

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-94636; File No. SR-PEARL-2022-13)

April 7, 2022

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by MIAX PEARL, LLC to Amend Exchange Rule 2622 to Adopt on a Permanent Basis the Pilot Program Related to the Market-Wide Circuit Breaker

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 April 6, 2022 MIAX PEARL, LLC (“MIAX Pearl” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to adopt on a permanent basis the pilot related to the Market-Wide Circuit Breaker mechanism in Rule 2622.

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 Exchange proposes to adopt on a permanent basis the pilot related to the Market-Wide Circuit Breaker (“MWCB”) mechanism in Rule 2622.

On March 16, 2022, the Commission approved the proposal of the New York Stock Exchange LLC (“NYSE”) to adopt on a permanent basis the pilot program for MWCB mechanism in NYSE Rule 7.12.³ The Exchange now proposes to adopt the same change to make permanent the MWCB pilot program in Rule 2622.

The Pilot Rules

The MWCB rules, including the Exchange’s Rule 2622, provide an important, automatic mechanism that is invoked to promote stability and investor confidence during periods of significant stress when cash equities securities experience extreme market-wide declines. The MWCB rules are designed to slow the effects of extreme price declines through coordinated trading halts across both cash equity and equity options securities markets.

The cash equities rules governing MWCBs were first adopted in 1988. In 2012, all U.S. cash equity exchanges and FINRA amended their cash equities uniform rules on a pilot basis⁴

³ See Securities Exchange Act Release No. 94441 (March 16, 2022), 87 FR 16286 (March 22, 2022) (SR-NYSE-2021-40).

⁴ See Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR-BATS-2011-038; SR-BYX-2011-025; SR-BX-2011-068; SR-CBOE-2011-087; SR-C2-2011-024; SR-CHX-2011-30; SR-EDGA-2011-31; SR-EDGX-2011-30; SR-FINRA-2011-054; SR-ISE-2011-61; SR-NASDAQ-2011-131; SR-NSX-2011-11; SR-NYSE-2011-48; SR-NYSEAmex-2011-73; SR-NYSEArca-2011-68; SR-Phlx-2011-129) (“Pilot Rules Approval Order”). See also Securities Exchange Act Release No. 89563

and, in 2020, the Exchange adopted the cash equities uniform rule under Exchange Rule 2622(a)-(d) to also operate on a pilot basis⁵ (the “Pilot Rules”). The Pilot Rules currently provide for trading halts in all cash equity securities during a severe market decline as measured by a single-day decline in the S&P 500 Index (“SPX”).⁶ Under the Pilot Rules, a market-wide trading halt will be triggered if SPX declines in price by specified percentages from the prior day’s closing price of that index. The triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. and before 3:25 p.m. would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. would not halt market-wide trading. (Level 1 and Level 2 halts may occur only once a day.) A market decline that triggers a Level 3 halt at any time during the trading day would halt market-wide trading for the remainder of the trading day.

Exchange Rule 2622 was approved by the Commission to operate on a pilot basis set to expire on at the close of business on October 18, 2020.⁷ The Exchange subsequently amended Rule 2622 to extend the Pilot Rules’ effectiveness to the close of business on October 18, 2021,⁸ March 18, 2022⁹ and April 18, 2022.¹⁰

(August 14, 2020), 85 FR 51510 (August 20, 2020) (SR-PEARL-2020-03) (“Equities Approval Order”) (approving, among other things, Exchange Rule 2622).

⁵ See Equities Approval Order, *id.*

⁶ The rules of the equity options exchanges similarly provide for a halt in trading if the cash equity exchanges invoke a MWCB Halt. See, e.g., Exchange Rule 504(a) and NYSE Arca Rule 6.65-O(d)(4).

⁷ See Equities Approval Order, *supra* note 4.

⁸ See Securities Exchange Act Release No. 90124 (October 8, 2020), 85 FR 65105 (October 14, 2020) (SR-PEARL-2020-20).

⁹ See Securities Exchange Act Release No. 93331 (October 14, 2021), 86 FR 58130 (October 20, 2021) (SR-PEARL-2021-50).

¹⁰ See Securities Exchange Act Release No. 94452 (March 17, 2022), 87 FR 16509 (March 23, 2022) (SR-PEARL-2022-08).

