Required fields are shown with yellow backgrounds and asterisks.

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

File No. * SR 2024 - * 44
Amendment No. (req. for Amendments *)

Filing by MIAX PEARL, LLC

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

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
☑	☐	☐	☐	☑	☐

Pilot	Extension of Time Period for Commission Action *	Date Expires *
☐	☐	

Rule

☐ 19b-4(f)(1)	☐ 19b-4(f)(4)
☑ 19b-4(f)(2)	☐ 19b-4(f)(5)
☐ 19b-4(f)(3)	☐ 19b-4(f)(6)

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 Options Fee Schedule to: 1) amend certain rebates for Priority Customers; 2) establish a step-up rebate for Market Makers; and 3) remove certain alternative volume criteria and corresponding footnotes.

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 09/11/2024

By Michael Slade (Name *)

AVP, Associate Counsel (Title *)

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: 2024.09.11 16:29:13 -04'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information * Add Remove View SR-PEARL-2024-44 - 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 * Add Remove View SR-PEARL-2024-44 - 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 * Add Remove View	The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)
Exhibit 2- Notices, Written Comments, Transcripts, Other Communications Add Remove View	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 Add Remove View	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 Add Remove View	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 Add Remove View SR-PEARL-2024-44 - 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 Add Remove View	If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) MIAX PEARL, LLC ("MIAX Pearl" or "Exchange"), pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] proposes to amend the MIAX Pearl Options Exchange Fee Schedule (the "Fee Schedule").

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) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Chief Executive Officer of the Exchange or his duly appointed designee pursuant to authority delegated by the MIAX Pearl 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, 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 amend Section 1)a) of the Fee Schedule, Exchange Rebates/Fees – Add/Remove Tiered Rebates/Fees, to: (1) amend the Priority Customer[3] origin table to increase certain Maker rebates in Penny Classes (defined below); (2) establish a new "Step-Up Maker Rebate" (described below) for the MIAX Pearl[4] Market Maker[5] origin in Non-Penny Classes; and (3) remove certain alternative volume criteria and corresponding footnotes applicable to executions of orders for the Market Maker origin and non-Priority Customer, firm, broker-dealer ("BD"), and non-MIAX Pearl Market Maker origin (collectively referred to herein as "Professional Members"). The Exchange initially filed this proposal on August 30, 2024 (SR-PEARL-2024-39). On September 11, 2024, the Exchange withdrew SR-PEARL-2024-39 and refiled this proposal.

<u>Background</u>

The Exchange currently assesses transaction rebates and fees to all market participants which are based upon the total monthly volume executed by the Member[6] on MIAX Pearl in the relevant, respective origin type (not including Excluded Contracts)[7] (as the numerator) expressed

3 The term "Priority Customer" means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial accounts(s). The number of orders shall be counted in accordance with Interpretation and Policy .01 of Exchange Rule 100. <u>See</u> the Definitions section of the Fee Schedule and Exchange Rule 100, including Interpretation and Policy .01.

4 All references in this filing to "MIAX Pearl" are to the options trading facility of MIAX PEARL, LLC. Any references to the equities trading facility of MIAX PEARL, LLC would be to "MIAX Pearl Equities." <u>See</u> Exchange Rule 1901.

5 The term "Market Maker" means a Member registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter VI of Exchange Rules. <u>See</u> the Definitions section of the Fee Schedule and Exchange Rule 100.

6 The term "Member" means an individual or organization that is registered with the Exchange pursuant to Chapter II of Exchange Rules for purposes of trading on the Exchange as an "Electronic Exchange Member" or "Market Maker." Members are deemed "members" under the Exchange Act. <u>See</u> the Definitions section of the Fee Schedule and Exchange Rule 100.

7 The term "Excluded Contracts" means any contracts routed to an away market for execution. <u>See</u> the Definitions section of the Fee Schedule.

as a percentage of (divided by) TCV[8] (as the denominator). In addition, the per contract transaction rebates and fees are applied retroactively to all eligible volume for that origin type once the respective threshold tier has been reached by the Member. The Exchange aggregates the volume of Members and their Affiliates.[9] Members that place resting liquidity, i.e., orders resting on the Book[10] of the MIAX Pearl System,[11] are paid the specified "maker" rebate (each a

8 The term "TCV" means total consolidated volume calculated as the total national volume in those classes listed on MIAX Pearl for the month for which the fees apply, excluding consolidated volume executed during the period time in which the Exchange experiences an "Exchange System Disruption" (solely in the option classes of the affected Matching Engine (as defined below)). See the Definitions section of the Fee Schedule. The term "Exchange System Disruption" means an outage of a Matching Engine or collective Matching Engines for a period of two consecutive hours or more, during trading hours. Id. A "Matching Engine" is a part of the MIAX Pearl electronic system that processes options orders and trades on a symbol-by-symbol basis. Some Matching Engines will process option classes with multiple root symbols, and other Matching Engines may be dedicated to one single option root symbol (for example, options on SPY may be processed by one single Matching Engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated Matching Engine. A particular root symbol may not be assigned to multiple Matching Engines. Id. The Exchange believes that it is reasonable and appropriate to select two consecutive hours as the amount of time necessary to constitute an Exchange System Disruption, as two hours equates to approximately 1.4% of available trading time per month. The Exchange notes that the term "Exchange System Disruption" and its meaning have no applicability outside of the Fee Schedule, as it is used solely for purposes of calculating volume for the threshold tiers in the Fee Schedule.

9 The term "Affiliate" means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An "Appointed Market Maker" is a MIAX Pearl Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an "Appointed EEM" is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAX Pearl Market Maker) that has been appointed by a MIAX Pearl Market Maker, pursuant to the following process. A MIAX Pearl Market Maker appoints an EEM and an EEM appoints a MIAX Pearl Market Maker, for the purposes of the Fee Schedule, by each completing and sending an executed Volume Aggregation Request Form by email to membership@miaxoptions.com no later than 2 business days prior to the first business day of the month in which the designation is to become effective. Transmittal of a validly completed and executed form to the Exchange along with the Exchange's acknowledgement of the effective designation to each of the Market Maker and EEM will be viewed as acceptance of the appointment. The Exchange will only recognize one designation per Member. A Member may make a designation not more than once every 12 months (from the date of its most recent designation), which designation shall remain in effect unless or until the Exchange receives written notice submitted 2 business days prior to the first business day of the month from either Member indicating that the appointment has been terminated. Designations will become operative on the first business day of the effective month and may not be terminated prior to the end of the month. Execution data and reports will be provided to both parties. See the Definitions section of the Fee Schedule.

10 The term "Book" means the electronic book of buy and sell orders and quotes maintained by the System. See Exchange Rule 100.

11 The term "System" means the automated trading system used by the Exchange for the trading of securities. See Exchange Rule 100.

"Maker"), and Members that execute against resting liquidity are assessed the specified "taker" fee (each a "Taker"). For opening transactions and ABBO[12] uncrossing transactions, per contract transaction rebates and fees are waived for all market participants. Finally, Members are assessed lower transaction fees and receive lower rebates for order executions in standard option classes in the Penny Interval Program[13] ("Penny Classes") than for order executions in standard option classes which are not in the Penny Interval Program ("Non-Penny Classes"), where Members are assessed higher transaction fees and receive higher rebates.

