II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2023–31 and CP2023–30; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 224 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 1, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Jennaca D. Upperman; *Comments Due:* November 9, 2022.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96205; File No. SR–PEARL–2022–43]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 2614, Orders and Order Instructions and Rule 2618, Risk Settings and Trading Risk Metrics To Enhance Existing Risk Controls

November 1, 2022.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 19, 2022, MIAX PEARL, LLC (''MIAX Pearl'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange is filing a proposed rule change to enhance its existing risk controls and provide Equity Members[3] additional risk controls when trading equity securities on the Exchange's equity trading platform (referred to herein as ''MIAX Pearl Equities'').

The text of the proposed rule change is available on the Exchange's website at *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 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

Purpose

The purpose of the proposed rule change is to enhance certain existing risk controls and provide Equity Members additional risk controls when trading equity securities on MIAX Pearl Equities. To help Equity Members manage their risk, the Exchange currently offers Limit Order Price Protection and other risk controls that authorize the Exchange to take automated action if a designated limit for an Equity Member is breached. Such risk controls provide Equity Members with enhanced abilities to manage their risk when trading on the Exchange. The Exchange now proposes to amend Limit Order Price Protection under Exchange Rule 2614(a)(1)(I) and amend Exchange Rule 2618 to enhance certain existing risk controls and provide additional optional risk controls to Equity Members. Each of these changes are described below.

Limit Order Price Protection

Limit Order Price Protection is set forth under Exchange Rule 2614(a)(1)(I) and provides for the cancellation of Limit Orders priced too far away from a specified reference price at the time the order first becomes eligible to trade. A Limit Order entered before Regular Trading Hours[4] that becomes eligible to trade during Regular Trading Hours will be subject to Limit Order Price Protection at the time Regular Trading Hours begins.[5]

Exchange Rule 2614(a)(1)(I)(i) provides that a Limit Order to buy (sell) will be rejected if it is priced at or above (below) the greater of a specified dollar value and percentage away from the following: (1) the PBO for Limit Orders to buy, the PBB for Limit Orders to sell; (2) if the PBO or PBB is unavailable, the consolidated last sale price disseminated during the Regular Trading Hours on trade date; (3) if the PBO, PBB, and a consolidated last sale price are unavailable, the prior day's Official Closing Price identified as such by the primary listing exchange, adjusted to account for events such as corporate actions and news events. Exchange Rule 2614(a)(1)(I)(iii) provides that Limit Order Price Protection will not be applied if the prices listed above are unavailable. Equity Members have requested that Limit Order Price Protection also not be applied when the prior day's Official Closing Price is to be used when the PBO, PBB, and a consolidated last sale price are unavailable and a trading halt has been declared by the primary listing market during that trading day. The Exchange understands that Equity Members believe the Official Closing Price does not appropriately relate to the current trading behavior of the security in such a scenario and Equity Members would prefer Limit Order Price Protection not be applied since it may result in their Limit Order being unnecessarily rejected. The Exchange, therefore, proposes to amend Exchange Rule 2614(a)(1)(I)(iii) to provide that Limit Order Price Protection would not be applied when a regulatory halt has been declared by the primary listing market during that trading day and the Exchange would have applied the prior day's Official Closing Price because the PBO, PBB, and a consolidated last sale price are unavailable.

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

[2] 17 CFR 240.19b–4.

[3] The term ''Equity Member'' is a Member authorized by the Exchange to transact business on MIAX Pearl Equities. *See* Exchange Rule 1901.

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

[5] Further, a Limit Order in a security that is subject to a trading halt becomes first eligible to trade when the halt is lifted and continuous trading has resumed. *See Exchange Rule* 2614(a)(1)(I)(iii).

Exchange Rule 2614(a)(1)(I)(ii) provides Equity Members the ability to customize their specified dollar and percentages on a per session [6] basis. If an Equity Member does not provide the Exchange specified dollar values or percentages for their order(s), default specified dollar and percentages established by the Exchange will be applied.[7] Equity Members have expressed the need for additional flexibility by being able to customize their dollar and percentage thresholds on a per Market Participant Identifier (''MPID'') basis, rather than only on a per session basis. Equity Members requested this flexibility so that they can customize their dollar and percentage thresholds individually for each of their MPIDs based on their risk appetite. Therefore, the Exchange proposes to amend Exchange Rule 2614(a)(1)(I)(ii) to also allow Equity Members to customize the specified dollar and percentages on a per MPID basis.