The MWCB Working Group Study

Beginning in February 2020, at the outset of the COVID-19 pandemic, the markets experienced increased volatility, culminating in four MWCB Level 1 halts on March 9, 12, 16, and 18, 2020. In each instance, pursuant to the Pilot Rules, the markets halted as intended upon a 7% drop in SPX and did not start the process to resume trading until the prescribed 15-minute halt period ended.

On September 17, 2020, the Director of the Commission's Division of Trading and Markets asked the SROs to conduct a study of the design and operation of the Pilot Rules and the LULD Plan during the period of volatility in March 2020. In response to the request, the SROs created a MWCB "Working Group" composed of SRO representatives and industry advisers that included members of the advisory committees to both the LULD Plan and the NMS Plans governing the collection, consolidation, and dissemination of last-sale transaction reports and quotations in NMS Stocks. The Working Group met regularly from September 2020 through March 2021 to consider the Commission's request, review data, and compile its study.

On March 31, 2021, the MWCB Working Group submitted its study (the "Study") to the Commission.¹¹ The Study included an evaluation of the operation of the Pilot Rules during the March 2020 events and an evaluation of the design of the current MWCB system. In the Study, the Working Group concluded: (1) the MWCB mechanism set out in the Pilot Rules worked as intended during the March 2020 events; (2) the MWCB halts triggered in March 2020 appear to have had the intended effect of calming volatility in the market, without causing harm; (3) the design of the MWCB mechanism with respect to reference value (SPX), trigger levels (7% / 13%

¹¹ See Report of the Market-Wide Circuit Breaker ("MWCB") Working Group Regarding the March 2020 MWCB Events, submitted March 31, 2021 (the "Study"), available at https://www.nyse.com/publicdocs/nyse/markets/nyse/Report_of_the_Market-Wide_Circuit_Breaker_Working_Group.pdf.

/ 20%), and halt times (15 minutes) is appropriate; (4) the change implemented in Amendment 10 to the LULD Plan did not likely have any negative impact on MWCB functionality; and (5) no changes should be made to the mechanism to prevent the market from halting shortly after the opening of regular trading hours at 9:30 a.m.

In light of those conclusions, the MWCB Working Group also made several recommendations, including that (1) the Pilot Rules should be made permanent without any changes, and (2) SROs should adopt a rule requiring all designated Regulation SCI firms to participate in at least one Level 1/Level 2 MWCB test each year and to verify their participation via attestation.¹²

Proposal to Make the Pilot Rules Permanent

On July 16, 2021, the NYSE proposed a rule change to make the Pilot Rules permanent, consistent with the Working Group's recommendations.¹³ On March 16, 2022, the Commission approved NYSE's proposal.¹⁴

Consistent with the Commission's approval of NYSE's proposal, the Exchange now proposes that the Pilot Rules (i.e., paragraphs (a)-(d) of Rule 2622) be made permanent. To accomplish this, the Exchange proposes to remove the preamble to Rule 2622, which currently provides that the rule is in effect during a pilot period that expires at the close of business on April 18, 2022. The Exchange does not propose any changes to paragraphs (a)-(d) of the Rule.

Consistent with the Commission's approval of NYSE's proposal, the Exchange proposes to add new paragraphs (e), (f), and (g) to Rule 2622, as follows:

¹² See id. at 46.

¹³ See Securities Exchange Act Release No. 92428 (July 16, 2021), 86 FR 38776 (July 22, 2021) (SR-NYSE-2021-40).

¹⁴ See supra note 3.

(e) Market-Wide Circuit Breaker (“MWCB”) Testing.

(1) The Exchange will participate in all industry-wide tests of the MWCB mechanism. Equity Members designated pursuant to Chapter III of these Rules¹⁵ to participate in Exchange Back-up Systems and Mandatory Testing are required to participate in at least one industry-wide MWCB test each year and to verify their participation in that test by attesting that they are able to or have attempted to:

(A) receive and process MWCB halt messages from the securities information processors (“SIPs”);

(B) receive and process resume messages from the SIPs following a MWCB halt;

(C) receive and process market data from the SIPs relevant to MWCB halts; and

(D) send orders following a Level 1 or Level 2 MWCB halt in a manner consistent with their usual trading behavior.

(2) To the extent that an Equity Member participating in a MWCB test is unable to receive and process any of the messages identified in paragraph (e)(1)(A)-(D) of this Rule, its attestation should notify the Exchange which messages it was unable to process and, if known, why.

(3) Equity Members not designated pursuant to standards established in Chapter III of these Rules are permitted to participate in any MWCB test.

