

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-83188; File No. SR-PEARL-2018-12)

May 8, 2018

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Its 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 April 27, 2018, 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 MIAX PEARL Fee Schedule (the “Fee Schedule”) to establish a monthly Trading Permit Fee assessable to Members that solely clear transactions on the Exchange.

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

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

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

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

1. Purpose

The purpose of the proposed rule change is to establish a monthly Trading Permit Fee assessable to Members³ that solely clear transactions on the Exchange. For clarity, the Exchange also proposes to adopt a related definition of “EEM Clearing Firm” (the type of Member to which this monthly Trading Permit Fee shall apply) in the “Definitions” section of the Fee Schedule. The Exchange notes that it recently adopted certain monthly Trading Permit Fees applicable to its Members (other than Members that solely clear transactions on the Exchange).⁴

Definitions

The Exchange proposes to amend the “Definitions” section of the Fee Schedule to add the new definition of “EEM Clearing Firm.” The term “EEM Clearing Firm” shall mean an

³ “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 Exchange Rule 100.

⁴ See Securities Exchange Act Release No. 82867 (March 13, 2018), 83 FR 12044 (March 19, 2018) (SR-PEARL-2018-07).

EEM⁵ that solely clears transactions on the Exchange and does not connect to the Exchange via either the FIX Interface⁶ or MEO Interface.⁷

Monthly EEM Clearing Firm Trading Permit Fees

The Exchange recently adopted fees applicable to Trading Permits which are issued to Members who are either EEMs or Market Makers.⁸ The Exchange charges its Members Trading Permit fees which are based upon the monthly total volume executed by the Member and its Affiliates⁹ on the Exchange across all origin types, not including Excluded Contracts,¹⁰ as

⁵ “EEM” or “Electronic Exchange Member” means the holder of a Trading Permit who is a Member representing as agent Public Customer Orders or Non-Customer Orders on the Exchange and those non-Market Maker Members conducting proprietary trading. Electronic Exchange Members are deemed “members” under the Exchange Act. See Exchange Rule 100.

⁶ “FIX Interface” means the Financial Information Exchange interface for certain order types as set forth in Exchange Rule 516. See Exchange Rule 100. See the Definitions Section of the Fee Schedule.

⁷ “MEO Interface” means a binary order interface for certain order types as set forth in Rule 516 into the MIAX PEARL System. See Exchange Rule 100. See the Definitions Section of the Fee Schedule.

⁸ “Market Maker” means a Member registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange. See Exchange Rule 100.

⁹ “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 process described in the Fee Schedule. See the Definitions Section of the Fee Schedule.

¹⁰ “Excluded Contracts” means any contracts routed to an away market for execution. See the Definitions Section of the Fee Schedule.

compared to the TCV¹¹ in all MIAX PEARL-listed options. The Exchange adopted a tier-based fee structure that is volume-based.

The Exchange also charges such Trading Permit Fees based upon the type of interface used by the Member to connect to the Exchange – either the FIX Interface and/or the MEO Interface. Any Member (whether EEM or Market Maker) can select either type of interface (either FIX Interface and/or MEO Interface). Each Member who uses the FIX Interface to connect to the System¹² is assessed the following Trading Permit Fees each month: (i) if its volume falls within the parameters of Tier 1 of the Non-Transaction Fees Volume-Based Tiers, or volume up to 0.30%, \$250, (ii) if its volume falls within the parameters of Tier 2 of the Non-Transaction Fees Volume-Based Tiers, or volume above 0.30% up to 0.60%, \$350, and (iii) if its volume falls with the parameters of Tier 3 of the Non-Transaction Fees Volume-Based Tiers, or volume above 0.60%, \$450.

¹¹ “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 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.

¹² The term “System” means the automated trading system used by the Exchange for the trading of securities. See Exchange Rule 100.

Each Member who uses the MEO Interface to connect to the System is assessed the following Trading Permit Fees each month: (i) if its volume falls within the parameters of Tier 1 of the Non-Transaction Fees Volume-Based Tiers, or volume up to 0.30%, \$300, (ii) if its volume falls within the parameters of Tier 2 of the Non-Transaction Fees Volume-Based Tiers, or volume above 0.30% up to 0.60%, \$400, and (iii) if its volume falls with the parameters of Tier 3 of the Non-Transaction Fees Volume-Based Tiers, or volume above 0.60%, \$500. Members who use the MEO Interface may also connect to the System through the FIX Interface as well, and vice versa. Members who use the MEO Interface and who also use the FIX Interface are assessed the rates for both types of Trading Permits set forth above and receive a \$100 monthly credit towards the Trading Permit Fees applicable to such Member for MEO Interface use.