Proposal to Amend the Priority Customer Origin Table to Increase Certain Maker Rebates in Penny Classes

First, the Exchange proposes to amend the Priority Customer origin table to increase the Maker rebates in tiers 1 and 2 for Priority Customer orders in Penny Classes that trade against all origins. Currently, the Priority Customer origin table provides certain volume criteria thresholds for all tiers that are based upon the total monthly volume executed in all option classes by a Priority Customer on MIAX Pearl as a percentage of TCV. Pursuant to the Priority Customer origin table, Priority Customers qualify for the following Maker rebates when Priority Customer orders in Penny Classes trade against all origins: (i) ($0.25)[14] per contract in tiers 1 and 2 if the Priority Customer executes above 0.00% to at least 0.40% of TCV; (ii) ($0.45) per contract in tier 3 if the Priority Customer executes above 0.40% to at least 0.85% of TCV; (iii) ($0.49) per contract in tier 4 if the Priority Customer executes above 0.85% to at least 1.25% of TCV; and (iv) ($0.52) per contract in tiers 5 and 6 if the Priority Customer executes above 1.25% of TCV.

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12 The term "ABBO" means the best bid(s) or offer(s) disseminated by other Eligible Exchanges (defined in Exchange Rule 1400(g)) and calculated by the Exchange based on market information received by the Exchange from OPRA. See the Definitions section of the Fee Schedule and Exchange Rule 100.

13 See Securities Exchange Act Release No. 88992 (June 2, 2020), 85 FR 35142 (June 8, 2020) (SR-PEARL-2020-06).

14 Rebates are denoted in parentheses in the Fee Schedule.

The Exchange now proposes to amend the Priority Customer origin table to increase the Maker rebates in tiers 1 and 2 from ($0.25) to ($0.31) per contract for Priority Customer orders in Penny Classes that trade against all origins. The Exchange does not propose to amend any of the volume threshold criteria or the Maker rebates or Taker fees in any other tier for Priority Customer orders. The purpose of this proposed change is for business and competitive reasons in order to attract additional Penny Class volume from Members by increasing the Maker rebates for options transactions in Penny Classes in tiers 1 and 2 for Priority Customer orders. The Exchange believes that this may, in turn, encourage Members to submit more Priority Customer orders, leading to increased liquidity on the Exchange to the benefit of all market participants by providing more trading opportunities and tighter spreads.

Proposal to Establish the Step-Up Maker Rebate for Market Maker Orders in Non-Penny Classes

Next, the Exchange proposes to amend the Market Maker origin table to establish a new "Step-Up Maker Rebate," which will be noted as footnote "(i)" following the table of transaction rebates and fees for the Market Maker origin in Section 1)a) of the Fee Schedule. Currently, pursuant to the Market Maker origin table, Market Makers qualify for the following Maker rebates when Market Maker orders in Non-Penny Classes trade against all origins: (i) ($0.30) per contract in tier 1 if the Market Maker executes above 0.00% to at least 0.20% of TCV; (ii) ($0.30) per contract in tier 2 if the Market Maker executes above 0.20% to at least 0.50% of TCV, or satisfies one of the three alternative volume criteria of tier 2;[15] (iii) ($0.60) per contract

[15] A Market Maker need only to satisfy one of the following three alternative volume criteria in order to receive the rebates or fees associated with tier 2 of the Market Maker origin table: (i) the total monthly volume executed by the Market Maker collectively in SPY/QQQ/IWM options on MIAX Pearl, not including Excluded Contracts, is above 0.55% of SPY/QQQ/IWM TCV; or (ii) the Market Maker adds liquidity collectively in SPY/QQQ/IWM options on MIAX Pearl, not including Excluded Contracts, above 0.30% of SPY/QQQ/IWM TCV; or (iii) the Market Maker satisfies the requirements of tier 2 of both the NBBO Setter Plus Program and tier 2 of the Midpoint Peg Order Adding Liquidity at the Midpoint Volume Tiers table (referred to herein as the "Midpoint Volume Tiers") in the MIAX Pearl Equities Fee Schedule.

in tier 3 if the Market Maker executes above 0.50% to at least 0.85% of TCV, or satisfies the alternative volume criteria of tier 3;[16] (iv) ($0.65) per contract in tier 4 if the Market Maker executes above 0.85% to at least 1.25% of TCV, or satisfies the alternative volume criteria of tier 4;[17] (v) ($0.70) per contract in tier 5 if the Market Maker executes above 1.25% to at least 1.40% of TCV; and (vi) ($0.85) per contract in tier 6 if the Market Maker executes above 1.40% of TCV.

The Exchange now proposes that a Market Maker may qualify for a Step-Up Maker Rebate of ($0.86) per contract for Market Maker orders in Non-Penny Classes, instead of the otherwise applicable tiered Maker rebate described above for tiers 1 through 6. In order to receive the proposed Step-Up Maker Rebate, a Market Maker must have an increase in the percentage of their added liquidity in Non-Penny Classes, represented as a percentage of TCV, of

MIAX Pearl Equities Fee Schedule, Sections 1)c) and 1)e) for a complete description of the volume requirements for tier 2 of the NBBO Setter Plus Program and tier 2 of the Midpoint Volume Tiers table. See also Securities Exchange Act Release No. 98956 (November 15, 2023), 88 FR 81125 (November 21, 2023) (SR-PEARL-2023-63) (providing more background and explanation of both programs for MIAX Pearl Equities); see also Fee Schedule, Section 1)a), Market Maker origin table. The term "SPY/QQQ/IWM TCV" means total consolidated volume in SPY, QQQ, and IWM calculated as the total national volume in SPY, QQQ, and IWM for the month for which the fees apply, excluding consolidated volume executed during the period of time in which the Exchange experiences an Exchange System Disruption (solely in SPY, QQQ, or IWM options). See the Definitions section of the Fee Schedule.

16 Market Makers satisfy the alternative volume criteria of tier 3 by adding liquidity in SPY options on MIAX Pearl, not including Excluded Contracts, above 1.10% of SPY TCV. The term "SPY TCV" means total consolidated volume in SPY calculated as the total national volume in SPY for the month for which the fees apply, excluding consolidated volume executed during the period of time in which the Exchange experiences an Exchange System Disruption (solely in SPY options). See the Definitions section of the Fee Schedule. Further, Market Makers qualify for: (i) Maker rebates of ($0.44) per contract in SPY, QQQ and IWM options for their Market Maker origin when trading against origins other than Priority Customer, and (ii) Maker rebates of ($0.42) per contract in SPY, QQQ and IWM options for their Market Maker origin when trading against Priority Customer origins, if the Market Maker satisfies the alternative volume criteria of tier 3, described above, of at least 1.10% in SPY when adding liquidity. See Fee Schedule, Section 1)a), note "♦".

17 Market Makers satisfy the alternative volume criteria of tier 4 if the Market Maker's executions solely in SPY options on MIAX Pearl, not including Excluded Contracts, is above 2.50% of SPY TCV.

at least 0.12% as compared to the Market Maker's July 2024[18] added liquidity in Non-Penny Classes.

The Exchange proposes that the Step-Up Maker Rebate will expire no later than January 31, 2025 (referred to herein as the "sunset period"),[19] which will be stated in the same proposed footnote "(i)" in the Fee Schedule. The Exchange will issue an alert to market participants should the Exchange determine that the Step-Up Maker Rebate will expire earlier than January 31, 2025 or if the Exchange determines to amend the criteria or rate applicable to the Step-Up Maker Rebate prior to the end of the sunset period, and file a corresponding rule filing pursuant to Rule 19b-4 of the Exchange Act with the Commission.

