opening Auction. Orders that yield liquidity indicator code XI are charged a fee of \$0.00055 per share in securities priced at or above \$1.00 and 0.055% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code XL, Routed to Cboe BZX, Opening/Re-Opening Auction. Orders that yield liquidity indicator code XL are charged a fee of \$0.0008 per share in securities priced at or above \$1.00 and 0.08% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code XO, Routed to Nasdaq, Opening/Re-Opening Auction. Orders that yield liquidity indicator code XO are charged a fee of \$0.00155 per share in

¹² The Exchange notes that the proposed changes in this filing will not amend the fees or rebates for the following liquidity indicator codes that also correspond to orders routed away from the Exchange pursuant to the PAC routing option: XA, XB, XD, XE, XG, XH, XJ, XK, XM, XN, XP, XQ. See Fee Schedule, Section 1)b).

securities priced at or above \$1.00 and 0.30% of the transaction's dollar value in securities priced below \$1.00.

Proposal to Reduce Fees for Orders in Securities Priced at or above \$1.00 Per Share

The Exchange now proposes to amend Section 1)b) of the Fee Schedule to reduce the fees for orders in securities priced at or above \$1.00 per share that are routed to the primary listing market's opening or re-opening process pursuant to the PAC routing option. Specifically, the Exchange proposes to amend the fees for Liquidity Indicator Codes XC, XF, XI, XL and XO for securities priced at or above \$1.00 per share from the current rates (described above) to now be \$0.00005 per share. With the proposed changes, for securities priced at or above \$1.00 per share: (i) the fee for Liquidity Indicator Code XC will be reduced from \$0.00105 to \$0.00005 per share; (ii) the fee for Liquidity Indicator Code XF will be reduced from \$0.00155 to \$0.00005 per share; (iii) the fee for Liquidity Indicator Code XI will be reduced from \$0.00055 to \$0.00005 per share; (iv) the fee for Liquidity Indicator Code XL will be reduced from \$0.0008 to \$0.00005 per share; and (v) the fee for Liquidity Indicator Code XO will be reduced from \$0.00155 to \$0.00005 per share.

Proposal to Reduce Fees for Orders in Securities Priced Below \$1.00 Per Share

The Exchange also proposes to amend Section 1)b) of the Fee Schedule to reduce the fees for orders in securities priced below \$1.00 per share that are routed to the primary listing market's opening or re-opening process pursuant to the PAC routing option. Specifically, the Exchange proposes to amend the fees for Liquidity Indicator Codes XC, XF, XI, XL and XO for securities priced below \$1.00 per share from the current rates (described above) to now be 0.00% of the total dollar value of the transaction. With the proposed changes, for securities priced below \$1.00 per share: (i) the fee for Liquidity Indicator Code XC will be reduced from 0.30% to 0.00% of the total dollar value of the transaction; (ii) the fee for Liquidity Indicator Code XF will

be reduced from 0.105% to 0.00% of the total dollar value of the transaction; (iii) the fee for Liquidity Indicator Code XI will be reduced from 0.055% to 0.00% of the total dollar value of the transaction; (iv) the fee for Liquidity Indicator Code XL will be reduced from 0.08% to 0.00% of the total dollar value of the transaction; and (v) the fee for Liquidity Indicator Code XO will be reduced from 0.30% to 0.00% of the total dollar value of the transaction.

The purpose of the proposed changes to reduce the fees for all orders that are routed to the primary listing market's opening or re-opening process pursuant to the PAC routing option is for business and competitive reasons. The Exchange initially set such fees higher than, or similar to, the fees charged by competing equities exchanges for routing orders to the primary listing market's opening or re-opening process.¹³ The Exchange believes its proposal to reduce fees for all orders routed to the primary listing market's opening or re-opening process pursuant to the PAC routing option will encourage additional orders to be submitted to the Exchange with such designation, which should, in turn improve the Exchange's market quality. The Exchange believes that this will benefit all Equity Members by enhancing the attractiveness of the Exchange as a trading venue.

Implementation

The proposed changes are immediately effective.

2. Statutory Basis

¹³ See, e.g., Cboe BZX U.S. Equities Exchange Fee Schedule, Fees Codes and Associated Fees, available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/ (Cboe BZX fee of \$0.0015 to route orders to a listing market's opening or re-opening cross); NYSE Arca Equities Exchange Fee Schedule, Section V., Standard Rates-Routing, available at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf (NYSE Arca fee of \$0.001 to route orders to NYSE Auctions; NYSE Arca fee of \$0.003 to route orders to Cboe BZX opening/re-opening auction; NYSE Arca fee of \$0.003 to route orders to Nasdaq auctions).

