

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-82490; File No. SR-PEARL-2017-40)

January 11, 2018

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the MIAX PEARL 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 December 29, 2017, 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 the Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX PEARL Fee Schedule (the “Fee Schedule”).

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 amend the Add/Remove Tiered Rebates/Fees set forth in Section 1)a) of the Fee Schedule to (i) modify the monthly volume thresholds that apply to MIAX PEARL Market Makers³ in certain tiers, and to establish rebates and fees for new Tier 2 and new Tier 6 applicable to Market Makers, (ii) modify the monthly volume thresholds that apply to MIAX PEARL Non-Priority Customers, Firms, Broker-Dealers and Non-MIAX PEARL Market Makers in Tier 4, and to establish rebates and fees for a new Tier 5 applicable to such market participants who are not Priority Customers⁴ or MIAX PEARL Market Makers; and (iii) offer Members⁵ the Maker Rebate and the Taker Fee associated with the highest Tier in Non-Penny classes (as defined below) for transactions in Non-Penny classes if such Member

³ “Market Maker” means a Member registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange. See the Definitions Section of the Fee Schedule and Exchange Rule 100.

⁴ “Priority Customer” means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial accounts(s). See Exchange Rule 100, including Interpretations and Policies .01.

⁵ “Member” means an individual or organization that is registered with the Exchange pursuant to Chapter II of the Exchange Rules for purposes of trading on the Exchange as an “Electronic Exchange Member” or “Market Maker.” Members are deemed “members” under the Exchange Act. See the Definitions Section of the Fee Schedule and Exchange Rule 100.

executes more than 0.30% volume in Non-Penny classes, not including Excluded Contracts⁶, as compared to the TCV⁷ in all MIAX PEARL listed option classes.

The Exchange currently assesses transaction rebates and fees to all market participants which are based upon the total monthly volume executed by the Member on MIAX PEARL in the relevant, respective origin type (not including Excluded Contracts) expressed as a percentage of TCV. In addition, the per contract transaction rebates and fees are applied retroactively to all eligible volume for that origin type once the respective threshold tier (“Tier”) has been reached by the Member. The Exchange aggregates the volume of Members and their Affiliates.⁸

⁶ “Excluded Contracts” means any contracts routed to an away market for execution. See the Definitions Section of the Fee Schedule.

⁷ “TCV” means total consolidated volume calculated as the total national volume in those classes listed on MIAX PEARL for the month for which the fees apply, excluding consolidated volume executed during the period time in which the Exchange experiences an “Exchange System Disruption” (solely in the option classes of the affected Matching Engine (as defined below)). The term Exchange System Disruption, which is defined in the Definitions section of the Fee Schedule, means an outage of a Matching Engine or collective Matching Engines for a period of two consecutive hours or more, during trading hours. The term Matching Engine, which is also defined in the Definitions section of the Fee Schedule, is a part of the MIAX PEARL electronic system that processes options orders and trades on a symbol-by-symbol basis. Some Matching Engines will process option classes with multiple root symbols, and other Matching Engines may be dedicated to one single option root symbol (for example, options on SPY may be processed by one single Matching Engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated Matching Engine. A particular root symbol may not be assigned to multiple Matching Engines. The Exchange believes that it is reasonable and appropriate to select two consecutive hours as the amount of time necessary to constitute an Exchange System Disruption, as two hours equates to approximately 1.4% of available trading time per month. The Exchange notes that the term “Exchange System Disruption” and its meaning have no applicability outside of the Fee Schedule, as it is used solely for purposes of calculating volume for the threshold tiers in the Fee Schedule. See the Definitions Section of the Fee Schedule.

⁸ “Affiliate” means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm’s Form BD, Schedule A, or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An “Appointed Market Maker” is a MIAX PEARL Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an “Appointed EEM”

Members that place resting liquidity, i.e., orders resting on the book of the MIAX PEARL System,⁹ are paid the specified “maker” rebate (each a “Maker”), and Members that execute against resting liquidity are assessed the specified “taker” fee (each a “Taker”). For opening transactions and ABBO uncrossing transactions, per contract transaction rebates and fees are waived for all market participants. Finally, Members are assessed lower transaction fees and receive lower rebates for order executions in standard option classes in the Penny Pilot Program¹⁰ (“Penny classes”) than for order executions in standard option classes which are not in the Penny Pilot Program (“Non-Penny classes”), where Members are assessed higher transaction fees and receive higher rebates within the same tier.

