

Required fields are shown with yellow backgrounds and asterisks.

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| Page 1 of * <input type="text" value="23"/> | SECURITIES AND EXCHANGE COMMISSION<br>WASHINGTON, D.C. 20549<br>Form 19b-4 | File No.* SR - <input type="text" value="2021"/> - * <input type="text" value="15"/> | Amendment No. (req. for Amendments *) <input type="text"/> |
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Filing by **MIAX PEARL, LLC**  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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| 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"/> |
|   |   |                                     | Rule  |   |  |
| Pilot <input type="checkbox"/>                | Extension of Time Period for Commission Action * <input type="checkbox"/> | Date Expires * <input type="text"/> | <input type="checkbox"/> 19b-4(f)(1)            | <input type="checkbox"/> 19b-4(f)(4)                      |  |
|   |   |                                     | <input checked="" type="checkbox"/> 19b-4(f)(2) | <input type="checkbox"/> 19b-4(f)(5)                      |  |
|   |   |                                     | <input type="checkbox"/> 19b-4(f)(3)            | <input type="checkbox"/> 19b-4(f)(6)                      |  |

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| Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010 | Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934 |
| Section 806(e)(1) * <input type="checkbox"/>  | Section 806(e)(2) * <input type="checkbox"/>                                   |
| Section 3C(b)(2) * <input type="checkbox"/>   |  |

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| Exhibit 2 Sent As Paper Document <input type="checkbox"/> | Exhibit 3 Sent As Paper Document <input type="checkbox"/> |
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**Description**

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

Amend the MIAX Pearl Equities Fee School 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

**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 \*  Last Name \*

Title \*

E-mail \*

Telephone \*  Fax

**Signature**

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title \*)

Date

By

(Name \*)

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

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

**Form 19b-4 Information \***

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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 \***

Add Remove View

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 Advance 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, security-based swap submission, or advance notice 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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Exhibit Sent As Paper Document

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 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

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 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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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 “Exchange”), pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> proposes to amend the fee schedule applicable for MIAX Pearl Equities, an equities trading facility of the Exchange (the “Fee Schedule”).<sup>3</sup> The proposed changes will become effective on April 1, 2021.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1, and a copy of the applicable section of the Fee Schedule is attached hereto as Exhibit 5.

(b) Inapplicable.

(c) Inapplicable.

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

The proposed rule change was approved by the Chief Executive Officer of the Exchange or his designee pursuant to authority delegated by the MIAX Pearl Board of Directors on January 28, 2021. Exchange staff will advise the Board of Directors of any action taken pursuant to delegated authority. No other action by the Exchange is necessary for the filing of the proposed rule change.

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

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

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Exchange Rule 1901.

a. 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.<sup>4</sup> 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.<sup>5</sup> 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. Indeed, equity trading is currently dispersed across 16 exchanges,<sup>6</sup> 31 alternative trading systems,<sup>7</sup> and numerous broker-dealer internalizers and wholesalers, all competing for order

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

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

<sup>6</sup> See Cboe Global Markets, U.S. Equities Market Volume Summary, available at [https://markets.cboe.com/us/equities/market\\_share/](https://markets.cboe.com/us/equities/market_share/).

<sup>7</sup> See FINRA ATS Transparency Data, available at <https://otctransparency.finra.org/otctransparency/AtsIssueData>. A list of alternative

flow. Based on publicly available information, no single registered equities exchange currently has more than approximately 20% of total market share.<sup>8</sup> 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.<sup>9</sup> 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 opportunities for the liquidity adding orders resting on the MIAX Pearl Equities Book.<sup>10</sup> 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.

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trading systems registered with the Commission is available at <https://www.sec.gov/foia/docs/atlist.htm>.

<sup>8</sup> See supra note 6.

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

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

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.

b. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act<sup>11</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>12</sup> 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 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

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<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(4) and (5).

Exchange. The proposed changes are not unfairly discriminatory because they will apply equally to all Equity Members.<sup>13</sup>

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 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.<sup>14</sup>

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 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

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<sup>13</sup> The term “Equity Member” means a Member authorized by the Exchange to transact business on MIAX Pearl Equities. See Exchange Rule 1901.

