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

File No. * SR 2023 - * 71

Amendment No. (req. for Amendments *)

Filing by MIAX PEARL, LLC

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

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	Rule <input type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(4) <input type="checkbox"/> 19b-4(f)(2) <input type="checkbox"/> 19b-4(f)(5) <input type="checkbox"/> 19b-4(f)(3) <input checked="" type="checkbox"/> 19b-4(f)(6)		
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Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010
Section 806(e)(1) *

Section 806(e)(2) *

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

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

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

Amend Exchange Rule 2615(d) regarding the Contingent Open performed on the Exchange's equity trading platform

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Chris Last Name * Solgan

Title * VP, Senior Counsel

E-mail * csolgan@miaxglobal.com

Telephone * (609) 423-9414 Fax

Signature

Pursuant to the requirements of the Securities Exchange of 1934, MIAX PEARL, LLC has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date 12/14/2023 (Title *)

By Tanya Kitaigorovski AVP, Associate Counsel
(Name *)

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Date: 2023.12.14
Tanya Kitaigorovski

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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SR-PEARL-2023-71 19b-4.docx

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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SR-PEARL-2023-71 Exhibit 1.docx

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

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

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

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

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

Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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

Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

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

Exhibit 5 - Proposed Rule Text

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SR-PEARL-2023-71 Exhibit 5.docx

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

Partial Amendment

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

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

(a) MIAX PEARL, LLC (“MIAX Pearl” or the “Exchange”), pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (the “Commission”) a proposed rule to amend Exchange Rule 2615(d) regarding the Contingent Open performed on the Exchange’s equity trading platform (referred to herein as “MIAX Pearl Equities”).

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1, and the text of the proposed rule change is attached hereto as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

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

The proposed rule change was approved by the Chief Executive Officer of the Exchange pursuant to authority delegated by the MIAX Pearl Board of Directors on February 2, 2023. Exchange staff will advise the Board of Directors of any action taken pursuant to delegated authority. No other action is necessary by the Exchange for the filing of the proposed rule change.

Questions and comments on the proposed rule change may be directed to Chris Solgan, Vice President and Senior Counsel, at (609) 423-9414.

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

a. Purpose

The Exchange proposes to amend Exchange Rule 2615(d) regarding the Contingent

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Open performed on MIAX Pearl Equities. In sum, the Exchange proposes to amend Exchange Rule 2615(d) to no longer provide for a Contingent Open at 9:45 a.m. Eastern Time. As amended, Exchange Rule 2615(d) would instead provide that the Exchange would perform its Opening Process after the security begins trading on the primary listing market at any time during the trading day. The Exchange also proposes to make a corresponding change to remove a reference to the Contingent Open in the definition of Regular Trading Session in Exchange Rule 1901. These changes are described in more detail below.

Background

Exchange Rule 2615 sets forth the Exchange's Opening Process and Contingent Open. Each trading day, the Exchange begins trading in an equities security by performing its Opening Process after the start of Regular Trading Hours³ by matching eligible buy and sell orders at the midpoint of the National Best Bid and Offer ("NBBO"),⁴ as described below. Prior to the beginning of Regular Trading Hours,⁵ Users⁶ who wish to participate in the Opening Process may enter orders to buy or sell that are designated as Regular Trading Hours Only ("RHO").⁷ Pursuant to Exchange Rule 2615(a), only orders that include a time-in-force of RHO may participate in the Opening Process. Orders designated as Post Only,⁸ Intermarket Sweep Orders, ("ISOs"),⁹ include a Minimum Execution Quantity instruction,¹⁰ and orders that include a time-

³ The term "Regular Trading Hours" means "the time between 9:30 a.m. and 4:00 p.m. Eastern Time." See Exchange Rule 1901.

⁴ The term "NBBO" means "the national best bid and offer." See Exchange Rule 1901.

⁵ According to Exchange Rule 2600(a), Users may begin to enter orders starting at 7:30 a.m. Eastern Time.

⁶ The term "User" means "any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Exchange Rule 2602." See Exchange Rule 1901.

⁷ Exchange Rule 2614(b)(2).

⁸ Exchange Rule 2614(c)(2).

⁹ Exchange Rule 2614(d).

¹⁰ Exchange Rule 2614(c)(7).

in-force other than RHO are not eligible to participate in the Opening Process. Market Orders¹¹ may include a time-in-force of Immediate-or-Cancel (“IOC”),¹² and are, therefore, not eligible to participate in the Opening Process. Meanwhile, Limit Orders,¹³ Primary Peg Orders,¹⁴ and Midpoint Peg Orders¹⁵ that include a time-in-force of RHO are eligible to participate in the Opening Process. All Self-Trade-Protection (“STP”) modifiers, as described in Exchange Rule 2614(f), are honored during the Opening Process.

Exchange Rule 2615(b) provides that during the Opening Process, the Exchange attempts to match eligible buy and sell orders at the midpoint of the NBBO. All orders eligible to trade at the midpoint are processed in time sequence, beginning with the order with the oldest timestamp. The Opening Process concludes when no remaining orders, if any, can be matched at the midpoint of the NBBO. At the conclusion of the Opening Process, the unexecuted portion of orders that were eligible to participate in the Opening Process are placed on the MIAX PEARL Equities Book¹⁶ in time sequence, cancelled, executed, or routed to away Trading Centers¹⁷ in accordance with the terms of the order.