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act¹⁴ in general, and furthers the objectives of Section 6(b)(4) of the Act¹⁵ 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 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 15-16% of the total market share of executed volume of equities trading.¹⁶ 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 represents approximately 1.64% of the overall market share as of April 27, 2023, for the month of April 2023. 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

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(4).

¹⁶ See the “Market Share” Section of the Exchange’s website, [available at https://www.miaxglobal.com/](https://www.miaxglobal.com/) (last visited April 27, 2023).

market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”¹⁷

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 that its proposal to reduce the fees for all orders that are routed to the primary listing market’s opening or re-opening process pursuant to the PAC routing option is reasonable, equitable, and not unfairly discriminatory. The Exchange initially set such fees higher than, or similar to, the fees charged by competing equities exchanges for routing orders to the primary listing market’s opening or re-opening process.¹⁸ The Exchange believes that its proposal to reduce such fees will encourage additional orders designated with the PAC routing option to be submitted to the Exchange, which should, in turn improve the Exchange’s market quality. The Exchange believes that this will benefit all Equity Members by enhancing the attractiveness of the Exchange as a trading venue.

The Exchange also believes that the proposed changes are equitable and not unfairly discriminatory as the lower fees would apply to all Equity Members that submit orders designated with the PAC routing option that route to the primary listing market’s opening or re-opening process. Further, routing through the Exchange is voluntary and the Exchange notes

¹⁷ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37499 (June 29, 2005).

¹⁸ See supra note 13.

that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues or providers of routing services if they deem fee levels to be excessive.

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

The Exchange does not believe that the proposed change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed fees are competitive in that they provide lower fees for routing orders pursuant to the PAC routing option to a primary listing market's opening or re-opening process as compared to competing exchanges. The Exchange notes that Equity Members may opt not to select the PAC routing option on orders submitted to the Exchange and accordingly will not incur the associated routing fees proposed herein.

Intramarket Competition

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

Intermarket Competition

The Exchange believes its proposal will benefit competition, and the Exchange notes that it operates in a highly competitive market. Equity 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 approximately 15-16% of the total market share of executed volume of equities trading.¹⁹ 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, the Exchange believes its proposal would not burden, but rather promote, intermarket competition by enabling it to better compete by providing lower fees than competing exchanges that offer similar routing strategies.

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

Written comments were neither solicited nor received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,²⁰ and Rule 19b-4(f)(2)²¹ 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

¹⁹ See *supra* note 16.

²⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

²¹ 17 CFR 240.19b-4(f)(2).

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

Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>);

or

- Send an e-mail [to rule-comments@sec.gov](mailto:to-rule-comments@sec.gov). Please include File Number SR-PEARL-2023-22 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-2023-22. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the

Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-PEARL-2023-22 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

Vanessa Countryman
Secretary

²² 17 CFR 200.30-3(a)(12).

Exhibit 5

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

MIAX Pearl Equities Exchange Fee Schedule

* * * * *

1) Transaction Rebates/Fees

* * * * *

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
* * * * *			
XC	Routed to NYSE, Opening/Re-Opening Auction	[\$ <u>0.00105</u>] <u>0.00005</u>	[<u>0.30</u>] <u>0.00</u> % of Dollar Value
* * * * *			
XF	Routed to NYSE Arca, Opening/Re-Opening Auction	[\$ <u>0.00155</u>] <u>0.00005</u>	[<u>0.105</u>] <u>0.00</u> % of Dollar Value
* * * * *			
XI	Routed to NYSE American, Opening/Re-Opening Auction	[\$ <u>0.00055</u>] <u>0.00005</u>	[<u>0.055</u>] <u>0.00</u> % of Dollar Value
* * * * *			
XL	Routed to Cboe BZX, Opening/Re-Opening Auction	[\$ <u>0.0008</u>] <u>0.00005</u>	[<u>0.08</u>] <u>0.00</u> % of Dollar Value
* * * * *			
XO	Routed to Nasdaq, Opening/Re-Opening Auction	[\$ <u>0.00155</u>] <u>0.00005</u>	[<u>0.30</u>] <u>0.00</u> % of Dollar Value
* * * * *			

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