SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-91497; File No. SR-PEARL-2021-15)

April 7, 2021

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the MIAX Pearl Equities Fee Schedule

Pursuant to 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 March 31, 2021, MIAX PEARL, LLC ("MIAX Pearl" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the 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 applicable for MIAX Pearl Equities, an equities trading facility of the Exchange (the "Fee Schedule").[3] The proposed changes will become effective on April 1, 2021.

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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] See Exchange Rule 1901.

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 currently charges different rates for orders in Tapes A, B, and C securities priced at or above $1.00 that remove liquidity from the MIAX Pearl Equities Book.[4] For securities priced at or above $1.00, the Exchange currently charges a fee of $0.0028 per share for orders that remove liquidity in Tapes A and C securities and $0.0027 per share for orders that remove liquidity in Tape B securities. The Exchange now proposes to decrease the fee to remove liquidity in securities priced at or above $1.00 to $0.0025 per share for Tapes A, B, and C securities.[5] With the proposed change, the Exchange will charge the same $0.0025 per share fee for orders in Tape A, B, and C securities priced at or above $1.00 that remove liquidity from the MIAX Pearl Equities Book.

The Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or rebates/incentives to be insufficient. More specifically, the Exchange is only one of several equities venues (including both registered exchanges and various alternative trading systems) to which market participants may direct their order flow and execute their trades.

4 See Securities Exchange Act Release No. 90894 (January 11, 2021), 86 FR 4139 (January 15, 2021) (SR-PEARL-2020-37).

5 The Exchange does not propose to amend the rate for orders that remove liquidity in securities priced below $1.00.

Indeed, equity trading is currently dispersed across 16 exchanges,[6] 31 alternative trading systems,[7] and numerous broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly available information, no single registered equities exchange currently has more than approximately 20% of total market share.[8] Thus, in such a low-concentrated and highly competitive market, no single equities trading venue possesses significant pricing power in the execution of trades, and, the Exchange currently represents a very small percentage of the overall market.

The purpose of this proposed change is for business and competitive reasons. As a new entrant into the equities market, the Exchange initially adopted a fee of $0.0028 per share for orders that remove liquidity in securities priced at or above $1.00.[9] The Exchange later delineated the fee for orders that remove liquidity in Tapes A and C from the fee for orders that remove liquidity in Tape B for securities priced at or above $1.00 from the MIAX Pearl Equities Book. With that proposal, the Exchange decreased the fee for orders that remove liquidity in Tape B securities priced at or above $1.00 from $0.0028 to $0.0027 per share. The purpose of this change was to target liquidity in Tape B securities as a means to encourage market participants to enter liquidity removing orders on the Exchange, thereby increasing the execution

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6 See Cboe Global Markets, U.S Equities Market Volume Summary, available at https://markets.cboe.com/us/equities/market_share/.

7 See FINRA ATS Transparency Data, available at https://otctransparency.finra.org/otctransparency/AtsIssueData. A list of alternative trading systems registered with the Commission is available at https://www.sec.gov/foia/docs/atslist.htm.

8 See supra note 6.

9 See Securities Exchange Act Release No. 90102 (October 6, 2020), 85 FR 64559 (October 13, 2020) (SR-PEARL-2020-17).

opportunities for the liquidity adding orders resting on the MIAX Pearl Equities Book.[10] Since those changes took effect, the Exchange notes that it has experienced an increase in liquidity in Tape B securities overall since it decreased the fee for liquidity removing orders.

The Exchange now proposes to decrease the fee to remove liquidity to $0.0025 per share for orders in Tapes A, B, and C securities priced at or above $1.00. The Exchange believes it is appropriate to further decrease the fee to $0.0025 per share for all orders that remove liquidity across all Tapes to further encourage market participants to enter liquidity removing orders on the Exchange, thereby increasing the execution opportunities for the liquidity adding orders resting on the MIAX Pearl Equities Book.

The proposed changes will become effective on April 1, 2021. The Exchange does not propose any other changes to the MIAX Pearl Equities Fee Schedule.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act[11] in general, and furthers the objectives of Section 6(b)(4) of the Act[12] in particular, in that it is an equitable allocation of reasonable fees and other charges among its members and issuers and other persons using its facilities. As discussed above, the Exchange operates in a highly fragmented and competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or

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10 See Securities Exchange Act Release No. 90894 (January 11, 2021), 86 FR 4139 (January 15, 2021) (SR-PEARL-2020-37).

11 15 U.S.C. 78f(b).