Members that solely clear transactions on the Exchange do not connect to the Exchange, as such a connection is not required to perform that clearing-only activity. Therefore, at present, Members that are EEM Clearing Firms are not assessed a monthly Trading Permit Fee. However, those Members are still utilizing the services of the Exchange, by performing that clearing-only activity. Accordingly, the Exchange is proposing to adopt a monthly Trading Permit Fee applicable to those types of Members, which the Exchange is proposing to define each as an “EEM Clearing Firm.” In particular, the Exchange proposes to assess a monthly Trading Permit Fee of \$250 to such EEM Clearing Firms, in order to cover the operational and administrative costs of such EEMs using the Exchange’s System to perform clearing-only services. Such monthly Trading Permit Fees will be assessed with respect to EEM Clearing Firms in any month the EEM Clearing Firm is certified in the membership system to clear transactions on the Exchange.

The Exchange's affiliate, Miami International Securities Exchange, LLC ("MIAX Options"), also assesses a monthly trading permit fee, in the amount of \$1,500 per month, to its members who are clearing firms¹³ that are performing the same activity.

The proposed rule changes will become operative May 1, 2018.

2. 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 particular, in that it is an equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act 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 and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

Definition

The Exchange believes that the proposed new definition "EEM Clearing Firm" 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 market participants. The definition applies equally to all EEMs who perform clearing-only services on the Exchange and

¹³ See MIAX Options Fee Schedule Section 3)b). The Commission notes that members on MIAX Options who perform clearing-only services are assessed a monthly trading permit fee of \$1,500.

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(4) and (5).

is intended to add transparency to the Exchange's marketplace by clarifying how the Exchange determines these EEMs from other Members in order to assess the applicable fee.

The Exchange believes that the proposed new definition "EEM Clearing Firm" is consistent with Section 6(5) of the Act in that it promotes just and equitable principles of trade for all market participants. The Exchange believes that by defining EEM Clearing Firms the Exchange is able to assess such firms a Trading Permit Fee since they use the Exchange's System to perform clearing-only services.

Monthly EEM Clearing Firm Trading Permit Fee

The Exchange believes that the assessment of a Trading Permit Fee to EEM Clearing Firms is reasonable, equitable, and not unfairly discriminatory. The assessment of Trading Permit Fees to Clearing Firms is done by the Exchange's affiliate, MIAX Options, as described in the Purpose section above. The Exchange also believes that the proposed fee is fair and equitable and not unreasonably discriminatory because all similarly situated EEM Clearing Firms are subject to the same fee, and access to the Exchange is offered on terms that are not unfairly discriminatory.

The Exchange believes that the proposed EEM Clearing Firm Trading Permit Fee is consistent with Section 6(b)(5) of the Act in that it promotes equitable principles of trade for all market participants. The Exchange believes that assessing such firms a Trading Permit Fee is reasonable since such firms are utilizing the Exchange's System to perform clearing-only services. Furthermore, assessing EEM Clearing Firms a Trading Permit Fee is fair and equitable since it permits the Exchange to recoup the operational and administrative costs that the Exchange does incur as a result of such firms utilizing the Exchange's System.

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

MIAX PEARL 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 Exchange believes that the assessment by the Exchange of Trading Permit Fees to EEM Clearing Firms using its facilities will not have an impact on competition. As a more recent entrant in the already highly competitive environment for equity options trading, MIAX PEARL does not have the market power necessary to set prices for services that are unreasonable or unfairly discriminatory in violation of the Act. The Exchange believes that the proposed EEM Clearing Firm Trading Permit Fee would increase both intermarket and intramarket competition by encouraging clearing firms to provide clearing services to Members of the Exchange. MIAX PEARL's proposed EEM Clearing Firm Trading Permit Fee is similar to the fee assessed by its affiliate, MIAX Options, to its Clearing Firms but is much lower than that assessed by MIAX Options.

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,¹⁶ and Rule 19b-4(f)(2)¹⁷ 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

¹⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁷ 17 CFR 240.19b-4(f)(2).

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-2018-12 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-2018-12. 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-2018-12 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.¹⁸

Eduardo A. Aleman
Assistant Secretary

¹⁸ 17 CFR 200.30-3(a)(12).