Pursuant to Exchange Rule 2615(c), the Exchange calculates the midpoint of the NBBO as follows. When the primary listing exchange is the New York Stock Exchange LLC (“NYSE”)

¹¹ Exchange Rule 2614(a)(2).

¹² Exchange Rule 2614(b)(1). Market Orders may include a time-in-force of RHO solely when coupled with the PAC routing option for purposes of routing away to participate in the primary listing market’s opening or re-opening process and will continue to not be eligible to participate in the Exchange’s Opening Process. See Exchange Rule 2617(b)(5)(ii).

¹³ Exchange Rule 2614(a)(1).

¹⁴ Exchange Rule 2614(a)(3)(i)(B).

¹⁵ Exchange Rule 2614(a)(3)(i)(A).

¹⁶ The term “MIAX Pearl Equities Book” means the electronic book of orders in equity securities maintained by the System. See Exchange Rule 1901.

¹⁷ The term “Trading Center” has the same meaning as in Rule 600(b)(82) of Regulation NMS. See Exchange Rule 100.

or NYSE American LLC (“NYSE American”), the Opening Process is priced at the midpoint of the: (i) first NBBO subsequent to the first reported trade and first two-sided quotation on the primary listing exchange after 9:30:00 a.m. Eastern Time; or (ii) then prevailing NBBO when the first two-sided quotation is published by the primary listing exchange after 9:30:00 a.m. Eastern Time, but before 9:45:00 a.m. Eastern Time if no first trade is reported by the primary listing exchange within one second of publication of the first two-sided quotation by the primary listing exchange. For any other primary listing exchange, such as The Nasdaq Stock Market LLC (“Nasdaq”), NYSE Arca, LLC (“NYSE Arca”), and Cboe BZX Exchange, Inc. (“Cboe BZX”), the Opening Process is priced at the midpoint of the first NBBO subsequent to the first two-sided quotation published by the primary listing exchange after 9:30:00 a.m. Eastern Time.

Exchange Rule 2615(d) describes the Contingent Open and provides that if the conditions to establish the price of the Opening Process described above do not occur by 9:45:00 a.m. Eastern Time, the Exchange will conduct a Contingent Open and match all orders eligible to participate in the Opening Process at the midpoint of the then prevailing NBBO. Exchange Rule 2615(d) further provides that if the midpoint of the NBBO is not available for the Contingent Open, all orders are handled in time sequence, beginning with the order with the oldest timestamp, and are placed on the MIAX PEARL Equities Book, cancelled, executed, or routed to away Trading Centers in accordance with the terms of the order.

Proposed Change

The Exchange proposes to amend Exchange Rule 2615(d) to no longer provide for a Contingent Open at 9:45 a.m. Eastern Time. Instead, the Exchange would not open trading in an equity security until that equity security began trading on the primary listing market and the conditions to establish the opening price set forth under Exchange Rule 2615(c) described above

occur. At such time, the Exchange will perform its Opening Process and match all eligible orders at the midpoint of the NBBO, if any, and feed any unexecuted orders onto the MIAX Pearl Equities Book in time sequence, as described above. The Opening Process may occur anytime during Regular Trading Hours, including at or after 9:45 a.m. Eastern Time.

The Exchange initially adopted the Contingent Open under Exchange Rule 2615(d) as part of its proposal to adopt rules governing the trading of equity securities on MIAX Pearl Equities.¹⁸ The initial intent was to align Exchange Rule 2615 with similar rules and functionality available on other equities exchanges. The other exchanges on which the Exchange based Rule 2615(d) are non-primary listing exchanges that, unlike the Exchange, offer an early trading session.¹⁹ The Exchange currently only offers a Regular Trading Session.²⁰ Normally, an early trading session ends and a regular trading session begins when a security is opened for trading on that market. On a non-primary listing market like on which the Exchange based its Rules, this requires the security is to be open for trading on the primary listing market. Where a security has not begun to trade on the primary listing market, a Contingent Open serves an important purpose of prescribing an end to the early trading session and beginning of the regular trading session on that non-primary listing exchange. A Contingent Open allows a non-primary listing exchange that provides an early trading session to transition to a regular trading session in a timely manner where a security has not opened for trading on the primary listing market.²¹

¹⁸ See Securities Exchange Act Release No. 89563 (August 14, 2020), 85 FR 51510 (August 20, 2020) (SR-PEARL-2020-03) (adopting rules for MIAX Pearl Equities including Exchange Rule 2615(d)).

¹⁹ See, e.g., Cboe EDGX Exchange Rules 11.1(a)(1) and 11.7(d), and Cboe EDGA Exchange, Inc. Rules 11.1(a)(1) and 11.7(d).

²⁰ The term “Regular Trading Session” means “the time between the completion of the Opening Process or Contingent Open as defined in Exchange Rule 2615 and 4:00 p.m. Eastern Time.” See Exchange Rule 1901.