Per-Order Risk Controls

The Exchange offers Equity Members the ability to establish certain risk control parameters that assist Equity Members in managing their market risk on a per order basis. These optional risk controls are set forth under Exchange Rule 2618(a)(1) and offer Equity Members protection from entering orders outside of certain size and price parameters, and selected order type and modifier combinations, as well as protection from the risk of duplicative executions. The Exchange also permits Equity Members to block new orders, to cancel all open orders, block both new orders and cancel all open orders, and automatically cancel all orders to the extent the Equity Member loses its connection to MIAX Pearl Equities.[8] The risk controls are available to all Equity Members, but are particularly useful to Market Makers, who are required to continuously quote in the Equity Securities to which they are assigned.

As an initial matter, the Exchange proposes to amend Exchange Rule 2618(a)(5) and (6) to incorporate the risk controls set forth under Exchange Rule 2618(a)(1). Exchange Rule 2618(a)(5) currently provides that for the risk settings identified in Exchange Rule 2618(a)(2) (discussed below), both the Equity Member and the Clearing Member (if allocated such responsibility pursuant to Exchange Rule 2618(a)(4)) may enable alerts to signal when the Equity Member is approaching designated limits. Equity Members are also able to enable alerts for risk settings set forth under Exchange Rule 2618(a)(1) and the Exchange proposes to codify this option in Exchange Rule 2618(a)(5). Therefore, Exchange Rule 2618(a)(5) would provide that for the risk settings identified in Exchange Rule (a)(1), the Equity Member may enable alerts to signal when the Equity Member is approaching designated limits provided for in the applicable risk control.

Exchange Rule 2618(a)(6) currently provides that if a risk setting identified in Exchange Rule 2618(a)(2) is breached, the Exchange will automatically block new orders submitted and cancel open orders until such time that the applicable risk control is adjusted to a higher limit by the Equity Member or Clearing Member with the responsibility of establishing and adjusting the risk settings identified in paragraph (a)(2). The same is true for risk settings set forth under Exchange Rule 2618(a)(1) and the Exchange proposes to codify this option in Exchange Rule 2618(a)(6) by adding references to Exchange Rule 2618(a)(1) and providing that the Exchange will automatically block new orders submitted and cancel open orders based on the applicable risk control. Whether the Exchange automatically blocks new orders or cancels open orders would depend on the nature of the applicable risk control. For example, the Exchange would block an order if it was an order type that the Equity Member instructed the Exchange to block pursuant to Exchange Rule 2618(a)(1)(C) or was entered in a Principal capacity and to be blocked pursuant to proposed Exchange Rule 2618(a)(1)(E). The Exchange would cancel an order in a security resting on the MIAX Pearl Equities Book where, for purposes of the cumulative risk controls under Exchange Rule 2618(a)(2), an order is entered in a security that breaches the threshold selected by the Equity Member and the Equity Member instructed the Exchange to cancel the resting orders.[9] The Exchange provides an internet-facing portal via its website that Equity Members access using unique login credentials. The online portal provides self-service functions to Equity Members.[10] Equity Members may use the Exchange's online portal to establish or adjust risk controls set forth under Exchange Rule 2618(a)(1) and (2) and may establish or adjust those controls at the beginning of each trading day or intra-day.

The Exchange also proposes to amend Exchange Rule 2618(a)(1) to provide additional optional per order risk controls to Equity Members.[11] The proposed controls would relate to the entry of orders placed in a Principal or Riskless Principal capacity, the size of an order as compared to the average daily volume (''ADV'') of the security, orders in securities on the Equity Member's restricted securities list, and controls related to the frequency at which orders and/or Cancel/Replace messages are entered. Specifically, Exchange Rule 2618(a)(1)(E) would provide for the prevention of the entry of orders placed in a Principal or Riskless Principal capacity. An Equity Member would be able to instruct the Exchange to reject any orders marked with the capacity of Principal or Riskless Principal or convert such orders to an Agency capacity. In such case, only orders with a capacity of Agency would be accepted. This control is similar to existing controls, such as controls to block an order type or modifier under Exchange Rule 2618(a)(1)(C), because both instruct the Exchange to reject an order that includes certain specific characteristics, such as an order modifier, or in this case, a specific capacity. This proposed risk setting may also assist Equity Members in complying with Exchange Rule 2603, which requires Equity Members to ''input accurate information into the System, including, but not limited to, whether the Equity Member acted in a Principal, Agent, or Riskless Principal capacity for each order entered'' by preventing the entry of an order in a Principal capacity where it seeks to only enter orders in an Agency capacity.

