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

File No. * SR 2024 - * 41

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) decrease the fee for executions of orders in securities priced at or above \$1.00 per share that remove liquidity; and 2) modify the Step-Up Rebate program.

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@miaxglobal.com

Telephone * (609) 955-0460 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 09/09/2024

(Title *)

By Michael Slade

AVP, Associate Counsel

(Name *)

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

Michael Slade Date: 2024.09.09
16:04:36 -04'00'

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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SR-PEARL-2024-41 - 19b4.docx

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

Exhibit 1 - Notice of Proposed Rule Change *

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SR-PEARL-2024-41 - 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-2024-41 - Exhibit 5.docx

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

Partial Amendment

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

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

(a) MIAX PEARL, LLC (“MIAX Pearl” or “Exchange”), pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “Exchange 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 Exchange Board of Directors on January 19, 2024. 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 and Associate Counsel, at (609) 955-0460.

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: (1) amend Sections 1)a)-b) of the Fee Schedule to decrease the fee for executions of orders that remove liquidity from the Exchange in securities priced at or above \$1.00 per share from \$0.00295 to \$0.00285 per share for all Tapes; and (2) amend Section 1)c) of the Fee Schedule to modify one aspect of the criteria that is required for Equity Members³ to receive the Step-Up Rebate (described below) and extend the sunset period (described below). The Exchange initially filed this proposal on August 30, 2024 (SR-PEARL-2024-40). On September 9, 2024, the Exchange withdrew SR-PEARL-2024-40 and refiled this proposal.

Proposal to Decrease the Fee to Remove Liquidity in Securities Priced at or Above \$1.00 per Share

The Exchange proposes to amend Sections 1)a)-b) of the Fee Schedule to decrease the fee for executions of orders that remove liquidity from the Exchange in securities priced at or above \$1.00 per share from \$0.00295 to \$0.00285 per share for all Tapes.

The Exchange currently charges a standard fee of \$0.00295 per share for executions of orders in securities priced at or above \$1.00 per share that remove liquidity from the Exchange for all Tapes.⁴

The Exchange now proposes to amend the Standard Rates in Section 1)a) of the Fee Schedule to decrease the fee to remove liquidity from the Exchange in securities priced at or above \$1.00 per share from \$0.00295 to \$0.00285 per share for all Tapes.

Further, the Exchange proposes to amend the Liquidity Indicator Codes and Associated Fees table in Section 1)b) of the Fee Schedule to reflect the aforementioned change. The

³ The term “Equity Member” is a Member authorized by the Exchange to transact business on MIA X Pearl Equities. See Exchange Rule 1901.

⁴ See Fee Schedule, Section 1)a).

Exchange proposes to amend the fee associated with Liquidity Indicator Codes “RA,” “Ra,” “RB,” “Rb,” “RC,” “Rc,” “RR,” “Rr,” “RT,” “Rt,” and “Rp”, from \$0.00295 to now be \$0.00285 per share, to reflect the proposed change to the fee for executions of orders in securities priced at or above \$1.00 per share that remove liquidity from the Exchange in all Tapes. The Exchange does not propose to amend the fees for executions of orders in securities priced below \$1.00 per share that remove liquidity from the Exchange in all Tapes, which is currently set at 0.25% of the total dollar value of the transaction.⁵

The purpose of these proposed changes is for business and competitive reasons. The Exchange believes it is appropriate to decrease the fee to remove liquidity from the Exchange in securities priced at or above \$1.00 per share from \$0.00295 to \$0.00285 per share for all Tapes to further encourage market participants to enter liquidity removing orders on the Exchange, thereby increasing the execution opportunities for the liquidity adding orders resting on the MIAX Pearl Equities Book.⁶ The Exchange notes that the Exchange’s proposed standard fee of \$0.00285 per share for executions of all orders in securities priced at or above \$1.00 per share that remove liquidity from the Exchange remains competitive with the standard fee to remove liquidity in securities priced at or above \$1.00 per share charged by other equity exchanges.⁷

Proposal to Amend the NBBO Setter Plus Table to Modify the Baseline Month and Sunset Period for the Step-Up Rebate

⁵ See Fee Schedule, Sections 1)a)-b).

⁶ The term “MIAX Pearl Equities Book” shall mean the electronic book of orders in equity securities maintained by the System. See Exchange Rule 1901.

⁷ See e.g., MEMX LLC (“MEMX”) Equities Fee Schedule, Transaction Fees, Fee Code “R” (providing standard remove volume fee of \$0.0030 per share for executions of orders in securities priced at or above \$1.00 per share); and Cboe EDGX Exchange, Inc. (“EDGX”), Equities Fee Schedule, Standard Rates (providing standard remove volume fee of \$0.0030 per share for executions of orders in securities priced at or above \$1.00 per share).

The Exchange proposes to amend the Step-Up Rebate in footnote #4 of the NBBO Setter Plus Table in Section 1)c) of the Fee Schedule to amend the baseline month and sunset period for Step-Up Rebate.⁸

By way of background, the NBBO Setter Plus Program (referred to in this filing as the “NBBO Program”) was implemented beginning September 1, 2023 and subsequently amended several times.⁹ In general, the NBBO Program provides enhanced rebates for Equity Members that add displayed liquidity (“Added Displayed Volume”) in securities priced at or above \$1.00 per share in all Tapes based on increasing volume thresholds and increasing market quality levels. The NBBO Program provides the following additional incentives: (1) an NBBO Setter Additive Rebate¹⁰ applied to executions of orders in securities priced at or above \$1.00 per share that set the NBB or NBO upon entry; (2) an NBBO First Joiner Additive Rebate¹¹ applied to executions of orders in securities priced at or above \$1.00 per share that bring MIA X Pearl Equities to the established NBB or NBO; and (3) a Step-Up Rebate for Equity Members that

⁸ See Fee Schedule, Section 1)c), note #4.