²¹ See, e.g., Securities Exchange Act Release Nos. 72676 (July 25, 2014), 79 FR 44520 (July 31, 2014) (Notice); and 73468 (October 29, 2014), 79 FR 65450 (November 4, 2014) SR-EDGX-2014-18 (Notice of Filing of Amendment Nos. 1 and 3 and Order Granting Accelerated Approval of a Proposed Rule Change,

The Exchange currently does not offer an early trading session and, therefore, the Contingent Open does not serve as a transition from an early trading session to a regular trading session. A Contingent Open simply allows the Exchange to trade a security when that security has not yet opened on the primary listing market. Once open on the primary listing market, the market for that security may be more robust and the security is likely trading at prices that more closely resemble its value due to that security having been subject to the primary listing market's opening auction process. Therefore, in the absence of an early trading session, the Exchange believes it is not necessary for it perform a Contingent Open at 9:45 a.m. Eastern Time. Instead, the Exchange believes it is appropriate for it to wait for a security to be trading on the primary listing market before it also begins to trade that security. The Exchange believes this could result in eligible orders being matched in the Opening Process at a midpoint of the NBBO that better reflects the security's trading characteristics and value.

In the Exchange's experience, most securities are open by 9:45:00 a.m. Eastern Time and the Exchange performs its Opening Process and is trading practically the entire market. However, at times, a security may not open by 9:45:00 a.m. This is common in less liquid securities. In these cases, the Exchange would not begin to trade a security if and until that security opens for trading on the primary listing market.²²

As a result of the proposed changes, Exchange Rule 2615(d) would be amended to no longer provide for a Contingent Open. Instead, Exchange Rule 2615(d) would provide that

as Modified by Amendment Nos. 1 and 3, To Amend EDGX Rule 1.5 and Chapter XI Regarding Current System Functionality Including the Operation of Order Types and Order Instructions) (SR-EDGX-2014-18).

²² Should the Exchange seek to adopt an early trading session in the future, it anticipates that it would also seek to readopt a Contingent Opening Process at that time to set a time at which a security would transition from the early to regular trading sessions where it has not begun trading on the primary listing market. The Exchange will submit a filing with the Commission pursuant to Section 19(b)(1) should it decide to adopt an early trading session in the future.

“[t]he Exchange will perform the Opening Process at any time during Regular Trading Hours when the conditions to establish the price of the Opening Process set forth under paragraph (c) [of Exchange Rule 2615] occur.”

Lastly, the Exchange proposes to make a corresponding change to remove a reference to the Contingent Open in the definition of Regular Trading Session in Exchange Rule 1901. Currently, the term “Regular Trading Session” shall mean the time between the completion of the Opening Process or Contingent Open as defined in Exchange Rule 2615 and 4:00 p.m. Eastern Time. The Exchange proposes to remove the reference to the Contingent Open so that the Regular Trading Session would now be from the time of the completion of the Opening Process as defined in Exchange Rule 2615 and 4:00 p.m. Eastern Time.

Implementation

The Exchange will implement the proposed changes to Exchange Rule 2615(d) on the effective date of this proposed rule change. The Exchange will issue a Regulatory Alert announcing the exact implementation date of this proposal.

b. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,²³ in general, and furthers the objectives of Section 6(b)(5),²⁴ in particular, because it is designed to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁵ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or

²³ 15 U.S.C. 78f(b).

²⁴ 15 U.S.C. 78f(b)(5).

²⁵ Id.

dealers.

As discussed above, the Exchange initially adopted the Contingent Open to align its rule with similar functionality available at other equities exchanges.²⁶ These other exchanges on which the Exchange based Rule 2615(d) currently offer early trading sessions,²⁷ while the Exchange does not. On these exchanges, a Contingent Open serves as the end to the early trading session and beginning of the regular trading session. As discussed above, the Exchange believes it is not necessary for it perform a Contingent Open at 9:45 a.m. Eastern Time. The Exchange does not currently offer an early trading session and does not have a need for a Contingent Open to serve as a transition to its Regular Trading Session. Instead, the Exchange would prefer to wait to perform its Opening Process until the security begins to trade on the primary listing market before it also begins to trade that security. As noted above, the Exchange matches orders during its Opening Process at the midpoint of the NBBO. The Exchange believes that the midpoint of the NBBO present after the security is opened by the primary listing exchange may better reflect the true market for the security due to increased liquidity and improved market quality. Therefore, the Exchange believes the proposal promotes just and equitable principles of trade, and removes impediments to and perfects the mechanism of a free and open market and a national market system because a security might be trading at prices that are more in-line with its normal trading behavior.

The proposed rule change would also not permit unfair discrimination between customers, issuers, brokers, or dealers because no User would be able to trade the security until the Exchange performs its Opening Process as described herein. The proposal is not designed to

²⁶ See supra note 18.

²⁷ See supra note 19.

target any single type of market participant. It is simply intended to amend Exchange Rule 2615(d) to no longer provide for a Contingent Open. Should the Exchange begin to offer an early trading session, the Contingent Open Process would serve as a transition period from the early to regular trading sessions, as it does today on other markets. The Exchange believes that, in the meantime, it may benefit all market participants for the Exchange to wait to trade a security until that security is opened by the primary listing exchange where that security's market may be more robust.

