

Required fields are shown with yellow backgrounds and asterisks.

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

File No. * SR 2022 - * 36

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 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
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 *).

Proposal to amend the MIAX Pearl Equities Fee Schedule to (1) increase the rebate for executions of all orders in securities priced below \$1.00 per share that add displayed and non-displayed liquidity to the Exchange; and (2) increase the fee for executions of all orders in securities priced below \$1.00 per share that remove liquidity from the Exchange.

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 * Michael Last Name * Slade

Title * AVP, Associate Counsel

E-mail * mslade@miami-holdings.com

Telephone * (609) 897-8499 Fax

Signature

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

Date 08/31/2022

(Title *)

By Michael Slade (Name *)

AVP, Associate Counsel

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.

Michael Slade Date: 2022.08.31 14:36:19 -04'00'

Required fields are shown with yellow backgrounds and astericks.

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 *

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SR-PEARL-2022-36 - 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-2022-36 - Exhibit 5 (Equiti

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”)¹ and Rule 19b-4 thereunder,² proposes to amend the fee schedule (the “Fee Schedule”) applicable to MIAX Pearl Equities, an equities trading facility of the Exchange.

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 June 16, 2022. 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 Michael Slade, AVP, Associate Counsel, at (609) 897-8499.

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

a. Purpose

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

The Exchange proposes to amend the Fee Schedule applicable to MIAX Pearl Equities to: (1) increase the rebate for executions of all orders in securities priced below \$1.00 per share that add displayed and non-displayed liquidity to the Exchange; and (2) increase the fee for executions of all orders in securities priced below \$1.00 per share that remove liquidity from the Exchange.

Increase Standard Rebates for Added Liquidity in Securities Priced Below \$1.00 Per Share

The Exchange proposes to amend Section 1)a) of the Fee Schedule, Standard Rates, to increase the standard rebates for executions of all orders in securities priced below \$1.00 per share that add displayed and non-displayed liquidity to the Exchange. Currently, the Exchange provides a standard rebate of (0.05%)³ of the total dollar value of any transaction in securities priced below \$1.00 that add displayed or non-displayed liquidity to MIAX Pearl Equities. This rebate applies to all Equity Members,⁴ including those that qualify for any of the Exchange's pricing tiers. These rebates are described in Section 1)b) of the Fee Schedule, Liquidity Indicator Codes and Associated Fees. Liquidity Indicator Codes "AA," "AB," "AC," and "AR" apply to the standard rebate for executions of all orders in securities priced below \$1.00 per share that add displayed liquidity to the Exchange and Liquidity Indicator Codes "Aa," "Ab," "Ac," "Ap," and "Ar" apply to the standard rebate for executions of all orders in securities priced below \$1.00 per share that add non-displayed liquidity to the Exchange.

The Exchange now proposes to increase the standard rebate from (0.05%) to (0.10%) of the total dollar value of any transaction for executions of all orders in securities priced below

³ Rebates are indicated by parentheses on the Fee Schedule. See Fee Schedule, General Notes.

⁴ The term "Equity Member" means a Member authorized by the Exchange to transact business on MIAX Pearl Equities. See Exchange Rule 1901.

\$1.00 per share that add displayed or non-displayed liquidity to the Exchange and make the corresponding changes to the applicable Liquidity Indicator Codes. The purpose of increasing the rebate for executions of all orders in securities priced below \$1.00 per share that add displayed or non-displayed liquidity to the Exchange is to incentivize Equity Members to submit additional orders that add displayed and non-displayed liquidity in sub-dollar volume to the Exchange. The Exchange notes that overall volumes in sub-dollar securities in the U.S. equities markets have had significant increases at certain times; however, the Exchange's volumes in these securities have been disproportionately lower than certain other venues, relative to the overall market share of the Exchange and such other venues, during these times. Thus, the Exchange's proposal to increase the rebate for executions of all orders in securities priced below \$1.00 per share that add displayed and non-displayed liquidity to the Exchange is designed to encourage the submission of additional orders in sub-dollar securities in order to bring the Exchange's volumes in such securities in line with its overall market share in a manner that deepens liquidity and promotes price discovery to the benefit of all Equity Members. These proposed changes will also align the Exchange's rebates for such securities with that of at least one other competing exchange.⁵

Increase Standard Fee for Removing Liquidity in Securities Priced Below \$1.00 Per Share

Next, the Exchange proposes to increase the standard fee charged for executions of all orders in securities priced below \$1.00 per share that remove liquidity from the Exchange.