The proposed Step-Up Maker Rebate of ($0.86) per contract is the same or within the range of similar rebates offered by competing options exchanges for transactions by market makers in Non-Penny Classes.[20] The Exchange notes at least two competing options exchanges provide similar calculations for enhanced rebates or reduced fees for certain types of market participant orders by utilizing a volume comparison of the current month to a prior baseline

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18 The Exchange will use a baseline for added liquidity in Non-Penny Classes of 0.00% of TCV for market participants that become Market Makers of the Exchange after July 2024 for the purpose of the Step-Up Maker Rebate calculation.

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

20 See The Nasdaq Stock Market LLC ("Nasdaq"), Options 7 Pricing Schedule, Section 2, Nasdaq Options Market – Fees and Rebates, note 6, available at https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/Nasdaq%20Options%207 (last visited August 21, 2024) (providing $0.86 per contract rebate to market makers that add liquidity in non-penny classes for market makers that qualify for tier 6 for adding liquidity in penny classes); see also Cboe BZX Exchange, Inc. ("BZX") Options Fee Schedule, Transaction Fees, Standard Rates table, available at https://www.cboe.com/us/options/membership/fee_schedule/bzx/ (last visited August 21, 2024) (providing tiered rebates ranging from $0.40 to $0.88 per contract for market makers that add liquidity in non-penny classes).

month.[21] Accordingly, the proposed calculation for the Step-Up Maker Rebate is not a new or novel concept for the method in which to provide an enhanced rebate to market participants.

The purpose of this proposed change is to provide an incentive for Market Makers to provide liquidity in Non-Penny Classes in order to receive the enhanced Step-Up Maker Rebate of ($0.86) per contract instead of the tiered rebate that would otherwise be applicable for such transactions. The Exchange believes that the proposed Step-Up Maker Rebate will encourage Market Makers to add more liquidity in Non-Penny Classes, 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 purpose of including the proposed sunset period in the Fee Schedule is to provide clarity to Market Makers that, unless the Exchange determines to amend or otherwise modify the Step-Up Maker Rebate, the Step-Up Maker Rebate will expire at the end of the sunset period.

Proposal to Remove Certain Alternative Volume Criteria and Corresponding Footnotes

Next, the Exchange proposes to amend Section 1)a) of the Fee Schedule to remove certain alternative volume criteria and corresponding footnotes applicable to executions of orders for the Market Maker and Professional Member origins.

The Exchange proposes to remove footnote "#" following the Marker Maker origin table in Section 1)a) of the Fee Schedule and the corresponding alternative volume criteria in tier 2 of

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21 See, e.g., Cboe EDGX Exchange, Inc. ("EDGX") Options Fee Schedule, Footnotes, Market Maker Volume Tiers, Tier 2, available at https://www.cboe.com/us/options/membership/fee_schedule/edgx/ (last visited August 21, 2024) (providing a reduced fee for a market maker that meets certain volume criteria, including a requirement that the marker maker's step up average daily added volume in market maker orders from July 2019 is greater than or equal to 0.10% of their OCC customer volume); see also NYSE Arca, Inc. ("Arca") Options Fees and Charges, Trade-Related Charges for Standard Options, Customer Penny Posting Credit Tiers table, available at https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf (last visited August 21, 2024) (in general, providing enhanced rebate for a firm that has an increase of at least 0.15% of TCADV in added liquidity over the firm's March 2020 level of added liquidity).

the Market Maker origin table. As described above, the Exchange provides four alternative volume calculation methods pursuant to which a Market Maker may obtain the fees and rebates in tier 2 of the Market Maker origin table.[22] The fourth volume calculation method in tier 2 of the Market Maker origin table is the cross-asset volume based requirement, denoted by footnote "#" following the Marker Maker origin table, which requires Market Makers to satisfy the requirements of tier 2 of both the NBBO Setter Plus Program and tier 2 of the Midpoint Volume Tiers in the MIAX Pearl Equities Fee Schedule.[23] The Exchange now proposes to remove the cross-asset volume calculation method and corresponding footnote "#" such that there will no longer be a cross-asset volume requirement for Market Makers to satisfy in order to reach the tier 2 rebates and fees of the Market Maker origin table. The Exchange does not propose to amend the other three alternative volume calculation methods that Market Makers can satisfy in order to reach the tier 2 rebates and fees of the Market Maker origin table.

The Exchange also proposes to remove footnote "**" and the corresponding alternative volume criteria following the table of fees and rebates for Market Maker orders and Professional Member orders in Section 1)a) of the Fee Schedule. Footnote "**" provides that Market Makers and Professional Members may qualify for the Maker rebate and the Taker fee associated with the highest tier for transactions in Non-Penny Classes if the Market Maker or Professional Member executes more than 0.30% volume in Non-Penny Classes, not including Excluded Contracts, as compared to the TCV in all MIAX Pearl-listed option classes, in the respective origin (i.e., either Market Maker origin or Professional Member origin). For purposes of

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22 See, generally, Fee Schedule, Section 1)a), Market Maker origin table. See also supra note 15.

23 See MIAX Pearl Equities Fee Schedule, Sections 1)c) and 1)e) for a complete description of the volume requirements for tier 2 of the NBBO Setter Plus Program and tier 2 of the Midpoint Volume Tiers table. See also Securities Exchange Act Release No. 98956 (November 15, 2023), 88 FR 81125 (November 21, 2023) (SR-PEARL-2023-63) (providing more background and explanation of both programs for MIAX Pearl Equities).

qualifying for such rates, the Exchange aggregates the volume transacted by Members and their Affiliates in the following origin types in Non-Penny Classes: (1) MIAX Pearl Market Makers, and (2) non-Priority Customer, Firm, BD, and non-MIAX Pearl Market Makers, i.e, Professional Members. The Exchange now proposes to remove footnote "**" and the corresponding alternative volume calculation method from the Fee Schedule.

The Exchange also proposes to remove footnote "^" and the corresponding alternative volume criteria following the table of fees and rebates for Professional Members in Section 1)a) of the Fee Schedule. Footnote "^" provides that Professional Members may qualify for Maker rebates equal to the greater of: (A) ($0.37) for Penny Classes and ($0.65) for Non-Penny Classes, or (B) the amount set forth in the applicable tier reached by the Professional Member in the relevant origin, if the Member and their Affiliates execute at least 1.25% volume in the relevant month, in Priority Customer origin type, in all options classes, not including Excluded Contracts, as compared to the TCV in all MIAX Pearl listed option classes.

The purpose of these changes is for business and competitive reasons as well as to reduce complexity and provide clarity within the Fee Schedule. The Exchange initially established each of the above-described alternative volume calculations in order to attract Market Maker and/or Professional Member order flow. The Exchange recently conducted an internal review and analysis of fees and rebates and determined that it was appropriate to remove the alternative volume calculations described above. The Exchange's standard volume calculation methods (and the two alternative volume calculation methods for tier 2 of the Marker Maker origin) remain highly competitive such that they should enable the Exchange to continue to attract Market Maker and Professional Member order flow and maintain market share. The Exchange also notes that no Member has recently achieved any of the three alternative volume calculation methods that the Exchange proposes to remove from the Fee Schedule; accordingly, the Exchange believes it will reduce complexity within the Fee Schedule and provide greater clarity to remove the alternative volume calculation methods that are not utilized.