The Exchange is not aware of any rule or regulation that requires an exchange to perform a Contingent Open or trade all securities for a full trading day. Should the Exchange seek to adopt an early trading session in the future, it anticipates that it would also seek to readopt a Contingent Open to set a time at which a security would transition from the early to regular trading sessions where it has not begun trading on the primary listing market.

Lastly, the Exchange's proposal to make a corresponding change to remove a reference to the Contingent Open in the definition of Regular Trading Session in Exchange Rule 1901 remove impediments to and perfect the mechanism of a free and open market and a national market system because it would ensure the Exchange's rules are clear and continue to not include an ambiguities and references that could cause potential investor confusion.

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

The Exchange does not believe the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Specifically, the Exchange does not believe the proposed rule change would impose an undue burden on intramarket competition on the Exchange because all Users would be impacted equally. No User would be able to trade an equity security on the Exchange until

that security is opened by the primary listing market and the Exchange conducts its Opening Process. Other exchanges simply begin trading equity securities at 9:30:00 a.m. Eastern Time regardless of whether the security was opened by the primary listing exchange.²⁸ Meanwhile, as noted above, other exchanges employ a contingent open at 9:45 a.m. Eastern Time.²⁹ Market participants that wish to trade between 9:30 a.m. Eastern Time and the time the security is opened by the primary listing exchange may send their orders to these exchanges. Therefore, the proposed rule change should not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

In addition, the Exchange does not believe the proposed rule change would impose an undue burden on intermarket competition between exchanges. The Exchange is not aware of any rule or regulation that requires an exchange to perform a Contingent Open or trade all securities for a full trading day. The Exchange simply proposes to wait until an equity security is open for trading by the primary listing market before it conducts its own Opening Process and begins to trade that security. As stated above, other exchanges begin to trade an equity security at 9:30 a.m. Eastern Time and those exchanges may enjoy some competitive advantage as a result of the proposed rule change. The Exchange understands that it may suffer the competitive disadvantage until the time it performs its Opening Process. However, the Exchange does not believe the amount of trading volume that may be directed away from the Exchange to these exchanges would cause an unfair burden on competition between it and its exchange competitors. This competitive dynamic exists today with regard to pre-market and post-market trading on exchanges. The Exchange does not currently compete for order

²⁸ See, e.g., NYSE National, Inc. Rule 7.34(a)(2) (defining Core Trading Session), and NYSE Chicago Rule 7.34(a)(2) (defining Core Trading Session).

²⁹ See supra note 27.

flow pre or post market because it does not offer trading outside of Regular Trading Hours. Therefore, the proposed rule change does not introduce any new competitive issues between exchanges. Based on the above, the Exchange does not believe the proposed rule change would impose a burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Lastly, the Exchange's proposal to make a corresponding change to remove a reference to the Contingent Open in the definition of Regular Trading Session in Exchange Rule 1901 will have no competitive impact because it is simply a corresponding change to ensure the Exchange's rules are clear and continue to not include an ambiguities and references that could cause potential investor confusion.

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

No written comments were either solicited or received.

6. **Extension of Time Period for Commission Action**

Not applicable.

7. **Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)**

Pursuant to Section 19(b)(3)(A) of the Act³⁰ and Rule 19b-4(f)(6)³¹ thereunder, the Exchange has designated this proposal as one that effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the

³⁰ 15 U.S.C. 78s(b)(3)(A).

³¹ 17 CFR 240.19b-4(f)(6).

date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

As discussed above, where a security has not begun to trade on the primary listing markets, a Contingent Open serves as the end to the early trading session and beginning of the regular trading session on a non-primary exchange. In the absence of an early trading session, the Exchange believes it is not necessary for it perform a Contingent Open at 9:45 a.m. Eastern Time. The Exchange does not offer an early trading session. Therefore, the Exchange proposes to amend Exchange Rule 2615(d) to no longer provide for a Contingent Open and, instead, wait to perform its Opening Process until the security begins to trade on the primary listing market. The Exchange believes that the proposed rule change does not significantly affect the protection of investors or the public interest because the proposal may result in executions during its Opening Process at a midpoint of the NBBO that better reflects the true market for the security. This would be because of the increased liquidity and improved market quality that is present when regular trading is in effect.

The Exchange also believes the proposal would not impose any significant burden on competition because the competitive dynamic that may be created by the proposal exists today with regard to pre-market and post-market trading on exchanges. The Exchange does not currently compete for order flow pre or post market because it does not offer trading outside of Regular Trading Hours. Therefore, the proposed rule change does not introduce any new competitive issues between exchanges. Further, all Users on the exchange would be impacted equally and not providing for a Contingent Open does not favor one set of market participant over another. Furthermore, market participants that seek to trade between 9:30 a.m. Eastern Time and the time the security opens on the Exchange are free to send their order flow to any

number of exchanges that start their trading at 9:30 a.m. Eastern Time or perform a Contingent Open.