Transaction Rebates and Fees for MIAX PEARL Market Makers

Transaction rebates and fees applicable to all MIAX PEARL Market Makers are currently assessed according to the following table:

is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAX PEARL Market Maker) that has been appointed by a MIAX PEARL Market Maker, pursuant to the process described in the Fee Schedule. See the Definitions Section of the Fee Schedule.

⁹ The term “System” means the automated trading system used by the Exchange for the trading of securities. See Exchange Rule 100.

¹⁰ See Securities Exchange Act Release No. 82391 (December 22, 2017), 82 FR 61622 (December 28, 2017) (SR-PEARL-2017-39).

			Per Contract Rebates/Fees for Penny Classes		Per Contract Rebates/Fees for Non-Penny Classes	
Origin	Tier	Volume Criteria	Maker	Taker	Maker	Taker
All MIAX PEARL Market Makers	1	0.00% - 0.10%	(\$0.25)	\$0.50	(\$0.30)	\$1.05
	2	Above 0.10% - 0.50%	(\$0.40)	\$0.48	(\$0.60)	\$1.03
	3	Above 0.50% - 0.75% or Above 2.0% in SPY	(\$0.47)	\$0.47	(\$0.65)	\$1.02
	4	Above 0.75%	(\$0.48)	\$0.47	(\$0.70)	\$1.02

The Exchange proposes to modify the monthly volume thresholds applicable to the Exchange’s Market Makers to adjust the thresholds in current Tiers 1, 3 and 4 and to add a new Tier 2 threshold and corresponding Tier 2 rebates and fees, as well as to add a new Tier 6 threshold and corresponding Tier 6 rebates and fees. Specifically, the Exchange proposes to adjust the calculation threshold of Tier 1’s volume criteria from 0.00% up to 0.10% of the total monthly volume executed by the Member on MIAX PEARL, not including Excluded Contracts, divided by the TCV, to become above 0.00% up to 0.05% of the total monthly volume executed by the Member on MIAX PEARL, not including Excluded Contracts, divided by the TCV. The Exchange then proposes to add a new Tier 2 threshold applicable to all MIAX PEARL Market Makers. The new Tier 2 threshold volume criteria shall be calculated as above 0.05% up to 0.25% of the total monthly volume executed by the Member on MIAX PEARL, not including Excluded Contracts, divided by the TCV.

Further, the Exchange proposes to adjust the calculation threshold of former Tier 2 and now Tier 3’s volume criteria from above 0.10% up to 0.50% of the total monthly volume executed by the Member on MIAX PEARL, not including Excluded Contracts, divided by the

TCV, to become above 0.25% up to 0.50% of the total monthly volume executed by the Member on MIAX PEARL, not including Excluded Contracts, divided by the TCV. Former Tier 3 will now become Tier 4.

The Exchange additionally proposes to adjust the calculation threshold of former Tier 4 and now Tier 5's volume criteria from above 0.75% of the total monthly volume executed by the Member on MIAX PEARL, not including Excluded Contracts, divided by the TCV, to become above 0.75% up to 1.00% of the total monthly volume executed by the Member on MIAX PEARL, not including Excluded Contracts, divided by the TCV.

The Exchange then proposes to add a new Tier 6 threshold applicable to all MIAX PEARL Market Makers. The new Tier 6 threshold volume criteria shall be calculated as above 1.00% of the total monthly volume executed by the Member on MIAX PEARL, not including Excluded Contracts, divided by the TCV.