Implementation

The proposed changes are immediately effective.

b. Statutory Basis

The Exchange believes that its proposal to amend the Fee Schedule is consistent with Section 6(b) of the Act[24] in general, and furthers the objectives of Section 6(b)(4) of the Act,[25] in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange Members and issuers and other persons using its facilities, and 6(b)(5) of the Act,[26] in that 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 facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Commission has repeatedly expressed its 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

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

25 15 U.S.C. 78f(b)(4).

26 15 U.S.C. 78f(b)(1) and (b)(5).

successful in promoting market competition in its broader forms that are most important to investors and listed companies."[27]

There are currently 17 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange had more than approximately 14-15% of the multiply-listed equity options market share for the month of July 2024.[28] Therefore, no exchange possesses significant pricing power. More specifically, the Exchange had a market share of approximately 3.45% of executed volume of multiply-listed equity options for the month of July 2024.[29]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can discontinue or reduce use of certain categories of products and services, terminate an existing membership or determine to not become a new member, and/or shift order flow, in response to transaction fee changes. For example, on February 28, 2019, the Exchange filed with the Commission a proposal to increase Taker fees in certain tiers for options transactions in certain Penny Classes for Priority Customers and decrease Maker rebates in certain tiers for options transactions in Penny Classes for Priority Customers (which fee was to be effective March 1, 2019).[30] The Exchange experienced a decrease in total market share for the month of March 2019, after the proposal went into effect. Accordingly, the Exchange believes that its March 1, 2019, fee change, to increase certain transaction fees and decrease certain transaction rebates, may have contributed to the decrease in MIAX Pearl's market

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

28 See the "Market Share" section of the Exchange's website, available at https://www.miaxglobal.com/ (last visited August 22, 2024).

29 See id.

30 See Securities Exchange Act Release No. 85304 (March 13, 2019), 84 FR 10144 (March 19, 2019) (SR-PEARL-2019-07).

share and, as such, the Exchange believes competitive forces constrain the Exchange's, and other options exchanges, ability to set transaction fees and market participants can shift order flow based on fee changes instituted by the exchanges.

Proposal to Amend the Priority Customer Origin Table to Increase Certain Maker Rebates in Penny Classes

The Exchange believes its proposal to amend the Priority Customer origin to increase the Maker rebates in tiers 1 and 2 from ($0.25) to ($0.31) per contract for Priority Customer orders in Penny Classes that trade against all origins is reasonable, equitable and not unfairly discriminatory because it would further incentivize Priority Customer orders to the Exchange. The Exchange believes that this may, in turn, encourage Members to submit more Priority Customer orders, leading to increased liquidity on the Exchange to the benefit of all market participants by providing more trading opportunities and tighter spreads. The Exchange believes the proposed increased Maker rebates in tiers 1 and 2 for Priority Customer orders in Penny Classes is equitable and not unfairly discriminatory because it will apply equally to all market participants who provide Priority Customer orders in Penny Classes.

Proposal to Establish the Step-Up Maker Rebate for Market Maker Orders in Non-Penny Classes

The Exchange believes its proposal to establish the Step-Up Maker Rebate is reasonable, equitably allocated and not unfairly discriminatory because it provides Market Makers with an additional incentive to achieve a certain volume threshold on the Exchange in Non-Penny Classes. The Exchange believes that the proposed Step-Up Maker Rebate is reasonable because it may encourage Market Makers to add more liquidity in Non-Penny Classes, 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 it is equitable and not unfairly discriminatory to provide the Step-Up Maker Rebate only to Market Maker orders because Market Makers have market-making obligations and regulatory requirements, which normally do not apply to other types of market participants, such as Professional Members.[31] Market Makers additionally have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The Exchange believes the proposed Step-Up Maker Rebate is equitable and not unfairly discriminatory because it will be available equally to all Market Makers and will be provided in an equal manner to all Market Makers that satisfy the volume threshold requirements of the Step-Up Maker Rebate.

The proposed Step-Up Maker Rebate promotes just and equitable principles of trade, fosters cooperation and coordination with persons engaged in facilitating transactions in securities, and protects investors and the public interest because the proposed Step-Up Maker Rebate may encourage Market Makers to send more orders to the Exchange in Non-Penny Classes, which are typically less liquid as compared to Penny Classes. To the extent that Market Maker order flow in Non-Penny classes is increased by the proposal, market participants may increasingly compete for the opportunity to trade on the Exchange, including sending more orders which will have the potential to be assessed lower fees and higher rebates. The resulting increased volume and liquidity in Non-Penny Classes may benefit all Exchange participants by providing more trading opportunities and tighter spreads in option classes that are typically less liquid.

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31 See, generally, Chapter VI of the Exchange's Rules.

Additionally, the Exchange believes the proposed Step-Up Maker Rebate of ($0.86) per contract is reasonable because it is the same, or within the range, of similar rebates offered by competing options exchanges for transactions by market makers in Non-Penny Classes.[32] Also, the proposed calculation of the Step-Up Maker Rebate is reasonable and not unfairly discriminatory because it is similar to the calculation method utilized by at least two competing options exchanges that provide enhanced rebates or reduced fees for certain types of market participant orders by taking a volume comparison of the current month to a prior baseline month.[33] Accordingly, this approach to determining an enhanced rebate (or reduced fee) is not new or novel.

The Exchange believes that it is reasonable to include the sunset period in the Fee Schedule to provide clarity to all Market Makers that, unless the Exchange determines to amend or otherwise modify the Step-Up Maker Rebate, the Step-Up Maker Rebate will expire at the end of the sunset period.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to use a baseline for added liquidity in Non-Penny Classes of 0.00% of TCV for market participants that become Market Makers of the Exchange after July 2024 for the purpose of the Step-Up Maker Rebate calculation because it will provide an additional incentive for prospective firms to become Market Makers. The Exchange believes this will incentivize new Market Makers to trade on the Exchange, which will add to 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 Members and market participants. The Exchange notes that the proposed Step-Up

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32 See supra note 20

33 See supra note 21.

Maker Rebate will not adversely impact any Market Maker's ability to qualify for reduced fees or enhanced rebates offered under other pricing tiers/incentives on the Exchange. Should a Market Maker not meet the required criteria of the Step-Up Maker Rebate, the Market Maker will merely not receive the corresponding enhanced rebate.

Proposal to Remove Certain Alternative Volume Criteria and Corresponding Footnotes

The Exchange believes its proposal to remove the alternative volume criteria and corresponding footnotes described above that are applicable to executions of orders for the Market Maker and Professional Member origins is reasonable, equitably allocated and not unfairly discriminatory. The Exchange initially established each of the above alternative volume criteria in order to attract Market Maker and Professional Member order flow. The Exchange recently conducted an internal review and analysis of fees and rebates and determined that it was reasonable, equitable and not unfairly discriminatory to remove the alternative volume calculations described above. The Exchange believes its standard volume calculation methods (and the two remaining alternative volume calculation methods for tier 2 of the Marker Maker origin) remain highly competitive such that they should enable the Exchange to continue to attract Market Maker and Professional Member order flow and maintain market share.