Lastly, the Exchange's proposal to make a corresponding change to remove a reference to the Contingent Open in the definition of Regular Trading Session in Exchange Rule 1901 is consistent with Section 19(b)(3)(A) of the Act³² and Rule 19b-4(f)(6)³³ thereunder because it is simply a corresponding change to ensure the Exchange's rules are clear and continue to not include an ambiguities and references that could cause potential investor confusion.

The impact of the proposal would be limited because most securities are open for trading on the Exchange by 9:45 a.m. Eastern Time. For the foregoing reasons, this rule filing qualifies as a "non-controversial" rule change under Rule 19b-4(f)(6), which renders the proposed rule change effective upon filing with the Commission.

The Exchange respectfully requests that the Commission waive the 30-day operative delay period after which a proposed rule change under Rule 19b-4(f)(6) becomes effective. As noted above, the Exchange matches orders at the midpoint of the NBBO during its Opening Process. The Exchange believes that the midpoint of the NBBO present after the security is opened by the primary listing exchange may better reflect the true market for the security due to increased liquidity and improved market quality. Waiver of the operative delay would allow the Exchange to potentially provide better executions for all Users who elect to participate in its Opening Process immediately, rather than providing a midpoint execution during a Contingent Open, which may occur prior to an equity security being opened by the primary listing market. Waiver of the operative delay would not have a material impact on trading because: (i) the

³² 15 U.S.C. 78s(b)(3)(A).

³³ 17 CFR 240.19b-4(f)(6).

Exchange currently does not offer an early trading session and, therefore, the Contingent Open does not serve as a transition from an early trading session to a regular trading session; and (ii) the Exchange does not currently attract a material amount of order flow at the beginning of the trading day, and thus any impact by the Exchange not performing a Contingent Open would be very minimal. Those Users would be free to route their orders to another exchange or wait for the Exchange to perform its Opening Process, as proposed herein. For the above reasons, waiver of the operative delay is consistent with the protection of investors and the public interest.

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.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

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

Not applicable.

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

Not applicable.

11. Exhibits

1. Notice of proposed rule for publication in the Federal Register.

5. Text of proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-PEARL-2023-71)

December __, 2023

Self-Regulatory Organizations: Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by MIAX PEARL, LLC to Amend Exchange Rules 2615(d)

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 __ 2023, MIAX PEARL, LLC (“MIAX Pearl” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Exchange Rule 2615(d) regarding the Contingent Open performed on the Exchange’s equity trading platform (referred to herein as “MIAX Pearl Equities”).

The text of the proposed rule change is available on the Exchange’s website at <https://www.miaxglobal.com/markets/us-equities/pearl-equities/rule-filings>, at MIAX Pearl’s principal office, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to amend Exchange Rule 2615(d) regarding the Contingent Open performed on MIAAX Pearl Equities. In sum, the Exchange proposes to amend Exchange Rule 2615(d) to no longer provide for a Contingent Open at 9:45 a.m. Eastern Time. As amended, Exchange Rule 2615(d) would instead provide that the Exchange would perform its Opening Process after the security begins trading on the primary listing market at any time during the trading day. The Exchange also proposes to make a corresponding change to remove a reference to the Contingent Open in the definition of Regular Trading Session in Exchange Rule 1901. These changes are described in more detail below.

Background

Exchange Rule 2615 sets forth the Exchange's Opening Process and Contingent Open. Each trading day, the Exchange begins trading in an equities security by performing its Opening Process after the start of Regular Trading Hours³ by matching eligible buy and sell orders at the midpoint of the National Best Bid and Offer ("NBBO"),⁴ as described below. Prior to the beginning of Regular Trading Hours,⁵ Users⁶ who wish to participate in the Opening Process

³ The term "Regular Trading Hours" means "the time between 9:30 a.m. and 4:00 p.m. Eastern Time." See Exchange Rule 1901.

⁴ The term "NBBO" means "the national best bid and offer." See Exchange Rule 1901.

⁵ According to Exchange Rule 2600(a), Users may begin to enter orders starting at 7:30 a.m. Eastern Time.

⁶ The term "User" means "any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Exchange Rule 2602." See Exchange Rule 1901.

may enter orders to buy or sell that are designated as Regular Trading Hours Only (“RHO”).⁷ Pursuant to Exchange Rule 2615(a), only orders that include a time-in-force of RHO may participate in the Opening Process. Orders designated as Post Only,⁸ Intermarket Sweep Orders, (“ISOs”),⁹ include a Minimum Execution Quantity instruction,¹⁰ and orders that include a time-in-force other than RHO are not eligible to participate in the Opening Process. Market Orders¹¹ may include a time-in-force of Immediate-or-Cancel (“IOC”),¹² and are, therefore, not eligible to participate in the Opening Process. Meanwhile, Limit Orders,¹³ Primary Peg Orders,¹⁴ and Midpoint Peg Orders¹⁵ that include a time-in-force of RHO are eligible to participate in the Opening Process. All Self-Trade-Protection (“STP”) modifiers, as described in Exchange Rule 2614(f), are honored during the Opening Process.