⁵ See MEMX Fee Schedule, Fee/(Rebate) – Securities below \$1.00 (“B”), available at <https://info.memxtrading.com/fee-schedule/> (last visited August 30, 2022); see also Securities Exchange Act Release No. 95433 (August 5, 2022), 87 FR 49620 (August 11, 2022) (SR-MEMX-2022-22) (increasing the rebate for all executions of Added Displayed Sub-Dollar Volume to 0.10% of the total dollar value of the transaction).

Currently, the Exchange charges a standard fee of 0.05% of the total dollar value of any transaction in securities priced below \$1.00 that removes liquidity from MIAX Pearl Equities. The Exchange now proposes to increase the standard fee charged for executions of all orders in securities priced below \$1.00 per share that remove liquidity from the Exchange from 0.05% to 0.20% of the total dollar value.⁶ Liquidity Indicator Codes “RA,” “Ra,” “RB,” “Rb,” “RC,” “Rc,” “RR,” and “Rr” apply to the standard fee for executions of all orders in securities priced below \$1.00 per share that remove liquidity from the Exchange. The Exchange proposes to make the corresponding changes to the applicable Liquidity Indicator Codes.

The purpose of increasing the standard fee charged for executions of all orders in securities priced below \$1.00 per share that remove liquidity from the Exchange is for business and competitive reasons. The Exchange believes that increasing such fee as proposed would generate additional revenue to offset some of the costs associated with the Exchange’s proposed pricing structure, which provides various rebates for liquidity-adding orders and discounted fees for liquidity-removing orders, and the Exchange’s operations generally, in a manner that is consistent with the Exchange’s overall pricing philosophy of encouraging added liquidity. The Exchange notes that despite the modest increase proposed herein, the Exchange’s proposed standard fee for executions of all orders in securities priced below \$1.00 per share that remove liquidity from the Exchange (0.20% of the total dollar value) remains competitive with the standard fee to remove liquidity in securities priced below \$1.00 per share charged by other equity exchanges.⁷

⁶ The proposed pricing is referred to by the Exchange on the Fee Schedule under the existing description “Removing Liquidity” in Section 1)a), Standard Rates.

⁷ See MEMX Fee Schedule, Fee Code “R,” supra note 4 (charging a standard fee of 0.25% of the total dollar value to remove liquidity in securities priced below \$1.00 per share);

Conforming Changes to Liquidity Indicator Codes and Associated Fees Table

In conjunction with the Exchange's proposal to (1) increase the rebate for executions of all orders in securities priced below \$1.00 per share that add displayed and non-displayed liquidity to the Exchange and (2) increase the fee for executions of all orders in securities priced below \$1.00 per share that remove liquidity from the Exchange, the Exchange proposes to update the Liquidity Indicator Codes and Associated Fees table to reflect the aforementioned changes.

The Exchange proposes to update the liquidity indicator codes as follows:

- Liquidity indicator code AA, Adds Liquidity, Displayed Order (Tape A). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code AA would receive a rebate of \$0.0029 per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code AB, Adds Liquidity, Displayed Order (Tape B). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code AB would receive a rebate of \$0.0029 per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code AC, Adds Liquidity, Displayed Order (Tape C). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code AC would receive a rebate of \$0.0029 per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code AR, Retail Order, Adds Liquidity, Displayed Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code AR would receive a rebate of \$0.0037 per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Aa, Adds Liquidity, Non-Displayed Order (Tape A). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Aa would receive a rebate of \$0.0021 per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.

see also Cboe BZX Equities Fee Schedule, Standard Rates, available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/ (last visited August 30, 2022) (charging a standard fee of 0.30% of total dollar value to remove liquidity in securities priced below \$1.00 per share).

- Liquidity indicator code Ab, Adds Liquidity, Non-Displayed Order (Tape B). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ab would receive a rebate of \$0.0021 per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Ac, Adds Liquidity, Non-Displayed Order (Tape C). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ac would receive a rebate of \$0.0021 per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Ap, Adds Liquidity and Executes at the Midpoint, Non-Displayed Midpoint Peg Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ap would receive a rebate of \$0.0021 per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Ar, Retail Order, Adds Liquidity, Non-Displayed Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ar would receive a rebate of \$0.0021 per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code RA, Removes Liquidity, Displayed Order (Tape A). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RA would be subject to a fee of \$0.0029 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code RB, Removes Liquidity, Displayed Order (Tape B). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RB would be subject to a fee of \$0.0029 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code RC, Removes Liquidity, Displayed Order (Tape C). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RC would be subject to a fee of \$0.0029 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code RR, Retail Order, Removes Liquidity, Displayed Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RR would be subject to a fee of \$0.0029 per

share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.