⁹ See, e.g., Securities Exchange Act Release Nos. 98472 (September 21, 2023), 88 FR 66533 (September 27, 2023) (SR-PEARL-2023-45); 99318 (January 11, 2024), 89 FR 3488 (January 18, 2024) (SR-PEARL-2023-73); and 99695 (March 8, 2024), 89 FR 18694 (March 14, 2024) (SR-PEARL-2024-11).

¹⁰ The Exchange does not propose to amend the NBBO Setter Additive Rebate, which is an additive rebate of (\$0.0004) per share for executions of orders in securities priced at or above \$1.00 per share that set the NBB or NBO on MIA X Pearl Equities with a minimum size of a round lot. See Fee Schedule, Section 1)c). The Exchange notes that rebates are indicated by parentheses in the Fee Schedule. See the General Notes section of the Fee Schedule.

¹¹ The Exchange does not propose to amend the NBBO First Joiner Additive Rebate, which is an additive rebate of (\$0.0002) per share for executions of orders in securities priced at or above \$1.00 per share that bring MIA X Pearl Equities to the established NBB or NBO with a minimum size of a round lot. See Fee Schedule, Section 1)c).

satisfy the following requirements: (i) minimum displayed ADAV¹² as a percentage of TCV¹³ of 0.35% and (ii) an increase in the percentage of displayed ADAV as a percentage of TCV of at least 0.05% as compared to the Equity Member's February 2024 displayed ADAV percentage. Alternatively, an Equity Member may qualify for the Step-Up Rebate by satisfying the following requirements: (1) minimum displayed ADAV as a percentage of TCV of 0.35% (excluding sub-dollar volume); and (2) increase in the percentage of displayed ADAV as percentage of TCV of at least 0.05% as compared to the Equity Member's February 2024 displayed ADAV percentage (excluding sub-dollar volume). Currently, the Step-Up Rebate is set to expire no later than August 31, 2024 (referred to herein as the "sunset period").

The Exchange now proposes to amend Section 1)c) of the Fee Schedule to modify one aspect of the criteria for Equity Members to receive the Step-Up Rebate and the sunset period. In particular, the Exchange proposes to amend the baseline month from February 2024 to now be July 2024. With the proposed change, Equity Members will qualify for the Step-Up Rebate by satisfying the following requirements: (i) minimum displayed ADAV as a percentage of TCV of 0.35% and (ii) an increase in the percentage of displayed ADAV as a percentage of TCV of at least 0.05% over the baseline month of July 2024.¹⁴ Alternatively, Equity Members will qualify for the Step-Up Rebate by satisfying the following requirements: (1) minimum displayed ADAV

¹² "ADAV" means average daily added volume calculated as the number of shares added per day and "ADV" means average daily volume calculated as the number of shares added or removed, combined, per day. ADAV and ADV are calculated on a monthly basis. "NBBO Set Volume" means the ADAV in all securities of an Equity Member that sets the NBB or NBO on MIAX Pearl Equities. See the Definitions section of the Fee Schedule.

¹³ "TCV" means total consolidated volume calculated as the volume in shares reported by all exchanges and reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply. See id.

¹⁴ The Exchange will use a baseline ADAV of 0.00% of TCV for firms that become Equity Members of the Exchange after July 2024 for the purpose of the Step-Up Rebate calculation.

as a percentage of TCV of 0.35% (excluding sub-dollar volume); and (2) increase in the percentage of displayed ADAV as percentage of TCV of at least 0.05% over the baseline month of July 2024 (excluding sub-dollar volume).

Additionally, the Exchange proposes to amend the sunset period by extending the Step-Up Rebate until January 31, 2025 (the last trading day for the month of January 2025).¹⁵ The Exchange will issue a proposed filing and alert to market participants should the Exchange determine that the Step-Up Rebate will expire earlier than January 31, 2025 or if the Exchange determines to amend the criteria or rate applicable to the Step-Up Rebate prior to the end of the sunset period. The Exchange notes that at least one other competing equities exchange recently filed a proposal to use a more recent month (June 2024) as the baseline month comparison for one of its enhanced rebates and included a similar “sunset period”.¹⁶ Accordingly, this proposal is not new or novel.

The Exchange does not propose any other changes to the qualifying criteria for Equity Members to receive the Step-Up Rebate. The Exchange also does not propose to amend the amount of the Step-Up rebate of (\$0.001) per share.¹⁷

The purpose of this proposed change is to update the baseline month for the Step-Up Rebate calculation to a more recent month as volume on the Exchange has changed since the Exchange last amended the Step-Up Rebate. The Exchange believes that with the updated

¹⁵ The Exchange notes that at the end of the sunset period, the Step-Up Rebate will no longer apply unless the Exchange files another 19b-4 Filing with the Commission to amend the criteria terms or update the baseline month to a more recent month.

¹⁶ See Securities Exchange Act Release No. 100469 (July 9, 2024), 89 FR 57463 (June 15, 2024) (SR-MEMX-2024-26); see also MEMX Equities Fee Schedule, Liquidity Provision Tiers, Tier 1, available at <https://info.memxtrading.com/equities-trading-resources/us-equities-fee-schedule/> (last visited August 25, 2024).

¹⁷ See Fee Schedule, Section 1)c), note #4.

baseline month, the Step-Up Rebate will continue to provide an incentive for Equity Members to strive for higher ADAV on the Exchange to receive the enhanced rebate for qualifying executions of orders in securities priced at or above \$1.00 per share that add displayed liquidity to the Exchange. The Exchange believes that this will, in turn, promote price discovery and contribute to a deeper and more liquid market, which benefits all market participants and enhances the attractiveness of the Exchange as a trading venue.

The purpose of modifying the sunset period in the Fee Schedule is to extend the sunset period for the Step-Up Rebate until January 31, 2025. This will allow Equity Members to take into account that the enhanced rebate provided by the Step-Up Rebate will be discontinued at the end of the new sunset period unless the Exchange announces otherwise and files a new proposal with the Commission.