The Exchange believes these proposed changes are equitable and not unfairly discriminatory because no Member has recently achieved any of the three alternative volume calculation methods that the Exchange proposes to remove from the Fee Schedule. As such, no Member will currently be impacted by the removal of these alternative volume calculation methods. The Exchange further believes that the removal of these alternative volume calculations will reduce complexity within the Fee Schedule and provide greater clarity to all Members, particularly since these methods are not utilized. Less complexity and greater clarity in the Fee Schedule helps promote just and equitable principles of trade and removes impediments to and perfects the mechanisms of a free and open market and a national market system.

The Exchange also believes it is equitable and not unfairly discriminatory to remove the alternative volume criteria described above because with the proposed changes, the Exchange's standard volume criteria (and the two remaining alternative volume calculation methods for tier 2 of the Marker Maker origin) will continue to apply equally to all Market Maker and Professional Member order flow, in each origin respectively.

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

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

Intra-Market Competition

The Exchange does not believe that any of the proposed changes will impose any burden on intra-market competition.

Proposal to Amend the Priority Customer Origin Table to Increase Certain Maker Rebates in Penny Classes

The Exchange believes its proposal to amend the Priority Customer origin to increase the Maker rebates in tiers 1 and 2 from ($0.25) to ($0.31) per contract for Priority Customer orders in Penny Classes that trade against all origins will not impose any burden on intra-market competition. Instead, the Exchange believes this proposed change will promote competition because it will further incentivize Priority Customer orders to the Exchange. The Exchange believes that this may, in turn, encourage Members to submit more Priority Customer orders, leading to increased liquidity on the Exchange to the benefit of all market participants by providing more trading opportunities and tighter spreads.

Proposal to Establish the Step-Up Maker Rebate for Market Maker Orders in Non-Penny Classes

The Exchange believes its proposal to establish the Step-Up Maker Rebate will not impose any burden on intra-market competition because it provides all Market Makers with an additional incentive to achieve a certain volume threshold on the Exchange in Non-Penny Classes. The Exchange believes that this may encourage Market Makers to add more liquidity in Non-Penny Classes, 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. Again, the Exchange believes that this proposed change promotes competition to the benefit of all market participants on the Exchange, particularly in Non-Penny Classes, which are traditionally less liquid. The resulting increased volume and liquidity in Non-Penny Classes may benefit all Exchange participants by providing more trading opportunities and tighter spreads in option classes that are typically less liquid.

The Exchange also believes that using a baseline for added liquidity in Non-Penny Classes of 0.00% of TCV for market participants that become Market Makers of the Exchange after July 2024 for the purpose of the Step-Up Maker Rebate calculation will incentivize new market participants to trade on the Exchange and become Market Makers. In turn, this may add to 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 Members and market participants. Greater liquidity benefits all Members by providing more trading opportunities and encourages Members to send additional orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants. As described above, the opportunity to qualify for the proposed new Step-Up Maker Rebate will continue to be available to all Market Makers that meet the associated volume requirement. As such the Exchange does not believe the proposed changes would impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purpose of the Act.

Proposal to Remove Certain Footnotes and Alternative Volume Criteria

The Exchange believes its proposal to remove the alternative volume criteria and corresponding footnotes described above that are applicable to executions of orders for the Market Maker and Professional Member origins will not impose any burden on intra-market competition. Each of these alternative volume criteria were established in order to attract Market Maker and Professional Member order flow. Based on the Exchange's recent internal review and analysis of fees and rebates, the Exchange believes its standard volume calculation methods (and the two remaining alternative volume calculation methods for tier 2 of the Marker Maker origin) remain highly competitive such that they should enable the Exchange to continue to attract Market Maker and Professional Member order flow.

The Exchange believes these proposed changes do not impose any burden on intra-market competition because no Member has recently achieved any of the three alternative volume calculation methods that the Exchange proposes to remove from the Fee Schedule. As such, no Member will currently be impacted by the removal of these alternative volume calculation methods.

Inter-Market Competition

The Exchange does not believe that the proposed changes will impose any burden on inter-market competition and the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. There are currently 18 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange had more than approximately 14-15% of the multiply-listed equity options market share for the month of July 2024.[34] Therefore, no exchange possesses significant pricing power. More specifically, the Exchange had a market share of approximately 3.45% of executed volume of multiply-listed equity options for the month of July 2024.[35]

In such an environment, the Exchange must continually adjust its rebates and tiers to remain competitive with other options exchanges. Because competitors are free to modify their own fees and tiers in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. The Exchange believes that the proposed rule changes reflect this competitive environment because they modify the Exchange's tiers and rebates in a manner that encourages market participants to continue to provide liquidity and to send order flow to the Exchange.

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)

34 See supra note 28.

35 See id.

Pursuant to Section 19(b)(3)(A)(ii) of the Act,[36] and Rule 19b-4(f)(2) thereunder[37] 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. Notice of proposed rule for publication in the Federal Register.

5. Applicable section of the Fee Schedule.

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36 15 U.S.C. 78s(b)(3)(A)(ii).

37 17 CFR 240.19b-4.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-PEARL-2024-44)

September__, 2024

Self-Regulatory Organizations: Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by MIAX PEARL LLC to Amend the MIAX Pearl Options 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___, 2024, MIAX PEARL, LLC ("MIAX Pearl" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange is filing a proposal to amend the MIAX Pearl Options Fee Schedule ("Fee Schedule").

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

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

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

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

2 17 CFR 240.19b-4.

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

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

1. Purpose

The Exchange proposes to amend Section 1)a) of the Fee Schedule, Exchange Rebates/Fees – Add/Remove Tiered Rebates/Fees, to: (1) amend the Priority Customer[3] origin table to increase certain Maker rebates in Penny Classes (defined below); (2) establish a new "Step-Up Maker Rebate" (described below) for the MIAX Pearl[4] Market Maker[5] origin in Non-Penny Classes; and (3) remove certain alternative volume criteria and corresponding footnotes applicable to executions of orders for the Market Maker origin and non-Priority Customer, firm, broker-dealer ("BD"), and non-MIAX Pearl Market Maker origin (collectively referred to herein as "Professional Members"). The Exchange initially filed this proposal on August 30, 2024 (SR-PEARL-2024-39). On September 11, 2024, the Exchange withdrew SR-PEARL-2024-39 and refiled this proposal.

Background

3 The term "Priority Customer" means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial accounts(s). The number of orders shall be counted in accordance with Interpretation and Policy .01 of Exchange Rule 100. See the Definitions section of the Fee Schedule and Exchange Rule 100, including Interpretation and Policy .01.

4 All references in this filing to "MIAX Pearl" are to the options trading facility of MIAX PEARL, LLC. Any references to the equities trading facility of MIAX PEARL, LLC would be to "MIAX Pearl Equities." See Exchange Rule 1901.

5 The term "Market Maker" means a Member registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter VI of Exchange Rules. See the Definitions section of the Fee Schedule and Exchange Rule 100.

The Exchange currently assesses transaction rebates and fees to all market participants which are based upon the total monthly volume executed by the Member[6] on MIAX Pearl in the relevant, respective origin type (not including Excluded Contracts)[7] (as the numerator) expressed as a percentage of (divided by) TCV[8] (as the denominator). In addition, the per contract transaction rebates and fees are applied retroactively to all eligible volume for that origin type once the respective threshold tier has been reached by the Member. The Exchange aggregates the volume of Members and their Affiliates.[9] Members that place resting liquidity, i.e., orders

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6 The term "Member" means an individual or organization that is registered with the Exchange pursuant to Chapter II of Exchange Rules for purposes of trading on the Exchange as an "Electronic Exchange Member" or "Market Maker." Members are deemed "members" under the Exchange Act. See the Definitions section of the Fee Schedule and Exchange Rule 100.