- Liquidity indicator code Ra, Removes Liquidity, Non-Displayed Order (Tape A). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ra would be subject to a fee of \$0.0029 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Rb, Removes Liquidity, Non-Displayed Order (Tape B). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Rb would be subject to a fee of \$0.0029 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Rc, Removes Liquidity, Non-Displayed Order (Tape C). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Rc would be subject to a fee of \$0.0029 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Rr, Retail Order, Removes Liquidity, Non-Displayed Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Rr would be subject to a fee of \$0.0029 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.

Implementation

The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal on September 1, 2022.

b. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act⁸ in general, and furthers the objectives of Section 6(b)(4) of the Act⁹ in particular, in that it is an equitable allocation of reasonable fees and other charges among its

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4).

Equity Members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5)¹⁰ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, and to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange operates in a highly fragmented and competitive market in which market participants can readily direct their order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of sixteen registered equities exchanges, and there are a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly available information, no single registered equities exchange currently has more than approximately 15-16% of the total market share of executed volume of equities trading.¹¹ Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow, and the Exchange currently represents approximately 1% of the overall market share.¹² The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in

¹⁰ 15 U.S.C 78f(b)(5).

¹¹ See “The Market at a Glance,” available at <https://www.miaxoptions.com/> (last visited August 30, 2022).

¹² See *id.*

determining prices, products, and services in the securities markets. In Regulation NMS, 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.”¹³

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 reduce 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. The Exchange believes the proposal reflects a reasonable and competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance liquidity and market quality to the benefit of all Members and market participants.

The Exchange believes that the proposed increased rebate for executions of all orders in securities priced below \$1.00 per share that add displayed and non-displayed liquidity to the Exchange is reasonable, equitable, and non-discriminatory because it would further incentivize Equity Members to submit displayed and non-displayed liquidity-adding orders in sub-dollar securities to the Exchange. The Exchange believes that this would deepen liquidity and promote price discovery in such securities to the benefit of all Equity Members, and such rebates would continue to apply equally to all Equity Members. The Exchange further believes that the

¹³ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37499 (June 29, 2005).

proposed increased rebate is reasonable because at least one other exchange provides rebates for executions of liquidity-adding orders in sub-dollar securities that are lower than, equal to, and higher than the proposed rebate.¹⁴

The Exchange believes that the proposed change to increase the standard fee for executions of all orders in securities priced below \$1.00 per share that remove liquidity from the Exchange is reasonable, equitable, and consistent with the Act because such a change is designed to generate additional revenue and decrease the Exchange's expenditures with respect to transaction pricing in order to offset some of the costs associated with the various rebates provided by the Exchange for liquidity-adding orders and the Exchange's operations generally, in a manner that is consistent with the Exchange's overall pricing philosophy of encouraging added liquidity, as described above. The Exchange also believes the proposed increased standard fee for executions of all orders in securities priced below \$1.00 per share that remove liquidity is reasonable and not unfairly discriminatory because it represents a modest increase from the current standard fee. Further, even with the proposed increase, the Exchange's standard fee for executions of all orders in securities priced below \$1.00 per share that remove liquidity remains lower than, or similar to, the standard fee to remove liquidity in securities priced below \$1.00 per share charged by competing equities exchanges.¹⁵ The Exchange further believes that

¹⁴ See supra note 5; see also NYSE Arca Equities Fee Schedule, III. Standard Rates – Transactions, available at <https://www.nyse.com/markets/nyse-arca/trading-info#trading-fees> (last visited August 30, 2022) (providing a standard rebate of 0.0% of the total dollar value of the transaction for liquidity-adding transactions in securities priced below \$1.00 per share, and tiered rebates for such transactions ranging from 0.05% to 0.15% of the total dollar value of the transaction based on a participant achieving certain volume thresholds).

¹⁵ See supra note 7; see also Cboe EDGX Equities Fee Schedule, Standard Rates, available at https://www.cboe.com/us/equities/membership/fee_schedule/edgx/ (last visited August 30, 2022) (charging a standard fee of 0.30% of the dollar value to remove liquidity in securities priced below \$1.00 per share).

the proposal to increase the standard fee for executions of all orders in securities priced below \$1.00 per share that remove liquidity from the Exchange is equitably allocated and not unfairly discriminatory because it will apply to all Equity Members.

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

The Exchange does not believe that the proposed changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed changes would encourage Equity Members to maintain or increase their order flow to the Exchange, thereby contributing to a deeper and more liquid market to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue. As a result, the Exchange believes the proposal would enhance its competitiveness as a market that attracts actionable orders, thereby making it a more desirable destination venue for its customers. For these reasons, the Exchange believes that the proposal 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."¹⁶

Intramarket Competition

As discussed above, the Exchange believes that the proposal would incentivize Equity Members to submit additional order flow, including displayed and non-displayed added liquidity in sub-dollar securities to the Exchange, thereby promoting price discovery and enhancing liquidity and market quality on the Exchange to the benefit of all Equity Members. Additionally, the Exchange believes this will enhance the attractiveness of the Exchange as a trading venue,

¹⁶ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 47396 (June 29, 2005).

which the Exchange believes, in turn, would continue to encourage market participants to direct additional order flow to the Exchange. Greater liquidity benefits all Equity Members by providing more trading opportunities and encourages Equity Members to send additional orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants.