Implementation

The proposed fee changes are immediately effective.

b. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act¹⁸ in general, and furthers the objectives of Section 6(b)(4) of the Act¹⁹ in 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 proposal is consistent with the objectives of Section 6(b)(5)²⁰ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, and to

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(4).

²⁰ 15 U.S.C. 78f(b)(5).

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. For the month of July 2024, based on publicly available information, no single registered equities exchange had more than approximately 15-16% of the total market share of executed volume of equities trading.²¹ Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. For the month of July 2024, the Exchange represented 1.61% of the total market share of executed volume of equities trading.²² The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and also recognized that

²¹ See the “Market Share” section of the Exchange’s website, available at <https://www.miaxglobal.com/> (last visited August 26, 2024).

²² Id.

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.”²³

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to 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 continue to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would continue to enhance liquidity and market quality to the benefit of all Equity Members and market participants.

Proposal to Decrease the Fee to Remove Liquidity in Securities Priced at or Above \$1.00 per Share

The Exchange believes the proposed change to decrease the fee to remove liquidity in securities priced at or above \$1.00 per share from \$0.00295 to \$0.00285 per share for all tapes is reasonable because the proposed fee remains lower than, and competitive with, the standard fee charged by competing exchanges to remove liquidity in securities priced at or above \$1.00 per share.²⁴ The Exchange further believes that the proposed change is equitably allocated and not unfairly discriminatory because the proposed fee of \$0.00285 per share for executions of all orders in securities priced at or above \$1.00 per share that remove liquidity from the Exchange will apply equally to all Equity Members that remove liquidity.

²³ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37499 (June 29, 2005).

²⁴ See *supra* note 7.

Proposal to Amend the NBBO Setter Plus Table to Amend the Baseline Month and Sunset Period for the Step-Up Rebate

The Exchange believes its proposal to update the baseline month for the Step-Up Rebate is reasonable, equitably allocated and not unfairly discriminatory because volume on the Exchange has changed since the Exchange last amended the Step-Up Rebate and the Exchange now proposes to update the baseline month to a more recent month. The Exchange believes that with the updated baseline month, the Step-Up Rebate will continue to provide an incentive for Equity Members to strive for higher ADAV on the Exchange to receive the enhanced rebate for qualifying executions of orders in securities priced at or above \$1.00 per share that add displayed liquidity to the Exchange. The Exchange believes that the proposal is reasonable because even with the updated baseline month, the Step-Up Rebate will continue to encourage the submission of added displayed liquidity to the Exchange, thereby promoting price discovery and contributing to a deeper and more liquid market, which benefits all market participants and enhances the attractiveness of the Exchange as a trading venue.

The Exchange believes that the Step-Up Rebate, as modified by the proposed change to the baseline month, is reasonable, equitable and not unfairly discriminatory as the Step-Up Rebate will continue to be available to all Equity Members on an equal basis, and is reasonably designed to encourage Equity Members to maintain or increase their order flow in liquidity-adding volume. The Exchange believes this will continue to promote price discovery, enhance liquidity and market quality, and contribute to a more robust and well-balanced market ecosystem on the Exchange to the benefit of all Equity Members and market participants. The

Exchange also notes that MEMX recently filed a proposal to use a more recent month (June 2024) as the baseline month for MEMX's members to receive one of its enhanced rebates.²⁵

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to extend the sunset period for the Step-Up Rebate until January 31, 2025. Unless the Exchange determines to amend or otherwise modify the Step-Up Rebate, the Step-Up Rebate will expire at the end of the sunset period. This will allow Equity Members to take into account that the enhanced rebate provided for by the Step-Up Rebate will be discontinued at the end of sunset period unless the Exchange announces otherwise and files a new proposal with the Commission. The Exchange further notes that it will issue a proposed filing and alert to market participants should the Exchange determine that the Step-Up Rebate will expire earlier than January 31, 2025 or if the Exchange determines to amend the criteria or rate applicable to the Step-Up Rebate prior to the end of the sunset period. At least one other competing equities exchange provided a similar sunset period in its fee schedule for one of its enhanced rebates subject to a baseline month comparison with a more recent month.²⁶

For the reasons discussed above, the Exchange submits that the proposal satisfies the requirements of Sections 6(b)(4) and 6(b)(5) of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Equity Members and other persons using its facilities and is not designed to unfairly discriminate between customers, issuers, brokers, or dealers.

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

²⁵ See supra note 16.

²⁶ See id.

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.

Intramarket Competition

The Exchange believes that the proposed change to decrease the fee from \$0.00295 to \$0.00285 per share for executions of orders in securities priced at or above \$1.00 per share for all Tapes will not impose any burden on intramarket competition because it represents a decrease from the current fee for such executions. The Exchange believes the proposed reduced fee will further encourage market participants to enter liquidity removing orders on the Exchange, thereby increasing the execution opportunities for the liquidity adding orders resting on the MIAX Pearl Equities Book, thereby promoting competition on the Exchange. The proposed reduced fee for executions of orders in securities priced at or above \$1.00 per share that remove liquidity from the Exchange will apply equally to all Equity Members. Further, the Exchange notes that the Exchange's proposed reduced fee of \$0.00285 per share for executions of all orders in securities priced at or above \$1.00 per share that remove liquidity from the Exchange remains lower than, and competitive with, the standard fee to remove liquidity in securities priced at or above \$1.00 per share charged by competing equity exchanges.²⁷

The Exchange does not believe that the proposal to update the baseline month for Step-Up Rebate will impose any burden on intramarket competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the Step-Up Rebate, as modified by this proposal, will continue to incentivize Equity Members to submit additional orders that add liquidity to the Exchange, thereby contributing to a deeper and more liquid market and promoting price discovery and market quality on the Exchange to the benefit of all market

²⁷ See supra note 7.

participants and enhancing the attractiveness of the Exchange as a trading venue, which the Exchange believes, in turn, would continue to encourage market participants to direct additional order flow to the Exchange.