Exchange Rule 2618(a)(1)(F) would provide for controls preventing the entry of an order or order modification request with a size that exceeds the

[6] ''Sessions'' is a defined group of connections to the Exchange's System.

[7] The default specified dollar and percentages are posted to the Exchange's website here: *https://www.miaxequities.com/system-configuration/pearl-equities.*

[8] *See* Exchange Rule 2618(a)(7)(a) (proposed herein to be renumbered as Exchange Rule 2618(a)(7)(A)). The Exchange also proposes to renumber Exchange Rule 2618(a)(7)(b) as Exchange Rule 2618(a)(7)(B).

[9] In such case, the Exchange would also reject the order that breaches the threshold selected by the Equity Member.

[10] *See* Member Firm Portal User Manual, *available at https://www.miaxoptions.com/sites/default/files/knowledge-center/2022-06/MIAX_Exchanges_Member_Firm_Portal_User_Manual_05262022.pdf* (last visited October 13, 2022).

[11] The Exchange also proposes to amend Exchange Rule 2618 to replace all references to the term ''User'' with ''Equity Member'' to ensure consistent terminology is used within the Rule. This is a non-substantive change since the risk controls under Exchange Rule 2618 are only available to Equity Members and, therefore, this proposed change does not alter the operation or application of Exchange Rule 2618.

ADV [12] of the security multiplied by a percentage selected by the Equity Member when the ADV of the security is greater than a specified minimum ADV selected by the Equity Member [13] When opting into this protection, the Equity Member would need to configure an ADV percentage and ''minimum ADV'' for the security. A minimum ADV is required in the security for the control to be applied. For example, an Equity Member may indicate that for any securities with an ADV of 3,000 shares or less, the ADV check should not be applied. The Equity Member sets the minimum ADV, but the ADV percentage only applies if the ADV in the security is higher than the minimum ADV selected by the Equity Member. Pursuant to amended Exchange Rule 2618(a)(6), the Exchange would automatically block new orders or order modification requests until such time that this risk control is adjusted to a higher limit by the Equity Member. Another example, assume the ADV in security ABCD is 2,000 shares and the Equity Member sets a custom percentage of 10% and a minimum ADV of 1,500 shares. In such case, the risk control would be applied as 1,500 < 2,000 with an ADV check threshold of 200 shares (10% × 2,000 = 200 shares). The Equity Member then submits an order for 200 shares and that order is accepted by the Exchange. However, the Exchange would reject an order where that Equity Member entered an order for greater than 200 shares.

Exchange Rule 2618(a)(1)(G) would provide controls related to orders in securities on the Equity Member's restricted securities list. Generally speaking, a restricted list is a current list of securities in which the Equity Member prohibits proprietary, employee and certain solicited customer transactions in a security. This control would instruct the Exchange to reject any order in a security that is included on the Equity Member's restricted securities list pursuant to amended Exchange Rule 2618(a)(6).[14] Lastly, Exchange Rule 2618(a)(1)(H) would provide for controls related to the frequency at which orders and/or Cancel/Replace messages are entered and that instruct the Exchange to reject an order or Cancel/Replace message that are entered at a pace that exceeds a certain frequency.[15] In such case, the Equity Member sets the time window in which the Exchange will count the number of order or Cancel/Replace messages that are received. The Exchange would prevent the entry of new orders or Cancel/Replace messages until a certain amount of time selected by the Equity Member has passed or the Equity Member has reset this control. Pursuant to amended Exchange Rule 2618(a)(5), an Equity Member may enable alerts to signal when the Equity Member is approaching designated frequency limits. This control is similar to existing controls, such as controls to block an order type or modifier under Exchange Rule 2618(a)(1)(C), because both instruct the Exchange to reject an order that includes certain specific characteristics, such as an order modifier, or in this case, is entered within a certain time of an earlier order or Cancel/Replace message.

Currently, Equity Members are able to customize thresholds applicable to the current risk controls under Exchange Rule 2618(a)(1) on a per session or indirectly on a firm level basis [16] and the Exchange proposes to codify this optionality under Exchange Rule 2618(a)(3) by adding a reference to Exchange Rule 2618(a)(1). The Exchange also proposes to now allow Equity Members further flexibility by allowing them to customize thresholds applicable to the current risk controls and the new risk controls described above and set forth under Exchange Rule 2618(a)(1) on a MPID basis. Equity Members have requested this added flexibility so that they may separately manage their order flow at a more granular level.