The Exchange believes that the proposed change to increase the standard fee for executions of all orders in securities priced below \$1.00 per share that remove liquidity from the Exchange will not impose any burden on intramarket competition because it represents a modest increase from the current standard fee and remains lower than, or similar to, the standard fee to remove liquidity in securities priced below \$1.00 per share charged by competing equities exchanges.¹⁷ Further, the proposed increased standard removal fee will apply to all Equity Members. For the foregoing reasons, the Exchange believes the proposed changes would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intermarket Competition

The Exchange believes its proposal will benefit competition as the Exchange operates in a highly competitive market. Equity Members have numerous alternative venues they may participate on and direct their order flow to, including fifteen other equities exchanges and numerous alternative trading systems and other off-exchange venues. As noted above, no single registered equities exchange currently has more than 15-16% of the total market share of executed volume of equities trading. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order

¹⁷ See supra notes 7 and 15.

flow. Moreover, the Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow in response to new or different pricing structures being introduced to the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates generally, including with respect to executions of all orders in securities priced below \$1.00 per share that remove liquidity from the Exchange, and market participants can readily choose to send their orders to other exchanges and off-exchange venues if they deem fee levels at those other venues to be more favorable.

As described above, the proposed changes are competitive proposals through which the Exchange is seeking to encourage additional order flow to the Exchange and to generate additional revenue to offset some of the costs associated with the Exchange's current pricing structure and its operations generally, and such proposed rates are comparable to, and competitive with, rates charged by other exchanges.¹⁸

Additionally, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, 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."¹⁹

The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. circuit stated: "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national

¹⁸ See *supra* notes 5, 7, 14 and 15.

¹⁹ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

market system, buyers and sellers of securities, and the broker-dealers that act as their routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possess a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’ . . .”²⁰ Accordingly, the Exchange does not believe its proposed pricing changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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,²¹ and Rule 19b-4(f)(2) thereunder²² 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**

²⁰ See NetCoalition v. SEC, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSE-2006-21)).

²¹ 15 U.S.C. 78s(b)(3)(A)(ii).

²² 17 CFR 240.19b-4.

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.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-PEARL-2022-36)

_____, 2022

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”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on _____, 2022, 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 (the “Fee Schedule”) applicable to MIAX Pearl Equities, an equities trading facility of the Exchange.

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

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

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

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

1. Purpose

The Exchange proposes to amend the Fee Schedule applicable to MIAX Pearl Equities to: (1) increase the rebate for executions of all orders in securities priced below \$1.00 per share that add displayed and non-displayed liquidity to the Exchange; and (2) increase the fee for executions of all orders in securities priced below \$1.00 per share that remove liquidity from the Exchange.

Increase Standard Rebates for Added Liquidity in Securities Priced Below \$1.00 Per Share

The Exchange proposes to amend Section 1)a) of the Fee Schedule, Standard Rates, to increase the standard rebates for executions of all orders in securities priced below \$1.00 per share that add displayed and non-displayed liquidity to the Exchange. Currently, the Exchange provides a standard rebate of (0.05%)³ of the total dollar value of any transaction in securities priced below \$1.00 that add displayed or non-displayed liquidity to MIAX Pearl Equities. This rebate applies to all Equity Members,⁴ including those that qualify for any of the Exchange's pricing tiers. These rebates are described in Section 1)b) of the Fee Schedule, Liquidity Indicator Codes and Associated Fees. Liquidity Indicator Codes "AA," "AB," "AC," and "AR" apply to the standard rebate for executions of all orders in securities priced below \$1.00 per share that add displayed liquidity to the Exchange and Liquidity Indicator Codes "Aa," "Ab," "Ac,"

³ Rebates are indicated by parentheses on the Fee Schedule. See Fee Schedule, General Notes.

⁴ The term "Equity Member" means a Member authorized by the Exchange to transact business on MIAX Pearl Equities. See Exchange Rule 1901.

“Ap,” and “Ar” apply to the standard rebate for executions of all orders in securities priced below \$1.00 per share that add non-displayed liquidity to the Exchange.