The Exchange believes its proposal to modify the sunset period in the Fee Schedule for the Step-Up Rebate will not impose any burden on intramarket competition not necessary or appropriate in furtherance of the purposes of the Act. With the proposed extension of the sunset period, all Equity Members may continue to qualify for the enhanced rebate provided by the Step-Up Rebate until January 31, 2025. Unless the Exchange determines to amend or otherwise modify the Step-Up Rebate, the Step-Up Rebate will be discontinued at the end of the sunset period. This will allow Equity Members to take into account that the enhanced rebate provided for by the Step-Up Rebate will be discontinued at the end of sunset period unless the Exchange announces otherwise. The Exchange further notes that it will issue a proposed filing and alert to market participants should the Exchange determine that the Step-Up Rebate will expire earlier than January 31, 2025 or if the Exchange determines to amend the criteria or rate applicable to the Step-Up Rebate prior to the end of the sunset period. At least one other competing equities exchange provided a similar sunset period in its fee schedule for one of its enhanced rebates subject to a baseline month comparison with a more recent month.²⁸ 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

²⁸ See supra note 16.

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 approximately 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 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 at or above \$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 and the proposed reduce fee of \$0.00285 per share for removing liquidity in securities priced at or above \$1.00 per share remains lower than, or similar to, the standard fee to remove liquidity in securities priced at or above \$1.00 per share charged by competing equities exchanges.²⁹ Further, the proposed reduce fee to remove liquidity from securities priced at or above \$1.00 per share will apply to all Equity Members equally.

As described above, the proposed changes to modify the baseline month and extend the sunset period for the Step-Up Rebate represent a competitive proposal through which the Exchange is seeking to continue to encourage additional order flow to the Exchange through a volume-based incentive that is comparable to the criteria for volume-based incentives adopted by

²⁹ See supra note 7.

at least one other competing exchange which also updated its baseline month to a more recent month for a specific enhanced rebate that adds liquidity to that market.³⁰ Accordingly, the Exchange believes that its proposal would not burden, but rather promote, intermarket competition by enabling it to better compete with other exchanges that offer similar pricing incentives to market participants that achieve certain volume criteria and thresholds.

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.”³¹

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 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’”³² 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.

³⁰ See supra note **Error! Bookmark not defined.**6.

³¹ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

³² 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)).

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,³³ and Rule 19b-4(f)(2) thereunder³⁴ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

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

Not applicable.

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

Not applicable.

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

Not applicable.

11. Exhibits

1. Completed notice of proposed rule change for publication in the Federal Register.
5. Copy of the applicable section of the Fee Schedule.

³³ 15 U.S.C. 78s(b)(3)(A)(ii).

³⁴ 17 CFR 240.19b-4.

EXHIBIT 1SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-PEARL-2024-41)

September ____, 2024

Self-Regulatory Organizations: Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by MIA X PEARL, LLC to Amend the MIA X 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 September 9, 2024, MIA X PEARL, LLC (“MIA X 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 MIA X Pearl Equities, an equities trading facility of the Exchange.

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

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

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

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

1. Purpose

The Exchange proposes to: (1) amend Sections 1)a)-b) of the Fee Schedule to decrease the fee for executions of orders that remove liquidity from the Exchange in securities priced at or above \$1.00 per share from \$0.00295 to \$0.00285 per share for all Tapes; and (2) amend Section 1)c) of the Fee Schedule to modify one aspect of the criteria that is required for Equity Members³ to receive the Step-Up Rebate (described below) and extend the sunset period (described below). The Exchange initially filed this proposal on August 30, 2024 (SR-PEARL-2024-40). On September 9, 2024, the Exchange withdrew SR-PEARL-2024-40 and refiled this proposal.

Proposal to Decrease the Fee to Remove Liquidity in Securities Priced at or Above \$1.00 per Share

The Exchange proposes to amend Sections 1)a)-b) of the Fee Schedule to decrease the fee for executions of orders that remove liquidity from the Exchange in securities priced at or above \$1.00 per share from \$0.00295 to \$0.00285 per share for all Tapes.

The Exchange currently charges a standard fee of \$0.00295 per share for executions of orders in securities priced at or above \$1.00 per share that remove liquidity from the Exchange for all Tapes.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 See Fee Schedule, Section 1)a).

The Exchange now proposes to amend the Standard Rates in Section 1)a) of the Fee Schedule to decrease the fee to remove liquidity from the Exchange in securities priced at or above \$1.00 per share from \$0.00295 to \$0.00285 per share for all Tapes.

Further, the Exchange proposes to amend the Liquidity Indicator Codes and Associated Fees table in Section 1)b) of the Fee Schedule to reflect the aforementioned change. The Exchange proposes to amend the fee associated with Liquidity Indicator Codes “RA,” “Ra,” “RB,” “Rb,” “RC,” “Rc,” “RR,” “Rr,” “RT,” “Rt,” and “Rp”, from \$0.00295 to now be \$0.00285 per share, to reflect the proposed change to the fee for executions of orders in securities priced at or above \$1.00 per share that remove liquidity from the Exchange in all Tapes. The Exchange does not propose to amend the fees for executions of orders in securities priced below \$1.00 per share that remove liquidity from the Exchange in all Tapes, which is currently set at 0.25% of the total dollar value of the transaction.⁵

The purpose of these proposed changes is for business and competitive reasons. The Exchange believes it is appropriate to decrease the fee to remove liquidity from the Exchange in securities priced at or above \$1.00 per share from \$0.00295 to \$0.00285 per share for all Tapes to further encourage market participants to enter liquidity removing orders on the Exchange, thereby increasing the execution opportunities for the liquidity adding orders resting on the MIAX Pearl Equities Book.⁶ The Exchange notes that the Exchange’s proposed standard fee of \$0.00285 per share for executions of all orders in securities priced at or above \$1.00 per share

⁵ See Fee Schedule, Sections 1)a)-b).