Exchange Rule 2618(a)(3) currently provides, in sum, that either an Equity Member or its Clearing Member may establish and adjust limits for the risk settings provided in Exchange Rule 2618(a)(2) (described below). Exchange Rule 2618(a)(3)(A) further provides that these limits or thresholds may be set at the MPID, session, or firm level.[17] Exchange Rule 2618(a)(3) does not currently include the risk settings under Exchange Rule 2618(a)(1). Therefore, the Exchange proposes to amend Exchange Rule 2618(a)(3) to include the risk settings under Exchange Rule 2618(a)(1) to codify that they may be set at the firm or session level and to further provide that they may also be set at the MPID level by including the following sentence: ''[a]n Equity Member may set limits for the risk settings provided in paragraph (a)(1) of this Rule 2618.'' Exchange Rule 2618(a)(3)(B) also provides that such limits may be established or adjusted before the beginning of a trading day or during the trading day. This is currently true for the controls under Exchange Rule 2618(a)(1) and adding reference to this rule above to Exchange Rule 2618(a)(3) would codify this functionality and add this additional specificity to the Rule.

The level at which the limits for a certain control could be set would depend on the nature of the control. Specifically, Equity Members are or would be able to set risk settings on a session and/or MPID level for the controls listed under Exchange Rule 2618(a)(1)(A), (B), and (C), and proposed Exchange Rule 2618(a)(1)(E), (F), and (G). Controls to prohibit the entry of duplicative orders under Exchange Rule 2618(a)(1)(D) may only be able to be set at the session level, but due to the nature of the check, the controls would also monitor for duplicative orders sent from the same MPID. Controls related to the frequency of orders and Cancel/Replace messages under proposed Exchange Rule 2618(a)(1)(H) may be set at the session, firm, and MPID level.

Cumulative Risk Controls

Exchange Rule 2618(a)(2) sets forth the specific cumulative risk settings the Exchange offers and include Gross Notional Trade Value and Net Notional Trade Value. Gross Notional Trade Value is a pre-established maximum daily dollar amount for purchases and sales across all symbols, where both purchases and sales are counted as positive values. Net Notional Trade Value is a pre-established maximum daily dollar amount for purchases and sales across all symbols, where purchases are counted as positive values and sales are counted as negative values. For purposes of calculating the Gross Notional Trade Value and Net Notional Trade Value, only executed orders are included.[18]

[12] The ADV would be calculated over the prior 20 trading days and would account for trading days with an early close.

[13] This control is based on Interpretations and Policies .01(g) of EDGX Rule 11.10 and EDGA Rule 11.10.

[14] This control is based on Interpretations and Policies .01(d) of EDGX Rule 11.10 and EDGA Rule 11.10.

[15] This control is based on Interpretations and Policies .01(f) of EDGX Rule 11.10 and EDGA Rule 11.10. Rejection of orders under Exchange Rule 2618(a)(1)(H) is provided for in Exchange Rule 2618(a)(6).

[16] *See* Section 9 of the MIAX Pearl Equities Exchange User Manual *available at MIAX_Pearl_Equities_User_Manual_June_2022.pdf (miaxoptions.com)* (last visited September 19, 2022); *and* Section 1 of the MIAX Pearl Equities Exchange Port Attributes document *available at https://www.miaxoptions.com/sites/default/files/page-files/MIAX_PEARL_Equities_Port_Attributes_v2.0.pdf* (last visited September 19, 2022). The Exchange does not currently expressly permit Equity Members to set the controls listed under Exchange Rule 2614(a)(1) on a firm level basis. However, Equity Members may achieve firm level settings for controls listed under Exchange Rule 2614(a)(1) by setting all of their MPID and session level settings to the same threshold.

[17] *Id.*

[18] The Exchange also proposes to amend the descriptions of Gross Notional Trade Value and Net

Based on Equity Member demand, the Exchange proposes to adopt the following two additional cumulative risk controls that take into account open, unexecuted orders, Gross Notional Open Value and Net Notional Open Value. Proposed Exchange Rule 2618(a)(2)(C) would provide that the Gross Notional Open value is a pre-established maximum daily dollar amount for open buy and sell orders across all symbols, where both open orders to buy and sell are counted as positive values. For purposes of calculating the Gross Notional Open Value, only unexecuted orders are included. Proposed Exchange Rule 2618(a)(2)(D) would provide that the Net Notional Open Value is a pre-established maximum daily dollar amount for open buy and sell orders across all symbols, where open orders to buy are counted as positive values and open orders to sell are counted as negative values. For purposes of calculating the Net Notional Open Value, only unexecuted orders are included, just like the Gross Notional Open Value risk control.