The new thresholds for MIAX PEARL Market Makers will be as set forth in the following table:

			Per Contract Rebates/Fees for Penny Classes		Per Contract Rebates/Fees for Non-Penny Classes	
Origin	Tier	Volume Criteria	Maker	Taker	Maker	Taker
All MIAX PEARL Market Makers	1	0.00% -0.05%	(\$0.25)	\$0.50	(\$0.30)	\$1.05
	2	Above 0.05% - 0.25%	(\$0.40)	\$0.50	(\$0.30)	\$1.05
	3	Above 0.25% - 0.50%	(\$0.40)	\$0.48	(\$0.60)	\$1.03
	4	Above 0.50% - 0.75% or Above 2.0% in SPY	(\$0.47)	\$0.47	(\$0.65)	\$1.02
	5	Above 0.75% - 1.00%	(\$0.48)	\$0.47	(\$0.70)	\$1.02
	6	Above 1.00%	(\$0.48)	\$0.47	(\$0.85)	\$1.02

The Exchange believes that the proposed new monthly volume tier and new rebates/fees in Tier 2 should provide incentives for the Exchange’s Market Makers to more aggressively provide liquidity in Penny classes so that they can achieve the higher Maker rebate in Penny classes with less volume than previously required in the former tier. The Exchange additionally believes that the proposed new monthly volume tier and new rebates/fees in Tier 6 should provide incentives for the Exchange’s Market Makers to more aggressively provide liquidity in Non-Penny classes so that they can achieve a higher Maker rebate in Non-Penny classes than previously offered. The Exchange believes that increased MIAX PEARL Market Maker volume should make the MIAX PEARL marketplace an attractive venue where the Exchange’s Market Makers are incentivized to submit orders with narrow spreads and with greater size, deepening and enhancing the quality of the MIAX PEARL marketplace. This should in turn provide more trading opportunities and tighter spreads for other market participants and result in a corresponding increase in order flow from such other market participants.

Transaction Rebates and Fees for Other Market Participants that are not Priority Customers or MIAX PEARL Market Makers

Transaction rebates and fees applicable to all other market participants that are not Priority Customers or MIAX PEARL Market Makers are currently assessed according to the following table:

Origin	Tier	Volume Criteria	Per Contract Rebates/Fees for Penny Classes		Per Contract Rebates/Fees for Non-Penny Classes	
			Maker	Taker	Maker	Taker
Non-Priority Customer, Firm, BD, and Non-MIAX PEARL Market Makers	1	0.00% - 0.10%	(\$0.25)	\$0.50	(\$0.30)	\$1.05
	2	Above 0.10% - 0.50%	(\$0.40)	\$0.49	(\$0.60)	\$1.04
	3	Above 0.50% - 0.75%	(\$0.45)	\$0.48	(\$0.65)	\$1.04
	4	Above 0.75%	(\$0.48)	\$0.48	(\$0.70)	\$1.04

The Exchange proposes to modify the monthly volume thresholds applicable to all Non-Priority Customers, Firms, Broker-Dealers and Non-MIAX PEARL Market Makers to adjust the threshold in Tier 4 set forth above and to add a new Tier 5 threshold and corresponding Tier 5 rebates and fees. Specifically, the Exchange proposes to adjust the calculation threshold of Tier 4's volume criteria from above 0.75% of the total monthly volume executed by the Member on MIAX PEARL, not including Excluded Contracts, divided by the TCV, to become above 0.75% up to 1.00% of the total monthly volume executed by the Member on MIAX PEARL, not including Excluded Contracts, divided by the TCV. The rebates and fees applicable in the new Tier 5 shall be (\$0.48) and \$0.48 per contract for Penny classes, and (\$0.85) and \$1.04 for Non-Penny classes.

Additionally, the Exchange proposes to add a new Tier 5 threshold applicable to all such market participants. The new Tier 5 threshold volume criteria shall be calculated as above

1.00% of the total monthly volume executed by the Member on MIAX PEARL, not including Excluded Contracts, divided by the TCV.

The new thresholds for Non-Priority Customers, Firms, Broker-Dealers and Non-MIAX PEARL Market Makers will be as set forth in the following table:

			Per Contract Rebates/Fees for Penny Classes		Per Contract Rebates/Fees for Non-Penny Classes	
Origin	Tier	Volume Criteria	Maker	Taker	Maker	Taker
Non-Priority Customer, Firm, BD, and Non-MIAX PEARL Market Makers	1	0.00% - 0.10%	(\$0.25)	\$0.50	(\$0.30)	\$1.05
	2	Above 0.10% - 0.50%	(\$0.40)	\$0.49	(\$0.60)	\$1.04
	3	Above 0.50% - 0.75%	(\$0.45)	\$0.48	(\$0.65)	\$1.04
	4	Above 0.75% - 1.00%	(\$0.48)	\$0.48	(\$0.70)	\$1.04
	5	Above 1.00%	(\$0.48)	\$0.48	(\$0.85)	\$1.04