⁶ The term “MIAX Pearl Equities Book” shall mean the electronic book of orders in equity securities maintained by the System. See Exchange Rule 1901.

that remove liquidity from the Exchange remains competitive with the standard fee to remove liquidity in securities priced at or above \$1.00 per share charged by other equity exchanges.⁷

Proposal to Amend the NBBO Setter Plus Table to Modify the Baseline Month and Sunset Period for the Step-Up Rebate

The Exchange proposes to amend the Step-Up Rebate in footnote #4 of the NBBO Setter Plus Table in Section 1)c) of the Fee Schedule to amend the baseline month and sunset period for Step-Up Rebate.⁸

By way of background, the NBBO Setter Plus Program (referred to in this filing as the “NBBO Program”) was implemented beginning September 1, 2023 and subsequently amended several times.⁹ In general, the NBBO Program provides enhanced rebates for Equity Members that add displayed liquidity (“Added Displayed Volume”) in securities priced at or above \$1.00 per share in all Tapes based on increasing volume thresholds and increasing market quality levels. The NBBO Program provides the following additional incentives: (1) an NBBO Setter Additive Rebate¹⁰ applied to executions of orders in securities priced at or above \$1.00 per share that set the NBB or NBO upon entry; (2) an NBBO First Joiner Additive Rebate¹¹ applied to

⁷ See e.g., MEMX LLC (“MEMX”) Equities Fee Schedule, Transaction Fees, Fee Code “R” (providing standard remove volume fee of \$0.0030 per share for executions of orders in securities priced at or above \$1.00 per share); and Cboe EDGX Exchange, Inc. (“EDGX”), Equities Fee Schedule, Standard Rates (providing standard remove volume fee of \$0.0030 per share for executions of orders in securities priced at or above \$1.00 per share).

⁸ See Fee Schedule, Section 1)c), note #4.

⁹ See, e.g., Securities Exchange Act Release Nos. 98472 (September 21, 2023), 88 FR 66533 (September 27, 2023) (SR-PEARL-2023-45); 99318 (January 11, 2024), 89 FR 3488 (January 18, 2024) (SR-PEARL-2023-73); and 99695 (March 8, 2024), 89 FR 18694 (March 14, 2024) (SR-PEARL-2024-11).

¹⁰ The Exchange does not propose to amend the NBBO Setter Additive Rebate, which is an additive rebate of (\$0.0004) per share for executions of orders in securities priced at or above \$1.00 per share that set the NBB or NBO on MIAX Pearl Equities with a minimum size of a round lot. See Fee Schedule, Section 1)c). The Exchange notes that rebates are indicated by parentheses in the Fee Schedule. See the General Notes section of the Fee Schedule.

¹¹ The Exchange does not propose to amend the NBBO First Joiner Additive Rebate, which is an additive rebate of (\$0.0002) per share for executions of orders in securities priced at or above \$1.00 per share that bring MIAX Pearl Equities to the established NBB or NBO with a minimum size of a round lot. See Fee Schedule, Section 1)c).

executions of orders in securities priced at or above \$1.00 per share that bring MIA X Pearl Equities to the established NBB or NBO; and (3) a Step-Up Rebate for Equity Members that satisfy the following requirements: (i) minimum displayed ADA V¹² as a percentage of TCV¹³ of 0.35% and (ii) an increase in the percentage of displayed ADA V as a percentage of TCV of at least 0.05% as compared to the Equity Member's February 2024 displayed ADA V percentage. Alternatively, an Equity Member may qualify for the Step-Up Rebate by satisfying the following requirements: (1) minimum displayed ADA V as a percentage of TCV of 0.35% (excluding sub-dollar volume); and (2) increase in the percentage of displayed ADA V as percentage of TCV of at least 0.05% as compared to the Equity Member's February 2024 displayed ADA V percentage (excluding sub-dollar volume). Currently, the Step-Up Rebate is set to expire no later than August 31, 2024 (referred to herein as the "sunset period").

The Exchange now proposes to amend Section 1)c) of the Fee Schedule to modify one aspect of the criteria for Equity Members to receive the Step-Up Rebate and the sunset period. In particular, the Exchange proposes to amend the baseline month from February 2024 to now be July 2024. With the proposed change, Equity Members will qualify for the Step-Up Rebate by satisfying the following requirements: (i) minimum displayed ADA V as a percentage of TCV of 0.35% and (ii) an increase in the percentage of displayed ADA V as a percentage of TCV of at least 0.05% over the baseline month of July 2024.¹⁴ Alternatively, Equity Members will qualify

¹² "ADA V" means average daily added volume calculated as the number of shares added per day and "ADV" means average daily volume calculated as the number of shares added or removed, combined, per day. ADA V and ADV are calculated on a monthly basis. "NBBO Set Volume" means the ADA V in all securities of an Equity Member that sets the NBB or NBO on MIA X Pearl Equities. See the Definitions section of the Fee Schedule.

¹³ "TCV" means total consolidated volume calculated as the volume in shares reported by all exchanges and reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply. See id.

¹⁴ The Exchange will use a baseline ADA V of 0.00% of TCV for firms that become Equity Members of the Exchange after July 2024 for the purpose of the Step-Up Rebate calculation.

for the Step-Up Rebate by satisfying the following requirements: (1) minimum displayed ADAV as a percentage of TCV of 0.35% (excluding sub-dollar volume); and (2) increase in the percentage of displayed ADAV as percentage of TCV of at least 0.05% over the baseline month of July 2024 (excluding sub-dollar volume).

Additionally, the Exchange proposes to amend the sunset period by extending the Step-Up Rebate until January 31, 2025 (the last trading day for the month of January 2025).¹⁵ The Exchange will issue a proposed filing and alert to market participants should the Exchange determine that the Step-Up Rebate will expire earlier than January 31, 2025 or if the Exchange determines to amend the criteria or rate applicable to the Step-Up Rebate prior to the end of the sunset period. The Exchange notes that at least one other competing equities exchange recently filed a proposal to use a more recent month (June 2024) as the baseline month comparison for one of its enhanced rebates and included a similar “sunset period”.¹⁶ Accordingly, this proposal is not new or novel.