12 15 U.S.C. 78f(b)(4) and (5).

rebates/incentives to be insufficient. The Exchange believes that the amended Fee Schedule reflects a simple and competitive pricing structure, which is designed to incentivize market participants to add aggressively priced displayed liquidity and direct their order flow to the Exchange. The proposed changes are not unfairly discriminatory because they will apply equally to all Equity Members.[13]

The Exchange believes its proposal to decrease the fee for orders that remove liquidity in all securities priced at or above $1.00 is reasonable, equitable and not unfairly discriminatory because it will apply to all orders in all Tapes for securities priced at or above $1.00. The Exchange believes the proposed decreased fee will encourage market participants to additional [sic] liquidity removing orders on the Exchange, thereby increasing the execution opportunities for liquidity adding orders resting on the MIAX Pearl Equities Book. Therefore, the decreased fee should improve liquidity and price discovery in all securities priced at or above $1.00 across all Tapes. Lastly, the Exchange notes that the proposed decreased fee is also comparable to or lower than the standard fee to remove liquidity charged by other exchanges.[14]

Further, 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, while adopting a series of steps to improve the current

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13 The term "Equity Member" means a Member authorized by the Exchange to transact business on MIAX Pearl Equities. See Exchange Rule 1901.

14 See MEMX LLC fee schedule, available at https://info.memxtrading.com/fee-schedule/ (providing a standard fee of $0.0026 per share for orders that remove liquidity); Cboe EDGX Exchange, Inc. ("EDGX") fee schedule, available at https://www.cboe.com/us/equities/membership/fee_schedule/edgx/ (providing a standard fee of $0.0027 per share to orders that remove liquidity). See also the New York Stock Exchange LLC ("NYSE") fee schedule, available at https://www.nyse.com/markets/nyse/trading-info/fees (providing fees to "take" liquidity ranging from $0.0024 - $0.00275 depending on the type of market participant, order, and execution).

market model, 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."[15]

As the Commission itself recognized, the market for trading services in NMS stocks has become "more fragmented and competitive."[16] Indeed, equity trading is currently dispersed across 16 exchanges,[17] 31 alternative trading systems,[18] and numerous broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange currently has more than 20% market share (whether including or excluding auction volume).[19] Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange only recently launched trading operations on September 25, 2020, and thus has a market share of approximately less than 1% of executed volume of equities trading.

The Exchange has designed its proposed changes to continue to balance the need to attract order flow as a new exchange entrant with the desire to continue to provide a simple fee structure to market participants. The Exchange believes its proposed changes will enable it to continue to compete for order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order

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15 See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (File No. S7-10-04) ("Regulation NMS").

16 See Securities Exchange Act Release No. 82873 (March 14, 2018), 83 FR 13008 (March 26, 2018) (File No. S7-05-18) (Transaction Fee Pilot for NMS Stocks).

17 See supra note 6.

18 See supra note 7.

19 See supra note 6.

flow, or discontinue or decrease use of certain categories of products, in response to fee changes. With respect to non-marketable orders which provide liquidity on an exchange, Equity Members can choose from any one of the 16 currently operating registered exchanges to route such order flow. Accordingly, competitive forces reasonably constrain exchange transaction fees that relate to orders that would provide displayed liquidity on an exchange. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow. Given this competitive environment, the Exchange's proposed changes represent a reasonable attempt to attract order flow to a new exchange entrant.

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

The Exchange does not believe that the proposed fee change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposed change would encourage the submission of additional order flow to a public exchange, thereby promoting market depth, execution incentives and enhanced execution opportunities, as well as price discovery and transparency for all Equity Members and non-Equity Members. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."[20]

The Exchange does not believe that the proposed fee change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposed fee change will increase competition and is intended to draw volume to the Exchange. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market

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[20] See supra note 15.

participants can shift order flow or discontinue to decrease 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. As a new exchange, the Exchange faces intense competition from existing exchanges and other non-exchange venues that provide markets for equities trading. The proposed decreased fees for securities in all Tapes are intended to attract liquidity to the Exchange, much like the way other exchanges offer multiple incentives to their participants, including tiered pricing that provides higher rebates or discounted executions. These other exchanges will be able to modify such incentives to compete with the Exchange.

Further, while pricing incentives do cause shifts of liquidity between trading centers, market participants make determinations on where to provide liquidity or route orders to take liquidity based on factors other than pricing, including technology, functionality, and other considerations. Consequently, the Exchange believes that the degree to which its proposed changes could impose any burden on competition is extremely limited, and does not believe that such decreased fee for securities in all Tapes would burden competition between Equity Members or competing venues in a manner that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange does not believe that the proposed decreased fee for securities in all Tapes will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes will apply equally to all Equity Members. The proposed decreased fee is intended to encourage market participants to send liquidity removing orders to attempt to execute against the orders that add liquidity to the

MIAX Pearl Equities Book. The proposed rates are equally applicable to all market participants and, therefore, the Exchange does not believe they will impose any inappropriate burden on intramarket competition.

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,[21] and Rule 19b-4(f)(2)[22] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

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

[21] 15 U.S.C. 78s(b)(3)(A)(ii).

[22] 17 CFR 240.19b-4(f)(2).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-PEARL-2021-15 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-2021-15. 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-2021-15, 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.[23]

J. Matthew DeLesDernier
Assistant Secretary

[23] 17 CFR 200.30-3(a)(12).