For both the Gross Notional Open Value and Net Notional Open Value risk settings, the open orders calculation would only include Limit Orders resting on the MIAX Pearl Equities Book and Limit Orders that have been routed to an away exchange for execution. Limit Orders and Pegged Orders will be included at their limit price. Market Orders would not be included. Both the Gross Notional Open Value and Net Notional Open Value risk settings are completely optional and would not be applied where the Equity Member does not set the applicable threshold.

Exchange Rule 2618(a)(4) provides that an Equity Member that does not self-clear may allocate and revoke [19] the responsibility of establishing and adjusting the Gross Notional Trade Value and Net Notional Trade Value settings to a Clearing Member [20] that clears transactions on behalf of the Equity Member, if designated in a manner prescribed by the Exchange. The Exchange proposes that the same would be true for the new Gross Notional Open Value and Net Notional Open Value settings.

By way of background, Exchange Rule 2620(a) allows Clearing Members an opportunity to manage their risk of clearing on behalf of other Equity Members, if authorized to do so by the Equity Member trading on the Exchange. Such functionality is designed to help Clearing Members better monitor and manage the potential risks that they assume when clearing for Equity Members of the Exchange. An Equity Member may allocate or revoke the responsibility of establishing and adjusting the risk settings identified in paragraph (a)(2) of Exchange Rule 2618 to its Clearing Member in a manner prescribed by the Exchange. By allocating such responsibility, an Equity Member cedes all control and ability to establish and adjust such risk settings to its Clearing Member unless and until such responsibility is revoked by the Equity Member. Because the Equity Member is responsible for its own trading activity, the Exchange will not provide a Clearing Member authorization to establish and adjust risk settings on behalf of an Equity Member without first receiving consent from the Equity Member. The Exchange considers an Equity Member to have provided such consent if it allocates the responsibility to establish and adjust risk settings to its Clearing Member in a manner prescribed by the Exchange.

Exchange Rule 2618(a)(3) provides that either an Equity Member or its Clearing Member, if allocated such responsibility pursuant to Exchange Rule 2618(a)(4), may establish and adjust limits for the risk settings provided in Exchange Rule 2618(a)(2). An Equity Member or Clearing Member may establish and adjust limits for the risk settings in a manner prescribed by the Exchange. This includes use of the Exchange's online portal. The online portal page also provides a view of all applicable limits for each Equity Member, which will be made available to the Equity Member and its Clearing Member, as currently discussed in Exchange Rule 2618(a)(4).

Trading Collar

In addition to the optional risk control parameters described above, the Exchange also prevents all incoming orders, including those marked ISO, from executing at a price outside the Trading Collar price range and is described in Exchange Rule 2618(b). The Trading Collar prevents buy orders from trading or routing at prices above the collar and prevents sell orders from trading or routing at prices below the collar. The Trading Collar price range is calculated using the greater of numerical guidelines for clearly erroneous executions under Exchange Rule 2621 or a specified dollar value established by the Exchange.

Exchange Rule 2618(b)(1) provides that the Trading Collar price range is calculated based on a Trading Collar Reference Price and sets forth a sequence of prices to determine the Trading Collar Reference Price to be used if a certain reference price is unavailable. The Exchange first utilizes the consolidated last sale price disseminated during the Regular Trading Hours on the trade date as the Trading Collar Reference Price. If not available, the prior day's Official Closing Price identified as such by the primary listing exchange, adjusted to account for events such as corporate actions and news events is used. If neither are available to use as the Trading Collar Reference Price, the Exchange suspends the Trading Collar function in the interest of maintaining a fair and orderly market in the impacted security. The Exchange calculates the Trading Collar price range for a security by applying the Numerical Guideline and reference price to the Trading Collar Reference Price. The result is added to the Trading Collar Reference Price to determine the Trading Collar Price for buy orders, while the result is subtracted from the Trading Collar Reference Price to determine the Trading Collar Price for sell orders. Exchange Rule 2618(b)(1) further provides that upon entry, any portion of an order to buy (sell) that would execute at a price above (below) the Trading Collar Price is cancelled.