The Exchange does not propose any other changes to the qualifying criteria for Equity Members to receive the Step-Up Rebate. The Exchange also does not propose to amend the amount of the Step-Up rebate of (\$0.001) per share.¹⁷

The purpose of this proposed change is to update the baseline month for the Step-Up Rebate calculation to a more recent month as volume on the Exchange has changed since the Exchange last amended the Step-Up Rebate. The Exchange believes that with the updated

¹⁵ The Exchange notes that at the end of the sunset period, the Step-Up Rebate will no longer apply unless the Exchange files another 19b-4 Filing with the Commission to amend the criteria terms or update the baseline month to a more recent month.

¹⁶ See Securities Exchange Act Release No. 100469 (July 9, 2024), 89 FR 57463 (June 15, 2024) (SR-MEMX-2024-26); see also MEMX Equities Fee Schedule, Liquidity Provision Tiers, Tier 1, available at <https://info.memxtrading.com/equities-trading-resources/us-equities-fee-schedule/> (last visited August 25, 2024).

¹⁷ See Fee Schedule, Section 1)c), note #4.

baseline month, the Step-Up Rebate will continue to provide an incentive for Equity Members to strive for higher ADAV on the Exchange to receive the enhanced rebate for qualifying executions of orders in securities priced at or above \$1.00 per share that add displayed liquidity to the Exchange. The Exchange believes that this will, in turn, promote price discovery and contribute to a deeper and more liquid market, which benefits all market participants and enhances the attractiveness of the Exchange as a trading venue.

The purpose of modifying the sunset period in the Fee Schedule is to extend the sunset period for the Step-Up Rebate until January 31, 2025. This will allow Equity Members to take into account that the enhanced rebate provided by the Step-Up Rebate will be discontinued at the end of the new sunset period unless the Exchange announces otherwise and files a new proposal with the Commission.

Implementation

The proposed fee changes are immediately effective.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act¹⁸ in general, and furthers the objectives of Section 6(b)(4) of the Act¹⁹ in 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 proposal is consistent with the objectives of Section 6(b)(5)²⁰ 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

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(4).

²⁰ 15 U.S.C. 78f(b)(5).

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. For the month of July 2024, based on publicly available information, no single registered equities exchange had more than approximately 15-16% of the total market share of executed volume of equities trading.²¹ Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. For the month of July 2024, the Exchange represented 1.61% of the total market share of executed volume of equities trading.²² The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, 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.”²³

²¹ See the “Market Share” section of the Exchange’s website, available at <https://www.miaxglobal.com/> (last visited August 26, 2024).

²² Id.

²³ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37499 (June 29, 2005).

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to 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 continue to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would continue to enhance liquidity and market quality to the benefit of all Equity Members and market participants.

Proposal to Decrease the Fee to Remove Liquidity in Securities Priced at or Above \$1.00 per Share

The Exchange believes the proposed change to decrease the fee to remove liquidity in securities priced at or above \$1.00 per share from \$0.00295 to \$0.00285 per share for all tapes is reasonable because the proposed fee remains lower than, and competitive with, the standard fee charged by competing exchanges to remove liquidity in securities priced at or above \$1.00 per share.²⁴ The Exchange further believes that the proposed change is equitably allocated and not unfairly discriminatory because the proposed fee of \$0.00285 per share for executions of all orders in securities priced at or above \$1.00 per share that remove liquidity from the Exchange will apply equally to all Equity Members that remove liquidity.

Proposal to Amend the NBBO Setter Plus Table to Amend the Baseline Month and Sunset Period for the Step-Up Rebate

²⁴ See supra note 7.

The Exchange believes its proposal to update the baseline month for the Step-Up Rebate is reasonable, equitably allocated and not unfairly discriminatory because volume on the Exchange has changed since the Exchange last amended the Step-Up Rebate and the Exchange now proposes to update the baseline month to a more recent month. The Exchange believes that with the updated baseline month, the Step-Up Rebate will continue to provide an incentive for Equity Members to strive for higher ADAV on the Exchange to receive the enhanced rebate for qualifying executions of orders in securities priced at or above \$1.00 per share that add displayed liquidity to the Exchange. The Exchange believes that the proposal is reasonable because even with the updated baseline month, the Step-Up Rebate will continue to encourage the submission of added displayed liquidity to the Exchange, thereby promoting price discovery and contributing to a deeper and more liquid market, which benefits all market participants and enhances the attractiveness of the Exchange as a trading venue.

The Exchange believes that the Step-Up Rebate, as modified by the proposed change to the baseline month, is reasonable, equitable and not unfairly discriminatory as the Step-Up Rebate will continue to be available to all Equity Members on an equal basis, and is reasonably designed to encourage Equity Members to maintain or increase their order flow in liquidity-adding volume. The Exchange believes this will continue to promote price discovery, enhance liquidity and market quality, and contribute to a more robust and well-balanced market ecosystem on the Exchange to the benefit of all Equity Members and market participants. The Exchange also notes that MEMX recently filed a proposal to use a more recent month (June 2024) as the baseline month for MEMX's members to receive one of its enhanced rebates.²⁵

²⁵See supra note 16.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to extend the sunset period for the Step-Up Rebate until January 31, 2025. Unless the Exchange determines to amend or otherwise modify the Step-Up Rebate, the Step-Up Rebate will expire at the end of the sunset period. This will allow Equity Members to take into account that the enhanced rebate provided for by the Step-Up Rebate will be discontinued at the end of sunset period unless the Exchange announces otherwise and files a new proposal with the Commission. The Exchange further notes that it will issue a proposed filing and alert to market participants should the Exchange determine that the Step-Up Rebate will expire earlier than January 31, 2025 or if the Exchange determines to amend the criteria or rate applicable to the Step-Up Rebate prior to the end of the sunset period. At least one other competing equities exchange provided a similar sunset period in its fee schedule for one of its enhanced rebates subject to a baseline month comparison with a more recent month.²⁶

For the reasons discussed above, the Exchange submits that the proposal satisfies the requirements of Sections 6(b)(4) and 6(b)(5) of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Equity Members and other persons using its facilities and is not designed to unfairly discriminate between customers, issuers, brokers, or dealers.