7 The term "Excluded Contracts" means any contracts routed to an away market for execution. See the Definitions section of the Fee Schedule.

8 The term "TCV" means total consolidated volume calculated as the total national volume in those classes listed on MIAX Pearl for the month for which the fees apply, excluding consolidated volume executed during the period time in which the Exchange experiences an "Exchange System Disruption" (solely in the option classes of the affected Matching Engine (as defined below)). See the Definitions section of the Fee Schedule. The term "Exchange System Disruption" means an outage of a Matching Engine or collective Matching Engines for a period of two consecutive hours or more, during trading hours. Id. A "Matching Engine" is a part of the MIAX Pearl electronic system that processes options orders and trades on a symbol-by-symbol basis. Some Matching Engines will process option classes with multiple root symbols, and other Matching Engines may be dedicated to one single option root symbol (for example, options on SPY may be processed by one single Matching Engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated Matching Engine. A particular root symbol may not be assigned to multiple Matching Engines. Id. The Exchange believes that it is reasonable and appropriate to select two consecutive hours as the amount of time necessary to constitute an Exchange System Disruption, as two hours equates to approximately 1.4% of available trading time per month. The Exchange notes that the term "Exchange System Disruption" and its meaning have no applicability outside of the Fee Schedule, as it is used solely for purposes of calculating volume for the threshold tiers in the Fee Schedule.

9 The term "Affiliate" means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An "Appointed Market Maker" is a MIAX Pearl Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an "Appointed EEM" is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAX Pearl Market Maker) that has been appointed by a MIAX Pearl Market Maker, pursuant to the following process. A MIAX Pearl Market Maker appoints an EEM and an EEM appoints a MIAX Pearl Market Maker, for the purposes of the Fee Schedule, by each completing and sending an executed Volume Aggregation Request Form by email to membership@miaxoptions.com no later than 2 business days prior to the first business day of the month in which the designation is to become effective. Transmittal of a validly completed and executed form to the Exchange along with the Exchange's acknowledgement of the effective designation to each of the Market Maker and EEM will be viewed as acceptance of the appointment. The Exchange will only recognize one designation per Member. A Member may make a designation not more than once every 12 months (from the date of its most recent designation), which designation shall remain in effect unless or until the Exchange receives written notice submitted 2 business

resting on the Book[10] of the MIAX Pearl System,[11] are paid the specified "maker" rebate (each a "Maker"), and Members that execute against resting liquidity are assessed the specified "taker" fee (each a "Taker"). For opening transactions and ABBO[12] uncrossing transactions, per contract transaction rebates and fees are waived for all market participants. Finally, Members are assessed lower transaction fees and receive lower rebates for order executions in standard option classes in the Penny Interval Program[13] ("Penny Classes") than for order executions in standard option classes which are not in the Penny Interval Program ("Non-Penny Classes"), where Members are assessed higher transaction fees and receive higher rebates.

Proposal to Amend the Priority Customer Origin Table to Increase Certain Maker Rebates in Penny Classes

First, the Exchange proposes to amend the Priority Customer origin table to increase the Maker rebates in tiers 1 and 2 for Priority Customer orders in Penny Classes that trade against all origins. Currently, the Priority Customer origin table provides certain volume criteria thresholds for all tiers that are based upon the total monthly volume executed in all option classes by a Priority Customer on MIAX Pearl as a percentage of TCV. Pursuant to the Priority Customer origin table, Priority Customers qualify for the following Maker rebates when Priority Customer

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days prior to the first business day of the month from either Member indicating that the appointment has been terminated. Designations will become operative on the first business day of the effective month and may not be terminated prior to the end of the month. Execution data and reports will be provided to both parties. See the Definitions section of the Fee Schedule.

10 The term "Book" means the electronic book of buy and sell orders and quotes maintained by the System. See Exchange Rule 100.

11 The term "System" means the automated trading system used by the Exchange for the trading of securities. See Exchange Rule 100.

12 The term "ABBO" means the best bid(s) or offer(s) disseminated by other Eligible Exchanges (defined in Exchange Rule 1400(g)) and calculated by the Exchange based on market information received by the Exchange from OPRA. See the Definitions section of the Fee Schedule and Exchange Rule 100.

13 See Securities Exchange Act Release No. 88992 (June 2, 2020), 85 FR 35142 (June 8, 2020) (SR-PEARL-2020-06).

orders in Penny Classes trade against all origins: (i) ($0.25)[14] per contract in tiers 1 and 2 if the Priority Customer executes above 0.00% to at least 0.40% of TCV; (ii) ($0.45) per contract in tier 3 if the Priority Customer executes above 0.40% to at least 0.85% of TCV; (iii) ($0.49) per contract in tier 4 if the Priority Customer executes above 0.85% to at least 1.25% of TCV; and (iv) ($0.52) per contract in tiers 5 and 6 if the Priority Customer executes above 1.25% of TCV.

The Exchange now proposes to amend the Priority Customer origin table to increase the Maker rebates in tiers 1 and 2 from ($0.25) to ($0.31) per contract for Priority Customer orders in Penny Classes that trade against all origins. The Exchange does not propose to amend any of the volume threshold criteria or the Maker rebates or Taker fees in any other tier for Priority Customer orders. The purpose of this proposed change is for business and competitive reasons in order to attract additional Penny Class volume from Members by increasing the Maker rebates for options transactions in Penny Classes in tiers 1 and 2 for Priority Customer orders. The Exchange believes that this may, in turn, encourage Members to submit more Priority Customer orders, leading to increased liquidity on the Exchange to the benefit of all market participants by providing more trading opportunities and tighter spreads.

<u>Proposal to Establish the Step-Up Maker Rebate for Market Maker Orders in Non-Penny Classes</u>

Next, the Exchange proposes to amend the Market Maker origin table to establish a new "Step-Up Maker Rebate," which will be noted as footnote "(i)" following the table of transaction rebates and fees for the Market Maker origin in Section 1)a) of the Fee Schedule. Currently, pursuant to the Market Maker origin table, Market Makers qualify for the following Maker rebates when Market Maker orders in Non-Penny Classes trade against all origins: (i) ($0.30) per contract in tier 1 if the Market Maker executes above 0.00% to at least 0.20% of TCV; (ii)

14 Rebates are denoted in parentheses in the Fee Schedule.

($0.30) per contract in tier 2 if the Market Maker executes above 0.20% to at least 0.50% of TCV, or satisfies one of the three alternative volume criteria of tier 2;[15] (iii) ($0.60) per contract in tier 3 if the Market Maker executes above 0.50% to at least 0.85% of TCV, or satisfies the alternative volume criteria of tier 3;[16] (iv) ($0.65) per contract in tier 4 if the Market Maker executes above 0.85% to at least 1.25% of TCV, or satisfies the alternative volume criteria of tier 4;[17] (v) ($0.70) per contract in tier 5 if the Market Maker executes above 1.25% to at least 1.40% of TCV; and (vi) ($0.85) per contract in tier 6 if the Market Maker executes above 1.40% of TCV.