The Exchange now proposes to increase the standard rebate from (0.05%) to (0.10%) of the total dollar value of any transaction for executions of all orders in securities priced below \$1.00 per share that add displayed or non-displayed liquidity to the Exchange and make the corresponding changes to the applicable Liquidity Indicator Codes. The purpose of increasing the rebate for executions of all orders in securities priced below \$1.00 per share that add displayed or non-displayed liquidity to the Exchange is to incentivize Equity Members to submit additional orders that add displayed and non-displayed liquidity in sub-dollar volume to the Exchange. The Exchange notes that overall volumes in sub-dollar securities in the U.S. equities markets have had significant increases at certain times; however, the Exchange’s volumes in these securities have been disproportionately lower than certain other venues, relative to the overall market share of the Exchange and such other venues, during these times. Thus, the Exchange’s proposal to increase the rebate for executions of all orders in securities priced below \$1.00 per share that add displayed and non-displayed liquidity to the Exchange is designed to encourage the submission of additional orders in sub-dollar securities in order to bring the Exchange’s volumes in such securities in line with its overall market share in a manner that deepens liquidity and promotes price discovery to the benefit of all Equity Members. These proposed changes will also align the Exchange’s rebates for such securities with that of at least one other competing exchange.⁵

⁵ See MEMX Fee Schedule, Fee/(Rebate) – Securities below \$1.00 (“B”), [available at https://info.memxtrading.com/fee-schedule/](https://info.memxtrading.com/fee-schedule/) (last visited August 30, 2022); see also Securities Exchange Act Release No. 95433 (August 5, 2022), 87 FR 49620 (August 11, 2022) (SR-MEMX-2022-22) (increasing the rebate for all executions of Added Displayed Sub-Dollar Volume to 0.10% of the total dollar value of the transaction).

Increase Standard Fee for Removing Liquidity in Securities Priced Below \$1.00 Per Share

Next, the Exchange proposes to increase the standard fee charged for executions of all orders in securities priced below \$1.00 per share that remove liquidity from the Exchange. Currently, the Exchange charges a standard fee of 0.05% of the total dollar value of any transaction in securities priced below \$1.00 that removes liquidity from MIAX Pearl Equities. The Exchange now proposes to increase the standard fee charged for executions of all orders in securities priced below \$1.00 per share that remove liquidity from the Exchange from 0.05% to 0.20% of the total dollar value.⁶ Liquidity Indicator Codes “RA,” “Ra,” “RB,” “Rb,” “RC,” “Rc,” “RR,” and “Rr” apply to the standard fee for executions of all orders in securities priced below \$1.00 per share that remove liquidity from the Exchange. The Exchange proposes to make the corresponding changes to the applicable Liquidity Indicator Codes.

The purpose of increasing the standard fee charged for executions of all orders in securities priced below \$1.00 per share that remove liquidity from the Exchange is for business and competitive reasons. The Exchange believes that increasing such fee as proposed would generate additional revenue to offset some of the costs associated with the Exchange’s proposed pricing structure, which provides various rebates for liquidity-adding orders and discounted fees for liquidity-removing orders, and the Exchange’s operations generally, in a manner that is consistent with the Exchange’s overall pricing philosophy of encouraging added liquidity. The Exchange notes that despite the modest increase proposed herein, the Exchange’s proposed standard fee for executions of all orders in securities priced below \$1.00 per share that remove liquidity from the Exchange (0.20% of the total dollar value) remains competitive with the

⁶ The proposed pricing is referred to by the Exchange on the Fee Schedule under the existing description “Removing Liquidity” in Section 1)a), Standard Rates.

standard fee to remove liquidity in securities priced below \$1.00 per share charged by other equity exchanges.⁷

Conforming Changes to Liquidity Indicator Codes and Associated Fees Table

In conjunction with the Exchange's proposal to (1) increase the rebate for executions of all orders in securities priced below \$1.00 per share that add displayed and non-displayed liquidity to the Exchange and (2) increase the fee for executions of all orders in securities priced below \$1.00 per share that remove liquidity from the Exchange, the Exchange proposes to update the Liquidity Indicator Codes and Associated Fees table to reflect the aforementioned changes.

The Exchange proposes to update the liquidity indicator codes as follows:

- Liquidity indicator code AA, Adds Liquidity, Displayed Order (Tape A). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code AA would receive a rebate of \$0.0029 per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code AB, Adds Liquidity, Displayed Order (Tape B). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code AB would receive a rebate of \$0.0029 per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code AC, Adds Liquidity, Displayed Order (Tape C). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code AC would receive a rebate of \$0.0029 per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code AR, Retail Order, Adds Liquidity, Displayed Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code AR would receive a rebate of \$0.0037 per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.