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.

Intramarket Competition

²⁶ See id.

The Exchange believes that the proposed change to decrease the fee from \$0.00295 to \$0.00285 per share for executions of orders in securities priced at or above \$1.00 per share for all Tapes will not impose any burden on intramarket competition because it represents a decrease from the current fee for such executions. The Exchange believes the proposed reduced fee will further encourage market participants to enter liquidity removing orders on the Exchange, thereby increasing the execution opportunities for the liquidity adding orders resting on the MIAX Pearl Equities Book, thereby promoting competition on the Exchange. The proposed reduced fee for executions of orders in securities priced at or above \$1.00 per share that remove liquidity from the Exchange will apply equally to all Equity Members. Further, the Exchange notes that the Exchange's proposed reduced fee of \$0.00285 per share for executions of all orders in securities priced at or above \$1.00 per share that remove liquidity from the Exchange remains lower than, and competitive with, the standard fee to remove liquidity in securities priced at or above \$1.00 per share charged by competing equity exchanges.²⁷

The Exchange does not believe that the proposal to update the baseline month for Step-Up Rebate will impose any burden on intramarket competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the Step-Up Rebate, as modified by this proposal, will continue to incentivize Equity Members to submit additional orders that add liquidity to the Exchange, thereby contributing to a deeper and more liquid market and promoting price discovery and market quality on the Exchange to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue, which the Exchange believes, in turn, would continue to encourage market participants to direct additional order flow to the Exchange.

²⁷ See supra note 7.

The Exchange believes its proposal to modify the sunset period in the Fee Schedule for the Step-Up Rebate will not impose any burden on intramarket competition not necessary or appropriate in furtherance of the purposes of the Act. With the proposed extension of the sunset period, all Equity Members may continue to qualify for the enhanced rebate provided by the Step-Up Rebate until January 31, 2025. Unless the Exchange determines to amend or otherwise modify the Step-Up Rebate, the Step-Up Rebate will be discontinued at the end of the sunset period. This will allow Equity Members to take into account that the enhanced rebate provided for by the Step-Up Rebate will be discontinued at the end of sunset period unless the Exchange announces otherwise. The Exchange further notes that it will issue a proposed filing and alert to market participants should the Exchange determine that the Step-Up Rebate will expire earlier than January 31, 2025 or if the Exchange determines to amend the criteria or rate applicable to the Step-Up Rebate prior to the end of the sunset period. At least one other competing equities exchange provided a similar sunset period in its fee schedule for one of its enhanced rebates subject to a baseline month comparison with a more recent month.²⁸

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

²⁸

See supra note 16.

registered equities exchange currently has more than approximately 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 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 at or above \$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 and the proposed reduce fee of \$0.00285 per share for removing liquidity in securities priced at or above \$1.00 per share remains lower than, or similar to, the standard fee to remove liquidity in securities priced at or above \$1.00 per share charged by competing equities exchanges.²⁹ Further, the proposed reduce fee to remove liquidity from securities priced at or above \$1.00 per share will apply to all Equity Members equally.

As described above, the proposed changes to modify the baseline month and extend the sunset period for the Step-Up Rebate represent a competitive proposal through which the Exchange is seeking to continue to encourage additional order flow to the Exchange through a volume-based incentive that is comparable to the criteria for volume-based incentives adopted by at least one other competing exchange which also updated its baseline month to a more recent month for a specific enhanced rebate that adds liquidity to that market.³⁰ Accordingly, the

²⁹ See supra note 7.

³⁰ See supra note **Error! Bookmark not defined.**6.

Exchange believes that its proposal would not burden, but rather promote, intermarket competition by enabling it to better compete with other exchanges that offer similar pricing incentives to market participants that achieve certain volume criteria and thresholds.

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.”³¹

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 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’”³²

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

³¹ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

³² 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)).

Pursuant to Section 19(b)(3)(A)(ii) of the Act,³³ and Rule 19b-4(f)(2) thereunder³⁴ 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.

IV. Solicitation of Comments

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

Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail [to rule-comments@sec.gov](mailto:to-rule-comments@sec.gov). Please include File Number SR-PEARL-2024-41 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-2024-41. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications

³³ 15 U.S.C. 78s(b)(3)(A)(ii).

³⁴ 17 CFR 240.19b-4.

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 the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-PEARL-2024-41 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁵

Sherry R. Haywood,
Assistant Secretary

³⁵ 17 CFR 200.30-3(a)(12).

Exhibit 5

New text is underlined;

Deleted text is in [brackets]

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 (\$0.0022)	(\$0.00205)	[\$0.00295] <u>\$0.00285</u>	\$0.0030	\$0.00
Securities below \$1.00	(0.15% of Dollar Value)	(0.15% of Dollar Value)	0.25% 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, Rp, RR, Rr, RT, Rt	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
* * * * *			
RA	Removes Liquidity, Displayed Order (Tape A)	[\$0.00295] <u>\$0.00285</u>	0.25% of Dollar Value
RB	Removes Liquidity, Displayed Order (Tape B)	[\$0.00295] <u>\$0.00285</u>	0.25% of Dollar Value
RC	Removes Liquidity, Displayed Order (Tape C)	[\$0.00295] <u>\$0.00285</u>	0.25% of Dollar Value
RR	Retail Order, Removes Liquidity, Displayed Order (All Tapes)	[\$0.00295] <u>\$0.00285</u>	0.25% of Dollar Value
RT	Removes Retail Order Liquidity, Displayed Order (All Tapes)	[\$0.00295] <u>\$0.00285</u>	0.25% of Dollar Value
Ra	Removes Liquidity, Non-Displayed Order (Tape A)	[\$0.00295] <u>\$0.00285</u>	0.25% of Dollar Value
Rb	Removes Liquidity, Non-Displayed Order (Tape B)	[\$0.00295] <u>\$0.00285</u>	0.25% of Dollar Value