Exchange Rule 2615(b) provides that during the Opening Process, the Exchange attempts to match eligible buy and sell orders at the midpoint of the NBBO. All orders eligible to trade at the midpoint are processed in time sequence, beginning with the order with the oldest timestamp. The Opening Process concludes when no remaining orders, if any, can be matched at the midpoint of the NBBO. At the conclusion of the Opening Process, the unexecuted portion of orders that were eligible to participate in the Opening Process are placed on the MIAX PEARL

⁷ Exchange Rule 2614(b)(2).

⁸ Exchange Rule 2614(c)(2).

⁹ Exchange Rule 2614(d).

¹⁰ Exchange Rule 2614(c)(7).

¹¹ Exchange Rule 2614(a)(2).

¹² Exchange Rule 2614(b)(1). Market Orders may include a time-in-force of RHO solely when coupled with the PAC routing option for purposes of routing away to participate in the primary listing market’s opening or re-opening process and will continue to not be eligible to participate in the Exchange’s Opening Process. See Exchange Rule 2617(b)(5)(ii).

¹³ Exchange Rule 2614(a)(1).

¹⁴ Exchange Rule 2614(a)(3)(i)(B).

¹⁵ Exchange Rule 2614(a)(3)(i)(A).

Equities Book¹⁶ in time sequence, cancelled, executed, or routed to away Trading Centers¹⁷ in accordance with the terms of the order.

Pursuant to Exchange Rule 2615(c), the Exchange calculates the midpoint of the NBBO as follows. When the primary listing exchange is the New York Stock Exchange LLC (“NYSE”) or NYSE American LLC (“NYSE American”), the Opening Process is priced at the midpoint of the: (i) first NBBO subsequent to the first reported trade and first two-sided quotation on the primary listing exchange after 9:30:00 a.m. Eastern Time; or (ii) then prevailing NBBO when the first two-sided quotation is published by the primary listing exchange after 9:30:00 a.m. Eastern Time, but before 9:45:00 a.m. Eastern Time if no first trade is reported by the primary listing exchange within one second of publication of the first two-sided quotation by the primary listing exchange. For any other primary listing exchange, such as The Nasdaq Stock Market LLC (“Nasdaq”), NYSE Arca, LLC (“NYSE Arca”), and Cboe BZX Exchange, Inc. (“Cboe BZX”), the Opening Process is priced at the midpoint of the first NBBO subsequent to the first two-sided quotation published by the primary listing exchange after 9:30:00 a.m. Eastern Time.

Exchange Rule 2615(d) describes the Contingent Open and provides that if the conditions to establish the price of the Opening Process described above do not occur by 9:45:00 a.m. Eastern Time, the Exchange will conduct a Contingent Open and match all orders eligible to participate in the Opening Process at the midpoint of the then prevailing NBBO. Exchange Rule 2615(d) further provides that if the midpoint of the NBBO is not available for the Contingent Open, all orders are handled in time sequence, beginning with the order with the oldest

¹⁶ The term “MIAX Pearl Equities Book” means the electronic book of orders in equity securities maintained by the System. See Exchange Rule 1901.

¹⁷ The term “Trading Center” has the same meaning as in Rule 600(b)(82) of Regulation NMS. See Exchange Rule 100.

timestamp, and are placed on the MIAX PEARL Equities Book, cancelled, executed, or routed to away Trading Centers in accordance with the terms of the order.

Proposed Change

The Exchange proposes to amend Exchange Rule 2615(d) to no longer provide for a Contingent Open at 9:45 a.m. Eastern Time. Instead, the Exchange would not open trading in an equity security until that equity security began trading on the primary listing market and the conditions to establish the opening price set forth under Exchange Rule 2615(c) described above occur. At such time, the Exchange will perform its Opening Process and match all eligible orders at the midpoint of the NBBO, if any, and feed any unexecuted orders onto the MIAX Pearl Equities Book in time sequence, as described above. The Opening Process may occur anytime during Regular Trading Hours, including at or after 9:45 a.m. Eastern Time.

The Exchange initially adopted the Contingent Open under Exchange Rule 2615(d) as part of its proposal to adopt rules governing the trading of equity securities on MIAX Pearl Equities.¹⁸ The initial intent was to align Exchange Rule 2615 with similar rules and functionality available on other equities exchanges. The other exchanges on which the Exchange based Rule 2615(d) are non-primary listing exchanges that, unlike the Exchange, offer an early trading session.¹⁹ The Exchange currently only offers a Regular Trading Session.²⁰ Normally, an early trading session ends and a regular trading session begins when a security is opened for trading on that market. On a non-primary listing market like on which the Exchange based its

¹⁸ See Securities Exchange Act Release No. 89563 (August 14, 2020), 85 FR 51510 (August 20, 2020) (SR-PEARL-2020-03) (adopting rules for MIAX Pearl Equities including Exchange Rule 2615(d)).

¹⁹ See, e.g., Cboe EDGX Exchange Rules 11.1(a)(1) and 11.7(d), and Cboe EDGA Exchange, Inc. Rules 11.1(a)(1) and 11.7(d).

²⁰ The term “Regular Trading Session” means “the time between the completion of the Opening Process or Contingent Open as defined in Exchange Rule 2615 and 4:00 p.m. Eastern Time.” See Exchange Rule 1901.