⁷ See MEMX Fee Schedule, Fee Code "R," supra note 4 (charging a standard fee of 0.25% of the total dollar value to remove liquidity in securities priced below \$1.00 per share); see also Cboe BZX Equities Fee Schedule, Standard Rates, available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/ (last visited August 30, 2022) (charging a standard fee of 0.30% of total dollar value to remove liquidity in securities priced below \$1.00 per share).

- Liquidity indicator code Aa, Adds Liquidity, Non-Displayed Order (Tape A). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Aa would receive a rebate of \$0.0021 per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Ab, Adds Liquidity, Non-Displayed Order (Tape B). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ab would receive a rebate of \$0.0021 per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Ac, Adds Liquidity, Non-Displayed Order (Tape C). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ac would receive a rebate of \$0.0021 per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Ap, Adds Liquidity and Executes at the Midpoint, Non-Displayed Midpoint Peg Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ap would receive a rebate of \$0.0021 per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Ar, Retail Order, Adds Liquidity, Non-Displayed Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ar would receive a rebate of \$0.0021 per share in securities priced at or above \$1.00 and 0.10% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code RA, Removes Liquidity, Displayed Order (Tape A). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RA would be subject to a fee of \$0.0029 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code RB, Removes Liquidity, Displayed Order (Tape B). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RB would be subject to a fee of \$0.0029 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code RC, Removes Liquidity, Displayed Order (Tape C). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RC would be subject to a fee of \$0.0029 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.

- Liquidity indicator code RR, Retail Order, Removes Liquidity, Displayed Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RR would be subject to a fee of \$0.0029 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Ra, Removes Liquidity, Non-Displayed Order (Tape A). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ra would be subject to a fee of \$0.0029 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Rb, Removes Liquidity, Non-Displayed Order (Tape B). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Rb would be subject to a fee of \$0.0029 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Rc, Removes Liquidity, Non-Displayed Order (Tape C). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Rc would be subject to a fee of \$0.0029 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.
- Liquidity indicator code Rr, Retail Order, Removes Liquidity, Non-Displayed Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Rr would be subject to a fee of \$0.0029 per share in securities priced at or above \$1.00 and 0.20% of the transaction's dollar value in securities priced below \$1.00.

Implementation

The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal on September 1, 2022.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act⁸ in general, and furthers the objectives of Section 6(b)(4) of the Act⁹ in

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4).

particular, in that it is an equitable allocation of reasonable fees and other charges among its Equity Members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5)¹⁰ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, and to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange operates in a highly fragmented and competitive market in which market participants can readily direct their order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of sixteen registered equities exchanges, and there are a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly available information, no single registered equities exchange currently has more than approximately 15-16% of the total market share of executed volume of equities trading.¹¹ Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow, and the Exchange currently represents approximately 1% of the overall market share.¹² The Commission and the

¹⁰ 15 U.S.C 78f(b)(5).

¹¹ See “The Market at a Glance,” available at <https://www.miaxoptions.com/> (last visited August 30, 2022).

¹² See *id.*

courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, 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.”¹³

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 reduce 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. The Exchange believes the proposal reflects a reasonable and competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance liquidity and market quality to the benefit of all Members and market participants.

The Exchange believes that the proposed increased rebate for executions of all orders in securities priced below \$1.00 per share that add displayed and non-displayed liquidity to the Exchange is reasonable, equitable, and non-discriminatory because it would further incentivize Equity Members to submit displayed and non-displayed liquidity-adding orders in sub-dollar securities to the Exchange. The Exchange believes that this would deepen liquidity and promote price discovery in such securities to the benefit of all Equity Members, and such rebates would continue to apply equally to all Equity Members. The Exchange further believes that the

¹³ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37499 (June 29, 2005).

proposed increased rebate is reasonable because at least one other exchange provides rebates for executions of liquidity-adding orders in sub-dollar securities that are lower than, equal to, and higher than the proposed rebate.¹⁴

The Exchange believes that the proposed change to increase the standard fee for executions of all orders in securities priced below \$1.00 per share that remove liquidity from the Exchange is reasonable, equitable, and consistent with the Act because such a change is designed to generate additional revenue and decrease the Exchange's expenditures with respect to transaction pricing in order to offset some of the costs associated with the various rebates provided by the Exchange for liquidity-adding orders and the Exchange's operations generally, in a manner that is consistent with the Exchange's overall pricing philosophy of encouraging added liquidity, as described above. The Exchange also believes the proposed increased standard fee for executions of all orders in securities priced below \$1.00 per share that remove liquidity is reasonable and not unfairly discriminatory because it represents a modest increase from the current standard fee. Further, even with the proposed increase, the Exchange's standard fee for executions of all orders in securities priced below \$1.00 per share that remove liquidity remains lower than, or similar to, the standard fee to remove liquidity in securities priced below \$1.00 per share charged by competing equities exchanges.¹⁵ The Exchange further believes that

¹⁴ See supra note 5; see also NYSE Arca Equities Fee Schedule, III. Standard Rates – Transactions, available at <https://www.nyse.com/markets/nyse-arca/trading-info#trading-fees> (last visited August 30, 2022) (providing a standard rebate of 0.0% of the total dollar value of the transaction for liquidity-adding transactions in securities priced below \$1.00 per share, and tiered rebates for such transactions ranging from 0.05% to 0.15% of the total dollar value of the transaction based on a participant achieving certain volume thresholds).