The Exchange now proposes that a Market Maker may qualify for a Step-Up Maker Rebate of ($0.86) per contract for Market Maker orders in Non-Penny Classes, instead of the

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15 A Market Maker need only to satisfy one of the following three alternative volume criteria in order to receive the rebates or fees associated with tier 2 of the Market Maker origin table: (i) the total monthly volume executed by the Market Maker collectively in SPY/QQQ/IWM options on MIAX Pearl, not including Excluded Contracts, is above 0.55% of SPY/QQQ/IWM TCV; or (ii) the Market Maker adds liquidity collectively in SPY/QQQ/IWM options on MIAX Pearl, not including Excluded Contracts, above 0.30% of SPY/QQQ/IWM TCV; or (iii) the Market Maker satisfies the requirements of tier 2 of both the NBBO Setter Plus Program and tier 2 of the Midpoint Peg Order Adding Liquidity at the Midpoint Volume Tiers table (referred to herein as the "Midpoint Volume Tiers") in the MIAX Pearl Equities Fee Schedule. MIAX Pearl Equities Fee Schedule, Sections 1)c) and 1)e) for a complete description of the volume requirements for tier 2 of the NBBO Setter Plus Program and tier 2 of the Midpoint Volume Tiers table. See also Securities Exchange Act Release No. 98956 (November 15, 2023), 88 FR 81125 (November 21, 2023) (SR-PEARL-2023-63) (providing more background and explanation of both programs for MIAX Pearl Equities); see also Fee Schedule, Section 1)a), Market Maker origin table. The term "SPY/QQQ/IWM TCV" means total consolidated volume in SPY, QQQ, and IWM calculated as the total national volume in SPY, QQQ, and IWM for the month for which the fees apply, excluding consolidated volume executed during the period of time in which the Exchange experiences an Exchange System Disruption (solely in SPY, QQQ, or IWM options). See the Definitions section of the Fee Schedule.

16 Market Makers satisfy the alternative volume criteria of tier 3 by adding liquidity in SPY options on MIAX Pearl, not including Excluded Contracts, above 1.10% of SPY TCV. The term "SPY TCV" means total consolidated volume in SPY calculated as the total national volume in SPY for the month for which the fees apply, excluding consolidated volume executed during the period of time in which the Exchange experiences an Exchange System Disruption (solely in SPY options). See the Definitions section of the Fee Schedule. Further, Market Makers qualify for: (i) Maker rebates of ($0.44) per contract in SPY, QQQ and IWM options for their Market Maker origin when trading against origins other than Priority Customer, and (ii) Maker rebates of ($0.42) per contract in SPY, QQQ and IWM options for their Market Maker origin when trading against Priority Customer origins, if the Market Maker satisfies the alternative volume criteria of tier 3, described above, of at least 1.10% in SPY when adding liquidity. See Fee Schedule, Section 1)a), note "♦".

17 Market Makers satisfy the alternative volume criteria of tier 4 if the Market Maker's executions solely in SPY options on MIAX Pearl, not including Excluded Contracts, is above 2.50% of SPY TCV.

otherwise applicable tiered Maker rebate described above for tiers 1 through 6. In order to receive the proposed Step-Up Maker Rebate, a Market Maker must have an increase in the percentage of their added liquidity in Non-Penny Classes, represented as a percentage of TCV, of at least 0.12% as compared to the Market Maker's July 2024[18] added liquidity in Non-Penny Classes.

The Exchange proposes that the Step-Up Maker Rebate will expire no later than January 31, 2025 (referred to herein as the "sunset period"),[19] which will be stated in the same proposed footnote "(i)" in the Fee Schedule. The Exchange will issue an alert to market participants should the Exchange determine that the Step-Up Maker Rebate will expire earlier than January 31, 2025 or if the Exchange determines to amend the criteria or rate applicable to the Step-Up Maker Rebate prior to the end of the sunset period, and file a corresponding rule filing pursuant to Rule 19b-4 of the Exchange Act with the Commission.

The proposed Step-Up Maker Rebate of ($0.86) per contract is the same or within the range of similar rebates offered by competing options exchanges for transactions by market makers in Non-Penny Classes.[20] The Exchange notes at least two competing options exchanges provide similar calculations for enhanced rebates or reduced fees for certain types of market

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18 The Exchange will use a baseline for added liquidity in Non-Penny Classes of 0.00% of TCV for market participants that become Market Makers of the Exchange after July 2024 for the purpose of the Step-Up Maker Rebate calculation.

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

20 See The Nasdaq Stock Market LLC ("Nasdaq"), Options 7 Pricing Schedule, Section 2, Nasdaq Options Market – Fees and Rebates, note 6, available at https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/Nasdaq%20Options%207 (last visited August 21, 2024) (providing $0.86 per contract rebate to market makers that add liquidity in non-penny classes for market makers that qualify for tier 6 for adding liquidity in penny classes); see also Cboe BZX Exchange, Inc. ("BZX") Options Fee Schedule, Transaction Fees, Standard Rates table, available at https://www.cboe.com/us/options/membership/fee_schedule/bzx/ (last visited August 21, 2024) (providing tiered rebates ranging from $0.40 to $0.88 per contract for market makers that add liquidity in non-penny classes).

participant orders by utilizing a volume comparison of the current month to a prior baseline month.[21] Accordingly, the proposed calculation for the Step-Up Maker Rebate is not a new or novel concept for the method in which to provide an enhanced rebate to market participants.

The purpose of this proposed change is to provide an incentive for Market Makers to provide liquidity in Non-Penny Classes in order to receive the enhanced Step-Up Maker Rebate of ($0.86) per contract instead of the tiered rebate that would otherwise be applicable for such transactions. The Exchange believes that the proposed Step-Up Maker Rebate will encourage Market Makers to add more liquidity in Non-Penny Classes, 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 purpose of including the proposed sunset period in the Fee Schedule is to provide clarity to Market Makers that, unless the Exchange determines to amend or otherwise modify the Step-Up Maker Rebate, the Step-Up Maker Rebate will expire at the end of the sunset period.

Proposal to Remove Certain Alternative Volume Criteria and Corresponding Footnotes

Next, the Exchange proposes to amend Section 1)a) of the Fee Schedule to remove certain alternative volume criteria and corresponding footnotes applicable to executions of orders for the Market Maker and Professional Member origins.

The Exchange proposes to remove footnote "#" following the Marker Maker origin table in Section 1)a) of the Fee Schedule and the corresponding alternative volume criteria in tier 2 of

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21 See, e.g., Cboe EDGX Exchange, Inc. ("EDGX") Options Fee Schedule, Footnotes, Market Maker Volume Tiers, Tier 2, available at https://www.cboe.com/us/options/membership/fee_schedule/edgx/ (last visited August 21, 2024) (providing a reduced fee for a market maker that meets certain volume criteria, including a requirement that the marker maker's step up average daily added volume in market maker orders from July 2019 is greater than or equal to 0.10% of their OCC customer volume); see also NYSE Arca, Inc. ("Arca") Options Fees and Charges, Trade-Related Charges for Standard Options, Customer Penny Posting Credit Tiers table, available at https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf (last visited August 21, 2024) (in general, providing enhanced rebate for a firm that has an increase of at least 0.15% of TCADV in added liquidity over the firm's March 2020 level of added liquidity).

the Market Maker origin table. As described above, the Exchange provides four alternative volume calculation methods pursuant to which a Market Maker may obtain the fees and rebates in tier 2 of the Market Maker origin table.[22] The fourth volume calculation method in tier 2 of the Market Maker origin table is the cross-asset volume based requirement, denoted by footnote "#" following the Marker Maker origin table, which requires Market Makers to satisfy the requirements of tier 2 of both the NBBO Setter Plus Program and tier 2 of the Midpoint Volume Tiers in the MIAX Pearl Equities Fee Schedule.[23] The Exchange now proposes to remove the cross-asset volume calculation method and corresponding footnote "#" such that there will no longer be a cross-asset volume requirement for Market Makers to satisfy in order to reach the tier 2 rebates and fees of the Market Maker origin table. The Exchange does not propose to amend the other three alternative volume calculation methods that Market Makers can satisfy in order to reach the tier 2 rebates and fees of the Market Maker origin table.