Rules, this requires the security is to be open for trading on the primary listing market. Where a security has not begun to trade on the primary listing market, a Contingent Open serves an important purpose of prescribing an end to the early trading session and beginning of the regular trading session on that non-primary listing exchange. A Contingent Open allows a non-primary listing exchange that provides an early trading session to transition to a regular trading session in a timely manner where a security has not opened for trading on the primary listing market.²¹

The Exchange currently does not offer an early trading session and, therefore, the Contingent Open does not serve as a transition from an early trading session to a regular trading session. A Contingent Open simply allows the Exchange to trade a security when that security has not yet opened on the primary listing market. Once open on the primary listing market, the market for that security may be more robust and the security is likely trading at prices that more closely resemble its value due to that security having been subject to the primary listing market's opening auction process. Therefore, in the absence of an early trading session, the Exchange believes it is not necessary for it perform a Contingent Open at 9:45 a.m. Eastern Time. Instead, the Exchange believes it is appropriate for it to wait for a security to be trading on the primary listing market before it also begins to trade that security. The Exchange believes this could result in eligible orders being matched in the Opening Process at a midpoint of the NBBO that better reflects the security's trading characteristics and value.

In the Exchange's experience, most securities are open by 9:45:00 a.m. Eastern Time and the Exchange performs its Opening Process and is trading practically the entire market.

²¹ See, e.g., Securities Exchange Act Release Nos. 72676 (July 25, 2014), 79 FR 44520 (July 31, 2014) (Notice); and 73468 (October 29, 2014), 79 FR 65450 (November 4, 2014) SR-EDGX-2014-18 (Notice of Filing of Amendment Nos. 1 and 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 3, To Amend EDGX Rule 1.5 and Chapter XI Regarding Current System Functionality Including the Operation of Order Types and Order Instructions) (SR-EDGX-2014-18).

However, at times, a security may not open by 9:45:00 a.m. This is common in less liquid securities. In these cases, the Exchange would not begin to trade a security if and until that security opens for trading on the primary listing market.²²

As a result of the proposed changes, Exchange Rule 2615(d) would be amended to no longer provide for a Contingent Open. Instead, Exchange Rule 2615(d) would provide that “[t]he Exchange will perform the Opening Process at any time during Regular Trading Hours when the conditions to establish the price of the Opening Process set forth under paragraph (c) [of Exchange Rule 2615] occur.”

Lastly, the Exchange proposes to make a corresponding change to remove a reference to the Contingent Open in the definition of Regular Trading Session in Exchange Rule 1901. Currently, the term “Regular Trading Session” shall mean the time between the completion of the Opening Process or Contingent Open as defined in Exchange Rule 2615 and 4:00 p.m. Eastern Time. The Exchange proposes to remove the reference to the Contingent Open so that the Regular Trading Session would now be from the time of the completion of the Opening Process as defined in Exchange Rule 2615 and 4:00 p.m. Eastern Time.

Implementation

The Exchange will implement the proposed changes to Exchange Rule 2615(d) on the effective date of this proposed rule change. The Exchange will issue a Regulatory Alert announcing the exact implementation date of this proposal.

2. Statutory Basis

²² Should the Exchange seek to adopt an early trading session in the future, it anticipates that it would also seek to readopt a Contingent Opening Process at that time to set a time at which a security would transition from the early to regular trading sessions where it has not begun trading on the primary listing market. The Exchange will submit a filing with the Commission pursuant to Section 19(b)(1) should it decide to adopt an early trading session in the future.

The proposed rule change is consistent with Section 6(b) of the Act,²³ in general, and furthers the objectives of Section 6(b)(5),²⁴ in particular, because it is designed to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁵ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As discussed above, the Exchange initially adopted the Contingent Open to align its rule with similar functionality available at other equities exchanges.²⁶ These other exchanges on which the Exchange based Rule 2615(d) currently offer early trading sessions,²⁷ while the Exchange does not. On these exchanges, a Contingent Open serves as the end to the early trading session and beginning of the regular trading session. As discussed above, the Exchange believes it is not necessary for it perform a Contingent Open at 9:45 a.m. Eastern Time. The Exchange does not currently offer an early trading session and does not have a need for a Contingent Open to serve as a transition to its Regular Trading Session. Instead, the Exchange would prefer to wait to perform its Opening Process until the security begins to trade on the primary listing market before it also begins to trade that security. As noted above, the Exchange matches orders during its Opening Process at the midpoint of the NBBO. The Exchange believes that the midpoint of the NBBO present after the security is opened by the primary listing exchange may better reflect the true market for the security due to increased liquidity and

²³ 15 U.S.C. 78f(b).

²⁴ 15 U.S.C. 78f(b)(5).

²⁵ Id.

²⁶ See supra note 18.

²⁷ See supra note 19.

improved market quality. Therefore, the Exchange believes the proposal promotes just and equitable principles of trade, and removes impediments to and perfects the mechanism of a free and open market and a national market system because a security might be trading at prices that are more in-line with its normal trading behavior.