Liquidity Indicator Code	Description	Fee/(Rebate) Securities Priced at or Above \$1.00	Fee/(Rebate) Securities Priced Below \$1.00
Rc	Removes Liquidity, Non-Displayed Order (Tape C)	[\$0.00295] <u>\$0.00285</u>	0.25% of Dollar Value
Rp	Removes Liquidity and Executes at the Midpoint, Non-Displayed Midpoint Peg Order (All Tapes)	[\$0.00295] <u>\$0.00285</u>	0.25% of Dollar Value
Rr	Retail Order, Removes Liquidity, Non-Displayed Order (All Tapes)	[\$0.00295] <u>\$0.00285</u>	0.25% of Dollar Value
Rt	Removes Retail Order Liquidity, Non-Displayed Order (All Tapes)	[\$0.00295] <u>\$0.00285</u>	0.25% of Dollar Value
* * * * *			

c) NBBO Setter Plus Program

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NBBO Setter Plus Table							
Methods To Determine Tier Based On Volume					Market Quality Tiers and Applicable Rebate Levels		
	Method 1: ADAV as a % of TCV	Method 2: NBBO Set Volume as a % of TCV	Method 3: Total ADV as a % of TCV	Method 4: ADAV as a % of TCV (Excluding Sub-Dollar Volume)	Level A: Base Rebates	Level B: Equity Member Percent Time at the NBBO ≥ 25% and < 50%	Level C: Equity Member Percent Time at the NBBO ≥ 50%
Tier 1	≥ 0.00% and < 0.035%	≥ 0.00% and < 0.01%	≥ 0.00% and < 0.15%	≥ 0.00% and < 0.035%	(\$0.00220)	(\$0.00225)	(\$0.00230)
Tier 2	≥ 0.035% and < 0.05%	≥ 0.01% and < 0.015%	≥ 0.15% and < 0.18%	≥ 0.035% and < 0.05%	(\$0.00290)	(\$0.00295)	(\$0.00300)
Tier 3	≥ 0.05% and < 0.08%	≥ 0.015% and < 0.02%	≥ 0.18% and < 0.20%	≥ 0.05% and < 0.08%	(\$0.00300)	(\$0.00305)	(\$0.00310)
Tier 4	≥ 0.08% and < 0.20%	≥ 0.02% and < 0.03%	≥ 0.20% and < 0.60%	≥ 0.08% and < 0.20%	(\$0.00310)	(\$0.00315)	(\$0.00320)

Tier 5	$\geq 0.20\%$ and < 0.40%	$\geq 0.03\%$ and < 0.08%	$\geq 0.60\%$ and < 1.00%	$\geq 0.20\%$ and < 0.40%	(\$0.00335)	(\$0.00340)	(\$0.00345) ³
Tier 6	$\geq 0.40\%$	$\geq 0.08\%$	$\geq 1.00\%$	$\geq 0.40\%$	(\$0.00340)	(\$0.00345)	(\$0.00350)
NBBO Setter Additive Rebate (additive rebate for executions of orders in securities priced at or above \$1.00 per share that set the NBB or NBO on MIAX Pearl Equities with a minimum size of a round lot): (\$0.0004)							
NBBO First Joiner Additive Rebate (additive rebate for executions of orders in securities priced at or above \$1.00 per share that bring MIAX Pearl Equities to the established NBB or NBO with a minimum size of a round lot): (\$0.0002)							
Notes to NBBO Setter Plus Table							
<ol style="list-style-type: none"> 1. MIAX Pearl Equities allows an Equity Member to qualify into a Tier using one of four methods, all of which are based on volume as a percentage of TCV. Qualifying into a Tier requires the Equity Member to satisfy only one of the four methods. The Equity Member is not required to fulfill multiple methods to qualify for that Tier. 2. After qualifying into a particular Tier based on volume, the Equity Member has the ability to qualify for an enhanced rebate level based on their performance in the NBBO Setter Plus Program, which requires the Equity Member to meet specific 'Percent Time at NBBO' requirements in at least 200 securities in the entire list of MQ Securities, as noted in the table above. The list of MQ Securities is determined by MIAX Pearl Equities and is listed on the MIAX Pearl Equities website. The list of MQ Securities will be updated each time a security is added or removed from the list. 3. An Equity Member may qualify for the enhanced rebate of Tier 5, Level C via an alternative method by satisfying the following three requirements in the relevant month: (1) Midpoint ADAV of at least 2,500,000 shares; (2) Displayed ADAV of at least 10,000,000 shares; and (3) Percent Time at the NBBO of at least 50% in 200 or more symbols from the list of MQ Securities. 4. An Equity Member may qualify for a Step-Up Rebate of (\$0.0001) per share by satisfying the following requirements in the relevant month: (1) minimum Displayed ADAV as a percentage of TCV of 0.35%; and (2) increase in the percentage of Displayed ADAV as a percentage of TCV of at least 0.05% as compared to the Equity Member's [February]July 2024 Displayed ADAV percentage. Alternatively, an Equity Member may qualify for a Step-Up Rebate of (\$0.0001) per share by satisfying the following requirements in the relevant month: (1) minimum Displayed ADAV as a percentage of TCV of 0.35% (excluding sub-dollar volume); and (2) increase in the percentage of Displayed ADAV as percentage of TCV of at least 0.05% as compared to the Equity Member's [February]July 2024 Displayed ADAV percentage (excluding sub-dollar volume). The Step-Up Rebate will expire no later than [August 31, 2024]January 31, 2025. 5. Retail Orders are not eligible for the NBBO Setter Additive Rebate, the NBBO First Joiner Additive Rebate, or the Step-Up Rebate as these rebates only apply to Liquidity Indicator Codes AA, AB and AC. 6. For volume calculation Method 4, when calculating both the numerator (ADAV) and the denominator (TCV), executions of orders in securities priced below \$1.00 per share across all Tapes will be excluded. 							

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