<sup>14</sup> 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/](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).

been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>15</sup>

As the Commission itself recognized, the market for trading services in NMS stocks has become “more fragmented and competitive.”<sup>16</sup> Indeed, equity trading is currently dispersed across 16 exchanges,<sup>17</sup> 31 alternative trading systems,<sup>18</sup> 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).<sup>19</sup> 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 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

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<sup>15</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (File No. S7-10-04) (“Regulation NMS”).

<sup>16</sup> 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).

<sup>17</sup> See supra note 6.

<sup>18</sup> See supra note 7.

<sup>19</sup> See supra note 6.

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.

#### **4. 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."<sup>20</sup>

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 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,

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<sup>20</sup> See supra note 15.

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.

**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)(ii) of the Act,<sup>21</sup> and Rule 19b-4(f)(2) thereunder<sup>22</sup> the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

**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. Completed notice of proposed rule change for publication in the Federal Register.

5. Copy of the applicable section of the Fee Schedule.

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<sup>21</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>22</sup> 17 CFR 240.19b-4.

**EXHIBIT 1**SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-PEARL-2021-15)

March \_\_\_\_, 2021

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

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March\_\_\_\_ 2021, 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 fee schedule applicable for MIAX Pearl Equities, an equities trading facility of the Exchange (the “Fee Schedule”).<sup>3</sup> 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

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Exchange Rule 1901.

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 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.<sup>4</sup> 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.<sup>5</sup> 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

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

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

systems) to which market participants may direct their order flow and execute their trades. Indeed, equity trading is currently dispersed across 16 exchanges,<sup>6</sup> 31 alternative trading systems,<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup> 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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<sup>6</sup> See Cboe Global Markets, U.S. Equities Market Volume Summary, available at [https://markets.cboe.com/us/equities/market\\_share/](https://markets.cboe.com/us/equities/market_share/).

<sup>7</sup> 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/atlist.htm>.

<sup>8</sup> See *supra* note 6.

<sup>9</sup> 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.<sup>10</sup> 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<sup>11</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>12</sup> 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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<sup>10</sup> See Securities Exchange Act Release No. 90894 (January 11, 2021), 86 FR 4139 (January 15, 2021) (SR-PEARL-2020-37).

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 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.<sup>13</sup>

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 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.<sup>14</sup>

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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<sup>13</sup> The term “Equity Member” means a Member authorized by the Exchange to transact business on MIAX Pearl Equities. See Exchange Rule 1901.

<sup>14</sup> 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/](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.”<sup>15</sup>

As the Commission itself recognized, the market for trading services in NMS stocks has become “more fragmented and competitive.”<sup>16</sup> Indeed, equity trading is currently dispersed across 16 exchanges,<sup>17</sup> 31 alternative trading systems,<sup>18</sup> 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).<sup>19</sup> 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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<sup>15</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (File No. S7-10-04) (“Regulation NMS”).

<sup>16</sup> 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).

<sup>17</sup> See supra note 6.

<sup>18</sup> See supra note 7.

<sup>19</sup> 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."<sup>20</sup>

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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<sup>20</sup> 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,<sup>21</sup> and Rule 19b-4(f)(2)<sup>22</sup> 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

- Send an e-mail [to rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-PEARL-2021-15 on the subject line.

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<sup>21</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>22</sup> 17 CFR 240.19b-4(f)(2).

Paper comments:

- Send paper comments in triplicate to Vanessa Countryman, 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 Web site (<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; 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-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.<sup>23</sup>

Vanessa Countryman  
Secretary

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<sup>23</sup> 17 CFR 200.30-3(a)(12).

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

**Exhibit 5**

## MIAX Pearl Equities Exchange

# Fee Schedule

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## 1) Transaction Rebates/Fees

### a) Standard Rates

| Category                      | Adding Liquidity Displayed Order | Adding Liquidity Non-Displayed Order | Removing Liquidity  | Routing and Removing Liquidity | Opening or Re-Opening Process |
|-------------------------------|----------------------------------|--------------------------------------|---|--------------------------------|-------------------------------|
| Securities at or above \$1.00 | (No change).                     | (No change).                         | [ <u>Tapes A and C</u><br>\$0.0028<br><u>Tape B</u><br>\$0.0027]<br><u>\$0.0025</u> | (No change).                   | (No change).                  |
| Securities below \$1.00       | (No change).                     |                                      |   |                                |                               |

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