¹⁵ See supra note 7; see also Cboe EDGX Equities Fee Schedule, Standard Rates, available at https://www.cboe.com/us/equities/membership/fee_schedule/edgx/ (last visited August 30, 2022) (charging a standard fee of 0.30% of the dollar value to remove liquidity in securities priced below \$1.00 per share).

the proposal to increase the standard fee for executions of all orders in securities priced below \$1.00 per share that remove liquidity from the Exchange is equitably allocated and not unfairly discriminatory because it will apply to all Equity Members.

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

The Exchange does not believe that the proposed changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed changes would encourage Equity Members to maintain or increase their order flow to the Exchange, thereby contributing to a deeper and more liquid market to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue. As a result, the Exchange believes the proposal would enhance its competitiveness as a market that attracts actionable orders, thereby making it a more desirable destination venue for its customers. For these reasons, the Exchange believes that the proposal 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."¹⁶

Intramarket Competition

As discussed above, the Exchange believes that the proposal would incentivize Equity Members to submit additional order flow, including displayed and non-displayed added liquidity in sub-dollar securities to the Exchange, thereby promoting price discovery and enhancing liquidity and market quality on the Exchange to the benefit of all Equity Members. Additionally, the Exchange believes this will enhance the attractiveness of the Exchange as a trading venue, which the Exchange believes, in turn, would continue to encourage market participants to direct

¹⁶ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 47396 (June 29, 2005).

additional order flow to the Exchange. Greater liquidity benefits all Equity Members by providing more trading opportunities and encourages Equity Members to send additional orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants.

The Exchange believes that the proposed change to increase the standard fee for executions of all orders in securities priced below \$1.00 per share that remove liquidity from the Exchange will not impose any burden on intramarket competition because it represents a modest increase from the current standard fee and remains lower than, or similar to, the standard fee to remove liquidity in securities priced below \$1.00 per share charged by competing equities exchanges.¹⁷ Further, the proposed increased standard removal fee will apply to all Equity Members. For the foregoing reasons, the Exchange believes the proposed changes would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intermarket Competition

The Exchange believes its proposal will benefit competition as the Exchange operates in a highly competitive market. Equity Members have numerous alternative venues they may participate on and direct their order flow to, including fifteen other equities exchanges and numerous alternative trading systems and other off-exchange venues. As noted above, no single registered equities exchange currently has more than 15-16% of the total market share of executed volume of equities trading. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. Moreover, the Exchange believes that the ever-shifting market share among the exchanges

¹⁷ See supra notes 7 and 15.

from month to month demonstrates that market participants can shift order flow in response to new or different pricing structures being introduced to the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates generally, including with respect to executions of all orders in securities priced below \$1.00 per share that remove liquidity from the Exchange, and market participants can readily choose to send their orders to other exchanges and off-exchange venues if they deem fee levels at those other venues to be more favorable.

As described above, the proposed changes are competitive proposals through which the Exchange is seeking to encourage additional order flow to the Exchange and to generate additional revenue to offset some of the costs associated with the Exchange's current pricing structure and its operations generally, and such proposed rates are comparable to, and competitive with, rates charged by other exchanges.¹⁸

Additionally, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, 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."¹⁹

The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. circuit stated: "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their routing

¹⁸ See supra notes 5, 7, 14 and 15.

¹⁹ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possess a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’ . . .”.²⁰ Accordingly, the Exchange does not believe its proposed pricing changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,²¹ and Rule 19b-4(f)(2)²² thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic comments:

²⁰ See NetCoalition v. SEC, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSE-2006-21)).

²¹ 15 U.S.C. 78s(b)(3)(A)(ii).

²² 17 CFR 240.19b-4(f)(2).

- 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:to-rule-comments@sec.gov). Please include File Number SR-PEARL-2022-36 on the subject line.

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-2022-36. 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-2022-36 and should be submitted on or before [insert date 21 days from publication in the Federal Register]. For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Vanessa Countryman
Secretary

²³ 17 CFR 200.30-3(a)(12).