The Exchange believes that the proposed new monthly volume tier and higher rebate in Tier 5 should provide incentives for such market participants to direct greater volume to the Exchange in Non-Penny classes. The Exchange believes that increased order flow by these market participants should make the MIAX PEARL marketplace an attractive venue where these market participants are incentivized to submit orders with narrower spreads and with greater size, deepening and enhancing the quality of the MIAX PEARL marketplace. This should in turn provide more trading opportunities and tighter spreads for all market participants and result in a corresponding increase in order flow from all market participants.

Member Transaction Maker Rebates and Taker Fees for Non-Penny Classes

The Exchange proposes to offer Members transacting volume in MIAX PEARL Market Maker, Non-Priority Customer, Firm, Broker Dealer, and Non-MIAX PEARL Market Maker origin types (the “Select Origins”) a new method to achieve higher rebates and lower fees for

transactions in Non-Penny classes. Specifically, the Exchange proposes to offer Members transacting volume in the Select Origins the Maker rebate and the Taker fee associated with the highest Tier for that respective origin type in Non-Penny classes for transactions in Non-Penny classes if such Member executes more than 0.30% volume in Non-Penny classes, not including Excluded Contracts, as compared to the TCV in all MIAX PEARL listed option classes. For example, under the proposed tiers, if a Market Maker transacted monthly volume of 0.45% in both Penny and Non-Penny classes, not including Excluded Contracts, as divided by TCV, such Member would receive proposed Tier 3 rebates and fees: Maker rebate of (\$0.40) for orders that placed resting liquidity on the book and Taker fee of \$0.48 for orders that removed liquidity from the book in Penny classes; Maker rebate of (\$0.60) for orders that placed resting liquidity on the book and Taker fee of \$1.03 for orders that removed liquidity from the book in Non-Penny classes. However, if such Member's volume was heavily concentrated in Non-Penny classes where its Non-Penny executed volume was above 0.30%, not including Excluded Contracts, as divided by TCV in all MIAX PEARL listed options classes, such Member would receive a Maker rebate of (\$0.85) and Taker fee of \$1.02, the proposed rates for Tier 6 in Non-Penny classes for Market Makers. Its Maker rebate of (\$0.40) and Taker fee of \$0.48 will continue to apply for Penny classes for Market Makers in proposed Tier 3. This example would be similar for Non-Priority Customers, Firms, Broker Dealers, and Non-MIAX PEARL Market Makers, except for the variations in the rates and thresholds. For example, under the proposed tiers, if a Member in these origins transacted monthly volume of 0.45% in both Penny and Non-Penny classes, not including Excluded Contracts, as divided by TCV, such Member would receive Tier 2 rebates and fees: Maker rebate of (\$0.40) for orders that placed resting liquidity on the book and Taker fee of \$0.49 for orders that removed liquidity from the book in Penny

classes; Maker rebate of (\$0.60) for orders that placed resting liquidity on the book and Taker fee of \$1.04 for orders that removed liquidity from the book in Non-Penny classes. However, if such Member's volume was heavily concentrated in Non-Penny classes where its Non-Penny executed volume was above 0.30%, not including Excluded Contracts, as divided by TCV in all MIAX PEARL listed options classes, such Member would receive a Maker rebate of (\$0.85) and Taker fee of \$1.04, the proposed rates for Tier 5 in Non-Penny classes for these origins. Its Maker rebate of (\$0.40) and Taker fee of \$0.49 will continue to apply for Penny classes in that origin type in proposed Tier 2.