Like proposed above for Limit Order Price Protection, Equity Members have requested that the Trading Collar not be applied when the prior day's Official Closing Price is to be used when the a consolidated last sale price is unavailable and a regulatory halt has been declared by the primary listing market during that trading day. The Exchange understands that Equity Members believe the Official Closing Price does not appropriately relate to the current trading behavior of the security in such a scenario and Equity Members would prefer the Trading Collar not be applied since it may result in their order being unnecessarily rejected. The Exchange, therefore,

Notional Trade Value under Exchange Rules 2618(a)(2) to replace the unnecessary phrase ''which refers to'' with the word ''is''. These changes do not alter the operation of either risk control.

[19] As discussed below, if an Equity Member revokes from its Clearing Member the responsibility of establishing and adjusting the risk settings identified in paragraph (a)(2), the settings applied by the Equity Member would be applicable.

[20] The term ''Clearing Member'' refers to a Member that is a member of a Qualified Clearing Agency and clears transactions on behalf of another Member. *See* Exchange Rule 2620(a). Exchange Rule 2620(a) also outlines the process by which a Clearing Member shall affirm its responsibility for clearing any and all trades executed by the Equity Member designating it as its Clearing Firm, and provides that the rules of a Qualified Clearing Agency shall govern with respect to the clearance and settlement of any transactions executed by the Equity Member on the Exchange.

proposes to amend Exchange Rule 2618(b)(1) to provide that upon entry, an order priced outside the Trading Collar would not be rejected when a trading halt has been declared by the primary listing market during that trading day and the Exchange would have applied the prior day's Official Closing Price because the consolidated last sale price is unavailable. In such case, the Exchange would accept such Limit Order and post it on the MIAX Pearl Equities Book at its limit price.[21]

* * * * *

The Exchange does not guarantee that the risk settings in this proposal are sufficiently comprehensive to meet all of an Equity Member's risk management needs. Pursuant to Rule 15c3–5 under the Act,[22] a broker-dealer with market access must perform appropriate due diligence to assure that controls are reasonably designed to be effective, and otherwise consistent with the rule.[23] Use of the Exchange's risk settings included in Exchange Rule 2618 will not automatically constitute compliance with Exchange or federal rules and responsibility for compliance with all Exchange and SEC rules remains with the Equity Member.

Implementation

Due to the technological changes associated with this proposed change, the Exchange will issue a trading alert publicly announcing the implementation date of the proposed enhancements to its risk controls set forth herein. The Exchange anticipates that the implementation date will be in the fourth quarter of 2022.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[24] in general, and furthers the objectives of Section 6(b)(5),[25] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, 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.

Specifically, the Exchange believes the proposed amendments will remove impediments to and perfect the mechanism of a free and open market and a national market system because they provide additional functionality for an Equity Member to manage its risk. The Exchange notes that all of the proposed changes, risk settings, and related functionality are entirely optional. The Exchange believes that the proposed risk settings under Exchange Rule 2618(a)(1) and (2) are designed to protect investors and the public interest because the proposed additional functionality is a form of risk mitigation that will aid Equity Members and Clearing Members in minimizing their financial exposure and reduce the potential for disruptive, market-wide events. In turn, the introduction of such risk management functionality could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system. The proposed rule change would provide an additional option for Equity Members seeking to further tailor their risk management capability while transacting on the Exchange.

Risk Controls Under Exchange Rule 2618(a)(1)

The proposed risk settings under Exchange Rule 2618(a)(1) promote just and equitable principles of trade because they would provide Equity Members with additional protections to manage trading risk and market exposure. Certain of the proposed additional risk settings are available on other equity exchanges[26] or similar to existing risk settings. Specifically, proposed Exchange Rule 2618(a)(1)(E) regarding the entry of orders in a Principal or Riskless Principal capacity is similar to existing controls, such as controls to block an order type or modifier under Exchange Rule 2618(a)(1)(C), because it instructs the Exchange to reject an order that includes certain specific characteristics, such as an order modifier, or in this case, is entered with a specific capacity. Further the proposed controls under Exchange Rule 2618(a)(1)(F), (G), and (H) are based on the rules of other national securities exchange. For example, proposed Exchange Rule 2618(a)(1)(F) provides for the prevention of the entry of an order or order modification request with a size that exceeds the average daily trading volume of the security is based on Interpretations and Policies .01(g) of EDGX Rule 11.10 and EDGA Rule 11.10. Proposed Exchange Rule 2618(a)(1)(G) regarding the entry of orders in securities on an Equity Member's restricted list is based on Interpretations and Policies .01(d) of EDGX Rule 11.10 and EDGA Rule 11.10. Finally, proposed Exchange Rule 2618(a)(1)(H) regarding the frequency of orders and Cancel/Replace messages is based on Interpretations and Policies .01(f) of EDGX Rule 11.10 and EDGA Rule 11.10.