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

Exhibit 5

MIAX Pearl Equities Exchange Fee Schedule

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	Tapes A, B, and C (\$0.0029)	(\$0.0021)	\$0.0029	\$0.0030	\$0.00
Securities below \$1.00	([0.05] <u>0.10%</u> of Dollar Value)	([0.05] <u>0.10%</u> of Dollar Value)	[0.05] <u>0.20%</u> of Dollar Value	0.30% of Dollar Value	\$0.00
Standard Liquidity Indicator Codes	AA, AB, AC, AR	Aa, Ab, Ac, Ap, Ar	RA, Ra, RB, Rb, RC, Rc, RR, Rr	X	O

b) Liquidity Indicator Codes and Associated Fees

Liquidity Indicator Code	Description	Fee/(Rebate) Securities Priced at or Above \$1.00	Fee/(Rebate) Securities Priced Below \$1.00
AA	Adds Liquidity, Displayed Order (Tape A)	(\$0.0029)	([0.05] <u>0.10%</u> of Dollar Value)
AB	Adds Liquidity, Displayed Order (Tape B)	(\$0.0029)	([0.05] <u>0.10%</u> of Dollar Value)
AC	Adds Liquidity, Displayed Order (Tape C)	(\$0.0029)	([0.05] <u>0.10%</u> of Dollar Value)
AR	Retail Order, Adds Liquidity, Displayed Order (All Tapes)	(\$0.0037)	([0.05] <u>0.10%</u> of Dollar Value)
Aa	Adds Liquidity, Non-Displayed Order (Tape A)	(\$0.0021)	([0.05] <u>0.10%</u> of Dollar Value)
Ab	Adds Liquidity, Non-Displayed Order (Tape B)	(\$0.0021)	([0.05] <u>0.10%</u> of Dollar Value)
Ac	Adds Liquidity, Non-Displayed Order (Tape C)	(\$0.0021)	([0.05] <u>0.10%</u> of Dollar Value)
Ap	Adds Liquidity and Executes at the Midpoint, Non-Displayed Midpoint Peg Order (All Tapes)	(\$0.0021)	([0.05] <u>0.10%</u> of Dollar Value)
Ar	Retail Order, Adds Liquidity, Non-Displayed Order (All Tapes)	(\$0.0021)	([0.05] <u>0.10%</u> of Dollar Value)

O	Opening/Re-Opening Process	No change	No change
RA	Removes Liquidity, Displayed Order (Tape A)	\$0.0029	[0.05]0.20% of Dollar Value
RB	Removes Liquidity, Displayed Order (Tape B)	\$0.0029	[0.05]0.20% of Dollar Value
RC	Removes Liquidity, Displayed Order (Tape C)	\$0.0029	[0.05]0.20% of Dollar Value
RR	Retail Order, Removes Liquidity, Displayed Order (All Tapes)	\$0.0029	[0.05]0.20% of Dollar Value
Ra	Removes Liquidity, Non-Displayed Order (Tape A)	\$0.0029	[0.05]0.20% of Dollar Value
Rb	Removes Liquidity, Non-Displayed Order (Tape B)	\$0.0029	[0.05]0.20% of Dollar Value
Rc	Removes Liquidity, Non-Displayed Order (Tape C)	\$0.0029	[0.05]0.20% of Dollar Value
Rr	Retail Order, Removes Liquidity, Non-Displayed Order (All Tapes)	\$0.0029	[0.05]0.20% of Dollar Value
X	Routed	No change	No change
XA	Re-routed by Primary Listing Exchange	No change	No change
XB	Routed Primary Listing Exchange Execution (Other)	No change	No change
XC	Routed to NYSE, Opening/Re-Opening Auction	No change	No change
XD	Routed to NYSE, Closing Auction	No change	No change
XE	Routed to NYSE, Adds Displayed Liquidity	No change	No change
XF	Routed to NYSE Arca, Opening/Re-Opening Auction	No change	No change
XG	Routed to NYSE Arca, Closing Auction	No change	No change
XH	Routed to NYSE Arca, Adds Displayed Liquidity	No change	No change
XI	Routed to NYSE American, Opening/Re-Opening Auction	No change	No change
XJ	Routed to NYSE American, Closing Auction	No change	No change
XK	Routed to NYSE American, Adds Displayed Liquidity	No change	No change
XL	Routed to Cboe BZX, Opening/Re-Opening Auction	No change	No change
XM	Routed to Cboe BZX, Closing Auction	No change	No change
XN	Routed to Cboe BZX, Adds Displayed Liquidity	No change	No change
XO	Routed to Nasdaq, Opening/Re-Opening Auction	No change	No change
XP	Routed to Nasdaq, Closing Auction	No change	No change
XQ	Routed to Nasdaq, Adds Displayed Liquidity	No change	No change