Lastly, the Exchange proposes to offer Members an alternative method to achieve such higher rebates and lower fees for transactions in Non-Penny classes by permitting the Member to aggregate its volume in Non-Penny classes with that of its Affiliates¹¹ in the Select Origins. For

¹¹ "Affiliate" means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An "Appointed Market Maker" is a MIAX PEARL Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an "Appointed EEM" is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAX PEARL Market Maker) that has been appointed by a MIAX PEARL Market Maker, pursuant to the following process. A MIAX PEARL Market Maker appoints an EEM and an EEM appoints a MIAX PEARL Market Maker, for the purposes of the Fee Schedule, by each completing and sending an executed Volume Aggregation Request Form by email to membership@miaxoptions.com no later than 2 business days prior to the first business day of the month in which the designation is to become effective. Transmittal of a validly completed and executed form to the Exchange along with the Exchange's acknowledgement of the effective designation to each of the Market Maker and EEM will be viewed as acceptance of the appointment. The Exchange will only recognize one designation per Member. A Member may make a designation not more than once every 12 months (from the date of its most recent designation), which designation shall remain in effect unless or until the Exchange receives written notice submitted 2 business days prior to the first business day of the month from either Member indicating that the appointment has been terminated. Designations will become operative on the first business day of the effective month and may not be terminated prior to the end of the month. Execution data and reports will be provided to both parties.

avoidance of doubt, volume from Priority Customer in Non-Penny classes will not be aggregated toward the 0.30% volume threshold. Specifically, any Member and its Affiliates will be credited the Maker rebate associated with the highest tier for transactions in Non-Penny classes and will be assessed the lowest Taker fee associated with the highest tier for transactions in Non-Penny classes if such Member together with its Affiliates in the Select Origins executes more than 0.30% volume in Non-Penny classes, not including Excluded Contracts, as compared to TCV in all MIAX PEARL option classes. The Exchange believes that these incentives will encourage Members to transact a greater number of contracts in Non-Penny classes on the Exchange.

The proposed rule change is scheduled to become operative January 2, 2018.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act¹² in general, and furthers the objectives of Section 6(b)(4) of the Act,¹³ in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and issuers and other persons using its facilities, and 6(b)(5) of the Act,¹⁴ in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed new tier structure applicable to the Exchange's Market Makers is consistent with Section 6(b)(4) of the Act in that it is fair, equitable and not

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(4).

¹⁴ 15 U.S.C. 78f(b)(1) and (b)(5).

unreasonably discriminatory and should improve market quality for the Exchange's Market Makers and consequently all market participants. The proposed changes to the MIAX PEARL Market Maker tier structure and rebates and fees are fair and equitable and not unreasonably discriminatory because they apply equally to all MIAX PEARL Market Maker orders. All similarly situated MIAX PEARL Market Maker orders are subject to the same rebate and fee schedule, and access to the Exchange is offered on terms that are not unfairly discriminatory.

The Exchange believes that the proposed rule changes applicable to MIAX PEARL Market Makers are consistent with Section 6(b)(5) of the Act in that they promote equitable access to the Exchange for all market participants. To the extent that MIAX PEARL Market Maker volume is increased by the proposal, market participants will increasingly compete for the opportunity to trade on the Exchange including sending more orders that are narrower and larger-sized. The resulting increased volume and liquidity will benefit all Exchange participants by providing more trading opportunities and tighter spreads.

The specific volume thresholds of the Tiers and the rebates and fees set forth in new Tiers 2 and 6 applicable to the Exchange's Market Makers were set based upon business determinations and an analysis of current volume levels. The Exchange believes that the proposed new monthly volume tier and new rebates/fees in Tier 2 should provide incentives for the Exchange's Market Makers to more aggressively provide liquidity so that they can achieve the higher Maker rebate in Penny classes with less volume than previously required in the former tier. The Maker Rebates and Taker Fees set forth in new Tier 6 are within the range of rebates and fees at other exchanges that have a Maker-Taker fee structure.¹⁵ The volume thresholds are

¹⁵ See NYSE Arca Options Fees and Charges under "NYSE Arca Options: Trade-Related Charges For Standard Options"; see also Cboe BZX Options Exchange Fee Schedule under "Transaction Fees".

intended to incentivize MIAX PEARL Market Makers to increase the number of orders they send to the Exchange so that they can achieve the next threshold, and to encourage all market participants to send more orders as well. Increasing the number of orders sent to the Exchange will in turn provide tighter and more liquid markets, and therefore attract more business overall. Similarly, the different rebate rates at the different tier levels are based on an analysis of current revenue and volume levels and are intended to provide increasing incentives to MIAX PEARL Market Makers for increasing the volume of orders sent to, and contracts executed on, the Exchange. The specific amounts of the tiers and rates are set in order to encourage MIAX PEARL Markets Makers to reach for higher tiers.