The Exchange believes amending Exchange Rule 2618(a)(3) to incorporate the risk controls under Exchange Rule 2618(a)(1) promotes just and equitable principles of trade because it simply codifies an Equity Member's ability to customize thresholds applicable to the current risk controls under Exchange Rule 2618(a)(1) on a per session or indirectly on a firm level basis.[27] This proposed change would also allow Equity Members to customize thresholds applicable to the current risk controls and the new risk controls described above and set forth under Exchange Rule 2618(a)(1) on a MPID basis. Doing so would provide Equity Members with finer granularity with which they may set and customize such thresholds and manage order flow.

The Exchange's proposal to amend Exchange Rule 2618(a)(5) and (6) to incorporate the risk controls set forth under Exchange Rule 2618(a)(1) also promotes just and equitable principles of trade because it simply codifies existing behavior and provides additional specificity within each Rule. Incorporating Exchange Rule 2618(a)(1) within Exchange Rule 2618(a)(5) fosters cooperation and coordination with persons facilitating transactions in securities because it will codify and make clear that the Exchange will provide alerts when an Equity Member's trading activity reaches certain thresholds under the risk protections set forth under Exchange Rule 2618(a)(1). Likewise, incorporating Exchange Rule 2618(a)(1) within Exchange Rule 2618(a)(6) will also codify and make clear that the Exchange will automatically block new orders submitted and cancel open orders until such time that the applicable risk control is adjusted to a higher limit by the Equity Member. Both these changes would provide greater clarity within the Exchange's rules and avoid potential investor confusion.

[21] In such case, a Limit Order would continue to be subject to the Exchange's applicable re-pricing processes. *See* Exchange Rule 2614(a)(1)(E)–(H).

[22] 17 CFR 240.15c3–5.

[23] *See* Division of Trading and Markets, Responses to Frequently Asked Questions Concerning Risk Management Controls for Brokers or Dealers with Market Access, *available at https://www.sec.gov/divisions/marketreg/faq-15c-5-risk-management-controls-bd.htm.*

[24] 15 U.S.C. 78f(b).

[25] 15 U.S.C. 78f(b)(5).

[26] *See supra* notes 13–15.

[27] *See supra* note 16.

Proposed Gross Notional Open Value and Net Notional Open Value Risk Controls

The proposed Gross Notional Open Value and Net Notional Open Value risk controls under Exchange Rule 2618(a)(2) would further permit Equity Members and Clearing Members who have a financial interest in the risk settings of Equity Members to better monitor and manage their potential risks, including those assumed by Clearing Members, thereby providing Equity Members and Clearing Members with greater control and flexibility over setting their own risk tolerance and exposure. In addition, the proposed additional risk settings under Exchange Rule 2618(a)(2) could provide Clearing Members, who have assumed certain risks of Equity Members, greater control over risk tolerance and exposure on behalf of their correspondent Equity Members, if allocated responsibility pursuant to Exchange Rule 2618(a)(4), while also providing an alert system under Exchange Rule 2618(a)(5) that ensures that both Equity Members and Clearing Members are aware of developing issues. As such, the Exchange believes that the proposed risk settings would provide additional means to address potentially market-impacting events, helping to ensure the proper functioning of the market. To the extent a Clearing Member might reasonably require an Equity Member to provide access to its risk settings as a prerequisite to continuing to clear trades on the Equity Member's behalf, the Exchange's sharing of those risk settings directly reduces the administrative burden on participants on the Exchange, including both Clearing Members and Equity Members. Moreover, providing Clearing Members with the ability to see the risk settings established for Equity Members for which they clear fosters efficiencies in the market and removes impediments to and perfects the mechanism of a free and open market and a national market system. The Exchange believes that the proposed new risk settings under Exchange Rule 2618(a)(2) are consistent with the Act, particularly Section 6(b)(5),[28] because they would foster cooperation and coordination with persons engaged in facilitating transactions in securities and more generally, will protect investors and the public interest, by allowing Equity Members and Clearing Members to better monitor their risk exposure and by fostering efficiencies in the market and removing impediments to and perfect the mechanism of a free and open market and a national market system.