¹⁵ The Exchange notes that Chapter III incorporates by reference Chapter III of the rules of the Exchange’s affiliate, Miami International Securities Exchange LLC (“MIAX”), including paragraph (b) and Interpretations and Policies .01 of MIAX Rule 321 providing the business continuity and disaster recovery plans testing requirements for designated members.

(f) In the event that a halt is triggered under this Rule following a Level 1, Level 2, or Level 3 Market Decline, the Exchange, together with other SROs and industry representatives (the “MWCB Working Group”), will review such event. The MWCB Working Group will prepare a report that documents its analysis and recommendations and will provide that report to the Commission within 6 months of the event.

(g) In the event that there is (1) a Market Decline of more than 5%, or (2) an SRO implements a rule that changes its reopening process following a MWCB Halt, the Exchange, together with the MWCB Working Group, will review such event and consider whether any modifications should be made to this Rule. If the MWCB Working Group recommends that a modification should be made to this Rule, the MWCB Working Group will prepare a report that documents its analysis and recommendations and provide that report to the Commission.

* * * * *

To accommodate the addition of new paragraphs (e), (f), and (g), the Exchange proposes to renumber existing paragraphs (e), (f), and (g) as (h), (i), and (j). The Exchange does not propose any other changes to these paragraphs. The Exchange also proposes to update cross-references to current Exchange Rule 2622(e) to its renumbered Exchange Rule 2622(h) in Exchange Rules 2614 (a)(1)(H), 2614 (c)(2)(B), 2617 (a)(3), 2617 (b)(3), 2617 (b)(4)(B)(ii), and 2617 (b)(4)(B)(iii).

2. Statutory Basis

The Exchange believes that the proposal to make the Pilot Rules permanent is consistent with Section 6(b) of the Act,¹⁶ in general, and furthers the objectives of Section 6(b)(5) of the

¹⁶ 15 U.S.C. 78f(b).

Act,¹⁷ in particular, in that it is designed to promote just and equitable principles of trade, 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.

The Pilot Rules set out in Rule 2622(a)-(d) are an important, automatic mechanism that is invoked to promote stability and investor confidence during periods of significant market stress when securities markets experience broad-based declines. The four MWCB halts that occurred in March 2020 provided the Exchange, the other SROs, and market participants with real-world experience as to how the Pilot Rules actually function in practice. Based on the Working Group's Study and the Exchange's own analysis of those events, the Exchange believes that making the Pilot Rules permanent would benefit market participants, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

Specifically, the Exchange believes that making the Pilot Rules permanent would benefit market participants, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest, because the Pilot Rules worked as intended during the March 2020 events. As detailed above, the markets were in communication before, during, and after each of the MWCB Halts that occurred in March 2020. All 9,000+ equity symbols were successfully halted in a timely manner when SPX declined 7% from the previous day's closing value, as designed. The Exchange believes that market participants would benefit from having the Pilot Rules made permanent because such market participants are familiar with the design and operation of the MWCB mechanism set out in the Pilot Rules, and know from experience

¹⁷ 15 U.S.C. 78f(b)(5).

that it has functioned as intended on multiple occasions under real-life stress conditions.

Accordingly, the Exchange believes that making the Pilot Rules permanent would enhance investor confidence in the ability of the markets to successfully halt as intended when under extreme stress.

The Exchange further believes that making the Pilot Rules permanent would benefit market participants, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest, because the halts that were triggered pursuant to the Pilot Rules in March 2020 appear to have had the intended effect of calming volatility in the market without causing harm. As detailed above, after studying a variety of metrics concerning opening and reopening auctions, quote volatility, and other factors, the Exchange concluded that there was no significant difference in the percentage of securities that opened on a trade versus on a quote for the four days in March 2020 with MWCB Halts, versus the other periods studied. In addition, while the post-MWCB Halt reopening auctions were smaller than typical opening auctions, the size of those post-MWCB Halt reopening auctions plus the earlier initial opening auctions in those symbols was on average equal to opening auctions in January 2020. The Exchange believes this indicates that the MWCB Halts on the four March 2020 days did not cause liquidity to evaporate. Finally, the Exchange observes that while quote volatility was generally higher on the four days in March 2020 with MWCB Halts as compared to the other periods studied, quote volatility stabilized following the MWCB Halts at levels similar to the January 2020 levels, and LULD Trading Pauses worked as designed to address any additional volatility later in the day. From this evidence, the Exchange concludes that the Pilot Rules actually calmed volatility on the four MWCB Halt days in March 2020, without causing liquidity to evaporate or otherwise harming the market. As such, the Exchange believes that making the Pilot Rules permanent

would remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

The Exchange believes that that making the Pilot Rules permanent without any changes would benefit market participants, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest, because the current design of the MWCB mechanism as set out in the Pilot Rules remains appropriate. As detailed above, the Exchange considered whether SPX should be replaced as the reference value, whether the current trigger levels (7% / 13% / 20%) and halt times (15 minutes for Level 1 and 2 halts) should be modified, and whether changes should be made to prevent the market from halting shortly after the opening of regular trading hours at 9:30 a.m., and concluded that the MWCB mechanism set out in the Pilot Rules remains appropriate, for the reasons cited above. The Exchange believes that public confidence in the MWCB mechanism would be enhanced by the Pilot Rules being made permanent without any changes, given investors' familiarity with the Pilot Rules and their successful functioning in March 2020.

The Exchange believes that proposed paragraph (e) regarding MWCB testing is designed to promote just and equitable principles of trade, 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. The Working Group recommended that all cash equities exchanges adopt a rule requiring all designated Regulation SCI firms to participate in MWCB testing and to attest to their participation. The Exchange believes that these requirements would promote the stability of the markets and enhance investor confidence in the MWCB mechanism and the protections that it provides to the markets and to investors. The Exchange further believes that requiring firms participating in a MWCB test to identify any inability to process

messages pertaining to such MWCB test would contribute to a fair and orderly market by flagging potential issues that should be corrected. The Exchange would preserve such attestations pursuant to its obligations to retain books and records of the Exchange.¹⁸

The Exchange believes that proposed paragraph (f) would benefit market participants, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. Having the MWCB Working Group review any halt triggered under Rule 2622 and prepare a report of its analysis and recommendations would permit the Exchange, along with other market participants and the Commission, to evaluate such event and determine whether any modifications should be made to Rule 2622 in the public interest. Preparation of such a report within 6 months of the event would permit the Exchange, along with the MWCB Working Group, sufficient time to analyze such halt and prepare their recommendations.

The Exchange believes that proposed paragraph (g) would benefit market participants, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. Having the MWCB Working Group review instances of a Market Decline of more than 5% or an SRO implementing a rule that changes its reopening process following a MWCB Halt would allow the MWCB Working Group to identify situations where it recommends that Rule 2622 be modified in the public interest. In such situations where the MWCB Working Group recommends that a modification should be made to Rule 2622, the MWCB Working Group would prepare a report that documents its analysis and recommendations and provide that report to the Commission, thereby removing impediments to

¹⁸ See 17 CFR § 240.17a-1.

and perfecting the mechanism of a free and open market and a national market system while protecting investors and the public interest.

For the foregoing reasons, the Exchange believes that the proposed change is consistent with the Act.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not intended to address competition, but rather, makes permanent the current MWCB Pilot Rules for the protection of the markets. The Exchange believes that making the current MWCB Pilot Rules permanent would have no discernable burden on competition at all, since the Pilot Rules have already been in effect since 2012 and would be made permanent without any changes. Moreover, because the MWCB mechanism contained in the Pilot Rules requires all exchanges and all market participants to cease trading at the same time, making the Pilot Rules permanent would not provide a competitive advantage to any exchange or any class of market participants.

Further, the Exchange understands that the other SROs will submit substantively identical proposals to the Commission. Thus, the proposed rule change will help to ensure consistency across SROs without implicating any competitive issues.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of

the Act¹⁹ and Rule 19b-4(f)(6) thereunder.²⁰ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)²¹ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),²² the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange asked that the Commission waive the 30 day operative delay so that the proposal may become operative immediately upon filing. Waiver of the 30-day operative delay would allow the Exchange to immediately provide the protections included in this proposal in the event of a MWCB halt, which is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.²³

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

¹⁹ 15 U.S.C. 78s(b)(3)(A)(iii).

²⁰ 17 CFR 240.19b-4(f)(6).

²¹ 17 CFR 240.19b-4(f)(6).

²² 17 CFR 240.19b-4(f)(6)(iii).

²³ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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. Please include File Number SR-PEARL-2022-13 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-PEARL-2022-13. 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 website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m.

and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions.

You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-PEARL-2022-13 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.²⁴

J. Matthew DeLesDernier
Assistant Secretary

²⁴ 17 CFR 200.30-3(a)(12).