The proposed rule change would also not permit unfair discrimination between customers, issuers, brokers, or dealers because no User would be able to trade the security until the Exchange performs its Opening Process as described herein. The proposal is not designed to target any single type of market participant. It is simply intended to amend Exchange Rule 2615(d) to no longer provide for a Contingent Open. Should the Exchange begin to offer an early trading session, the Contingent Open Process would serve as a transition period from the early to regular trading sessions, as it does today on other markets. The Exchange believes that, in the meantime, it may benefit all market participants for the Exchange to wait to trade a security until that security is opened by the primary listing exchange where that security's market may be more robust.

The Exchange is not aware of any rule or regulation that requires an exchange to perform a Contingent Open or trade all securities for a full trading day. Should the Exchange seek to adopt an early trading session in the future, it anticipates that it would also seek to readopt a Contingent Open to set a time at which a security would transition from the early to regular trading sessions where it has not begun trading on the primary listing market.

Lastly, the Exchange's proposal to make a corresponding change to remove a reference to the Contingent Open in the definition of Regular Trading Session in Exchange Rule 1901 remove impediments to and perfect the mechanism of a free and open market and a national market system because it would ensure the Exchange's rules are clear and continue to not include an ambiguities and references that could cause potential investor confusion.

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

The Exchange does not believe the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Specifically, the Exchange does not believe the proposed rule change would impose an undue burden on intramarket competition on the Exchange because all Users would be impacted equally. No User would be able to trade an equity security on the Exchange until that security is opened by the primary listing market and the Exchange conducts its Opening Process. Other exchanges simply begin trading equity securities at 9:30:00 a.m. Eastern Time regardless of whether the security was opened by the primary listing exchange.²⁸ Meanwhile, as noted above, other exchanges employ a contingent open at 9:45 a.m. Eastern Time.²⁹ Market participants that wish to trade between 9:30 a.m. Eastern Time and the time the security is opened by the primary listing exchange may send their orders to these exchanges. Therefore, the proposed rule change should not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

In addition, the Exchange does not believe the proposed rule change would impose an undue burden on intermarket competition between exchanges. The Exchange is not aware of any rule or regulation that requires an exchange to perform a Contingent Open or trade all securities for a full trading day. The Exchange simply proposes to wait until an equity security is open for trading by the primary listing market before it conducts its own Opening Process and begins to trade that security. As stated above, other exchanges begin to trade an equity security at 9:30 a.m. Eastern Time and those exchanges may enjoy some competitive

²⁸ See, e.g., NYSE National, Inc. Rule 7.34(a)(2) (defining Core Trading Session), and NYSE Chicago Rule 7.34(a)(2) (defining Core Trading Session).

²⁹ See supra note 27.

advantage as a result of the proposed rule change. The Exchange understands that it may suffer the competitive disadvantage until the time it performs its Opening Process. However, the Exchange does not believe the amount of trading volume that may be directed away from the Exchange to these exchanges would cause an unfair burden on competition between it and its exchange competitors. This competitive dynamic exists today with regard to pre-market and post-market trading on exchanges. The Exchange does not currently compete for order flow pre or post market because it does not offer trading outside of Regular Trading Hours. Therefore, the proposed rule change does not introduce any new competitive issues between exchanges. Based on the above, the Exchange does not believe the proposed rule change would impose a burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Lastly, the Exchange's proposal to make a corresponding change to remove a reference to the Contingent Open in the definition of Regular Trading Session in Exchange Rule 1901 will have no competitive impact because it is simply a corresponding change to ensure the Exchange's rules are clear and continue to not include an ambiguities and references that could cause potential investor confusion.

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

Because the foregoing 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 for 30 days after the date of the filing, or such shorter time as the

Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act³⁰ and Rule 19b-4(f)(6)³¹ 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 (<https://www.sec.gov/rules/sro.shtml>);
- or
- Send an e-mail [to rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-PEARL-2023-71 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.

³⁰ 15 U.S.C. 78s(b)(3)(A).

³¹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

All submissions should refer to file number SR-PEARL-2023-71. This file number should be included on the subject line if email 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 (<https://www.sec.gov/rules/sro.shtml>).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to file number SR-PEARL-2023-71 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³²

Sherry R. Haywood,
Assistant Secretary

³² 17 CFR 200.30-3(a)(12).

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

MIAX PEARL, LLC Rules

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Rule 1901. Definitions

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Regular Trading Session

The term “**Regular Trading Session**” shall mean the time between the completion of the Opening Process [or Contingent Open]as defined in Exchange Rule 2615 and 4:00 p.m. Eastern Time.

* * * * *

Rule 2615. Opening Process for Equity Securities

* * * * *

(a) – (c) (No change).

(d) [**Contingent Open**. If]The Exchange will perform the Opening Process at any time during Regular Trading Hours when the conditions to establish the price of the Opening Process set forth under paragraph (c) occur. [above do not occur by 9:45:00 a.m. Eastern Time, the Exchange will match all orders eligible to participate in the Opening Process at the midpoint of the then prevailing NBBO. If the midpoint of the NBBO is not available, all orders will be handled in time sequence, beginning with the order with the oldest timestamp, and be placed on the MIAX Pearl Equities Book, cancelled, executed, or routed to away Trading Centers in accordance with the terms of the order.]

(e) (No change).

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