The Exchange believes that the proposed new tier structure applicable to the Exchange's other market participants who are not Priority Customers or MIAX PEARL Market Makers, i.e. Non-Priority Customers, Firms, Broker-Dealers and Non-MIAX PEARL Market Makers, is consistent with Section 6(b)(4) of the Act in that it is fair, equitable and not unreasonably discriminatory and should improve market quality for such market participants as well as MIAX PEARL Market Makers and Priority Customers. The proposed changes to the tier structure and rebates and fees applicable to such market participants are fair and equitable and not unreasonably discriminatory because they apply equally to all orders of such market participants. All similarly situated orders of such market participants are subject to the same rebate and fee schedule, and access to the Exchange is offered on terms that are not unfairly discriminatory.

The Exchange believes that the proposed rule changes applicable to Non-Priority Customers, Firms, Broker-Dealers and Non-MIAX PEARL Market Makers are consistent with Section 6(b)(5) of the Act in that they promote equitable access to the Exchange for all market participants. To the extent order flow by these market participants is increased by the proposal,

other market participants will increasingly compete for the opportunity to trade on the Exchange including sending more orders that are narrower and larger sized. The resulting increased volume and liquidity will benefit all Exchange participants by providing more trading opportunities and tighter spreads.

The specific volume thresholds of Tiers 4 and 5 and the rebates and fees set forth in new Tier 5 applicable to Non-Priority Customers, Firms, Broker-Dealers and Non-MIAX PEARL Market Makers were set based upon business determinations and an analysis of current volume levels. The Maker Rebates and Taker Fees set forth in new Tier 5 are within the range of rebates and fees at other exchanges that have a Maker-Taker fee structure.¹⁶ The volume thresholds are intended to incentivize such market participants to increase the number of orders they send to the Exchange so that they can achieve the next threshold, and to encourage all market participants to send more orders as well. Increasing the number of orders sent to the Exchange will in turn provide tighter and more liquid markets, and therefore attract more business overall. Similarly, the different rebate rates at the different tier levels are based on an analysis of current revenue and volume levels and are intended to provide increasing incentives to Non-Priority Customers, Firms, Broker-Dealers and Non-MIAX PEARL Market Makers for increasing the volume of orders sent to, and contracts executed on, the Exchange. The specific amounts of the tiers and rates are set in order to encourage such market participants to reach for higher tiers.

The Exchange believes that the proposed rule change applicable to Members' volume in Non-Penny classes is consistent with Section 6(b)(4) of the Act in that it is fair, equitable and not unreasonably discriminatory and should improve market quality for the Exchange's order flow in Non-Penny classes which will benefit all market participants. The proposed changes are fair and

¹⁶

Id.

equitable and not unreasonably discriminatory because they apply equally to all Member orders in Non-Penny classes. All similarly situated Member orders in Non-Penny classes are subject to the same rebates and fees if they achieve the specified volume in Non-Penny classes, and access to the Exchange is offered on terms that are not unfairly discriminatory. The Exchange's proposal to offer Members and its Affiliates the opportunity to achieve such higher rebates and lower fees for transactions in Non-Penny classes by permitting the Member to aggregate its volume in Non-Penny classes with that of its Affiliates in the Select Origins, is equitable and not unfairly discriminatory because the Exchange will offer such market participants a means to reduce transaction fees by qualifying for higher volume in Non-Penny classes. The Exchange believes that offering all such market participants the opportunity to lower transaction fees by incentivizing them to transact order flow in Non-Penny classes in turn benefits all market participants. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the anticipated increase in order flow in Non-Penny classes directed to the Exchange will benefit all market participants and improve competition on the Exchange.

The Exchange believes that the proposal to allow the aggregation of trading activity of Members and their Affiliates for purposes of the fee reduction is fair, equitable and not unreasonably discriminatory. The Exchange believes the proposed rule change is reasonable because it would allow aggregation of the trading activity of Members and their Affiliates in the Select Origins for purposes of the fee reduction only in very narrow circumstances, namely, where the firm is an Affiliate as defined in the Exchange's Fee Schedule. Furthermore, other exchanges, including MIAX PEARL's affiliate, Miami International Securities Exchange, LLC

(“MIAX Options,”), as well as the Exchange, have rules that permit the aggregation of the trading activity of affiliated entities for the purposes of calculating and assessing certain fees.¹⁷

The Exchange believes that offering all such market participants the opportunity to lower transaction fees by incentivizing them to transact order flow in Non-Penny classes in turn benefits all market participants.