In addition, the proposed Gross Notional Open Value and Net Notional Open Value risk controls under proposed Exchange Rule 2618(a)(2)(C) and (D), respectively, are similar to credit controls measuring gross and net exposure provided for in Exchange Rules 2618(a)(1)(A) and (a)(2)(A) and (B). Further, like the Exchange's existing credit controls measuring gross and net exposure, the proposed risk setting would also be based on a notional execution value. Proposed Gross Notional Open Value and Net Notional Open Value risk controls under proposed Exchange Rule 2618(a)(2)(C) and (D) are also reasonably designed to provide Equity Members and Clearing Members (if allocated responsibility pursuant to Exchange Rule 2618(a)(4)) additional opportunity to monitor and manage the potential risks of an execution that exceeds their certain risk appetite, as well as to provide Clearing Members with greater control over their risk tolerance and exposure on behalf of their correspondent Equity Members.

Limit Order Price Protection and Trading Collar Changes

Allowing Equity Members to customize their Limit Order Price Protection dollar and percentage thresholds on a per MPID basis, rather than only on a per session basis under Exchange Rule 2614(a)(1)(I)(ii) provides Equity Members additional flexibility to customize those thresholds in a manner consistent with their risk appetite and behavior. The proposal promotes just and equitable principles of trade because it would allow Equity Members to set their risk thresholds comprehensively and across various level settings, including the more granular MPID level, if they chose to do so, as well as prevent the unnecessary rejection of orders in certain market scenarios.

The proposal to not apply Limit Order Price Protection and Trading Collar when the prior day's Official Closing Price is to be used when the PBO, PBB, (for Limit Order Price Protection) and a consolidated last sale price are unavailable and a trading halt has been declared by the primary listing market during that trading day also promotes just and equitable principles of trade because in such a scenario, the Exchange believes the Official Closing Price does not appropriately relate to the current trading behavior of the security and may result in their order being unnecessarily rejected. Equity Members are free to not enter orders during such times and enter such orders later when Limit Order Price Protection and Trading Collars are in effect.

Replacing ''User'' With ''Equity Member''

The proposal to amend Exchange Rule 2618 to replace all references to the term ''User'' with ''Equity Member'' removes impediments to and perfects the mechanism of a free and open market and a national market system because it would ensure consistent terminology is used within the Rule, thereby avoiding potential investor confusion. This is a non-substantive change since the risk controls under Exchange Rule 2618 are only available to Equity Members and, therefore, this proposed change does not alter the operation or application of Exchange Rule 2618.

* * * * *

Finally, the Exchange believes that the proposed rule change does not unfairly discriminate among the Exchange's Members because use of the risk settings is optional and are not a prerequisite for participation on the Exchange. The proposed risk settings are completely voluntary and, as they relate solely to optional risk management functionality, no Member is required or under any regulatory obligation to utilize them.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In fact, the Exchange believes that the proposal may have a positive effect on competition because it would allow the Exchange to offer additional risk management functionality that is comparable to functionality that has been adopted by other national securities exchanges.[29] Further, by providing Equity Members and their Clearing Members additional means to monitor and control risk, the proposed rule may increase confidence in the proper functioning of the markets and contribute to additional competition among trading venues and broker-dealers. Rather than impede competition, the proposal is designed to facilitate more robust risk management by Equity Members and Clearing Members, which, in turn, could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system. The proposal would impose no burden on intra-market competition because use of the proposed risk settings is optional and

[28] 15 U.S.C. 78f(b)(5).

[29] *See supra* notes 13–15.

each risk setting is available to all Equity Members equally.

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

Written comments were neither solicited nor received.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [30] and Rule 19b–4(f)(6) [31] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments

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

• Send an email to *rule-comments@sec.gov*. Please include File Number SR–PEARL–2022–43 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–PEARL–2022–43. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PEARL–2022–43 and should be submitted on or before November 28, 2022.

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

J. Matthew DeLesDernier,

Deputy Secretary.

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[30] 15 U.S.C. 78s(b)(3)(A).

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

[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96199; File No. SR–ISE–2022–24]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Pricing Schedule at Options 7, Section 6 To Adopt a New Qualified Contingent Cross Rebate Program and Increase the Crossing Fee Cap

November 1, 2022.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 24, 2022, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the Exchange's Pricing Schedule at Options 7, Section 6.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/ise/rules,* at the principal office of the Exchange, 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 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.

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

[2] 17 CFR 240.19b–4.