The Exchange believes that the proposal, which would only include volume transacted in Non-Penny classes of Members and their Affiliates from the Select Origins for purposes of the threshold aggregation, is fair, equitable and not unreasonably discriminatory. The Exchange believes that not including Priority Customer volume transacted in Non-Penny classes is reasonable because Priority Customers already receive a higher level of rebates offered by the Exchange for transactions in Non-Penny classes, higher than the rebate amounts proposed for the Select Origins. In Non-Penny classes, Priority Customers can receive Maker rebates of between (\$0.85) to (\$1.05) compared to the proposed highest tier rebate of (\$0.85) for Select Origins. Other exchanges use similar qualifications for use in tier thresholds. For example, on Cboe BZX, for Firm, Broker Dealer, and Joint Back Office, a member would be required to have an ADAV (average daily added volume) in Non-Customer Non-Penny Orders \geq 0.20% of average OCV (OCC Customer Volume), as one of the criteria (criteria 3) to reach tier 3 or tier 4.¹⁸ Accordingly, the Exchange believes that it is fair, equitable, and not unreasonably discriminatory to not include the Priority Customer volume of Members and their Affiliates from the Select Origins for purposes of the threshold aggregation.

¹⁷ See MIAX Options Fee Schedule, Section 1)a)i).

¹⁸ See Cboe BZX Options Exchange Fee Schedule (Firm, Broker Dealer, and Joint Back Office Non-Penny Pilot Add Volume Tiers).

The Exchange believes that the proposed rule changes applicable to Members' volume in Non-Penny classes are consistent with Section 6(b)(5) of the Act in that they to promote just and equitable principles of trade of options in Non-Penny classes. To the extent Member volume in Non-Penny classes is increased by the proposal, market participants will increasingly compete for the opportunity to trade on the Exchange in Non-Penny classes which could result in more orders that are narrower and larger-sized. The resulting increased volume and liquidity will benefit all Exchange participants by providing more trading opportunities and tighter spreads.

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

MIAX PEARL does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed changes would increase both intermarket and intramarket competition by encouraging MIAX PEARL Market Makers as well as Non-Priority Customers, Firms, Broker-Dealers and Non-MIAX PEARL Market Makers to direct their orders to the Exchange, which should provide liquidity to the marketplace and increase the volume of contracts traded on MIAX PEARL. The Exchange believes that the proposed changes in the tier structure for these market participants should provide additional liquidity that enhances the quality of the Exchange's markets and increases the number of trading opportunities on MIAX PEARL for all participants who will be able to compete for such opportunities. The Exchange additionally believes that the proposed changes in volume associated with Non-Penny classes and the opportunity to receive higher rebates and lower fees as a result of achieving the specified volume in Non-Penny classes should provide additional liquidity in Non-Penny classes and encourage order flow for such classes. To the extent that there are market participants that are not able to aggregate order flow with Affiliates, the Exchange believes that this should incent

such market participants to direct additional order flow to the Exchange and thus provide additional liquidity that enhances the quality of its markets and increases the volume of contracts traded here especially in Non-Penny classes. This should benefit all market participants and improve competition on the Exchange.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its rebates and fees to remain competitive with other exchanges and to attract order flow. The Exchange believes that the proposed rule changes reflect this competitive environment because they modify the Exchange's fees in a manner that encourages all market participants to provide liquidity and to send order flow to the Exchange.

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,¹⁹ and Rule 19b-4(f)(2)²⁰ 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.

¹⁹ 15 U.S.C. 78s(b)(3)(A)(ii).

²⁰ 17 CFR 240.19b-4(f)(2).

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-2017-40 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-2017-40. 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, D.C. 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-2017-40 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.²¹

Eduardo A. Aleman
Assistant Secretary

²¹ 17 CFR 200.30-3(a)(12).