The Exchange also proposes to remove footnote "**" and the corresponding alternative volume criteria following the table of fees and rebates for Market Maker orders and Professional Member orders in Section 1)a) of the Fee Schedule. Footnote "**" provides that Market Makers and Professional Members may qualify for the Maker rebate and the Taker fee associated with the highest tier for transactions in Non-Penny Classes if the Market Maker or Professional Member executes more than 0.30% volume in Non-Penny Classes, not including Excluded Contracts, as compared to the TCV in all MIAX Pearl-listed option classes, in the respective origin (i.e., either Market Maker origin or Professional Member origin). For purposes of

22 See, generally, Fee Schedule, Section 1)a), Market Maker origin table. See also supra note 15.

23 See MIAX Pearl Equities Fee Schedule, Sections 1)c) and 1)e) for a complete description of the volume requirements for tier 2 of the NBBO Setter Plus Program and tier 2 of the Midpoint Volume Tiers table. See also Securities Exchange Act Release No. 98956 (November 15, 2023), 88 FR 81125 (November 21, 2023) (SR-PEARL-2023-63) (providing more background and explanation of both programs for MIAX Pearl Equities).

qualifying for such rates, the Exchange aggregates the volume transacted by Members and their Affiliates in the following origin types in Non-Penny Classes: (1) MIAX Pearl Market Makers, and (2) non-Priority Customer, Firm, BD, and non-MIAX Pearl Market Makers, i.e, Professional Members. The Exchange now proposes to remove footnote "**" and the corresponding alternative volume calculation method from the Fee Schedule.

The Exchange also proposes to remove footnote "^" and the corresponding alternative volume criteria following the table of fees and rebates for Professional Members in Section 1)a) of the Fee Schedule. Footnote "^" provides that Professional Members may qualify for Maker rebates equal to the greater of: (A) ($0.37) for Penny Classes and ($0.65) for Non-Penny Classes, or (B) the amount set forth in the applicable tier reached by the Professional Member in the relevant origin, if the Member and their Affiliates execute at least 1.25% volume in the relevant month, in Priority Customer origin type, in all options classes, not including Excluded Contracts, as compared to the TCV in all MIAX Pearl listed option classes.

The purpose of these changes is for business and competitive reasons as well as to reduce complexity and provide clarity within the Fee Schedule. The Exchange initially established each of the above-described alternative volume calculations in order to attract Market Maker and/or Professional Member order flow. The Exchange recently conducted an internal review and analysis of fees and rebates and determined that it was appropriate to remove the alternative volume calculations described above. The Exchange's standard volume calculation methods (and the two alternative volume calculation methods for tier 2 of the Marker Maker origin) remain highly competitive such that they should enable the Exchange to continue to attract Market Maker and Professional Member order flow and maintain market share. The Exchange also notes that no Member has recently achieved any of the three alternative volume calculation methods that the Exchange proposes to remove from the Fee Schedule; accordingly, the

Exchange believes it will reduce complexity within the Fee Schedule and provide greater clarity to remove the alternative volume calculation methods that are not utilized.

Implementation

The proposed changes are immediately effective.

2. Statutory Basis

The Exchange believes that its proposal to amend the Fee Schedule is consistent with Section 6(b) of the Act[24] in general, and furthers the objectives of Section 6(b)(4) of the Act,[25] in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange Members and issuers and other persons using its facilities, and 6(b)(5) of the Act,[26] in that 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 facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Commission has repeatedly expressed its 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."[27]

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

25 15 U.S.C. 78f(b)(4).

26 15 U.S.C. 78f(b)(1) and (b)(5).

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

There are currently 17 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange had more than approximately 14-15% of the multiply-listed equity options market share for the month of July 2024.[28] Therefore, no exchange possesses significant pricing power. More specifically, the Exchange had a market share of approximately 3.45% of executed volume of multiply-listed equity options for the month of July 2024.[29]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can discontinue or reduce use of certain categories of products and services, terminate an existing membership or determine to not become a new member, and/or shift order flow, in response to transaction fee changes. For example, on February 28, 2019, the Exchange filed with the Commission a proposal to increase Taker fees in certain tiers for options transactions in certain Penny Classes for Priority Customers and decrease Maker rebates in certain tiers for options transactions in Penny Classes for Priority Customers (which fee was to be effective March 1, 2019).[30] The Exchange experienced a decrease in total market share for the month of March 2019, after the proposal went into effect. Accordingly, the Exchange believes that its March 1, 2019, fee change, to increase certain transaction fees and decrease certain transaction rebates, may have contributed to the decrease in MIAX Pearl's market share and, as such, the Exchange believes competitive forces constrain the Exchange's, and other options exchanges, ability to set transaction fees and market participants can shift order flow based on fee changes instituted by the exchanges.

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28 See the "Market Share" section of the Exchange's website, available at https://www.miaxglobal.com/ (last visited August 22, 2024).

29 See id.

30 See Securities Exchange Act Release No. 85304 (March 13, 2019), 84 FR 10144 (March 19, 2019) (SR-PEARL-2019-07).

Proposal to Amend the Priority Customer Origin Table to Increase Certain Maker Rebates in Penny Classes

The Exchange believes its proposal to amend the Priority Customer origin to increase the Maker rebates in tiers 1 and 2 from ($0.25) to ($0.31) per contract for Priority Customer orders in Penny Classes that trade against all origins is reasonable, equitable and not unfairly discriminatory because it would further incentivize Priority Customer orders to the Exchange. The Exchange believes that this may, in turn, encourage Members to submit more Priority Customer orders, leading to increased liquidity on the Exchange to the benefit of all market participants by providing more trading opportunities and tighter spreads. The Exchange believes the proposed increased Maker rebates in tiers 1 and 2 for Priority Customer orders in Penny Classes is equitable and not unfairly discriminatory because it will apply equally to all market participants who provide Priority Customer orders in Penny Classes.

Proposal to Establish the Step-Up Maker Rebate for Market Maker Orders in Non-Penny Classes

The Exchange believes its proposal to establish the Step-Up Maker Rebate is reasonable, equitably allocated and not unfairly discriminatory because it provides Market Makers with an additional incentive to achieve a certain volume threshold on the Exchange in Non-Penny Classes. The Exchange believes that the proposed Step-Up Maker Rebate is reasonable because it may encourage Market Makers to add more liquidity in Non-Penny Classes, 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 it is equitable and not unfairly discriminatory to provide the Step-Up Maker Rebate only to Market Maker orders because Market Makers have market-making obligations and regulatory requirements, which normally do not apply to other types of market participants, such as Professional Members.[31] Market Makers additionally have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The Exchange believes the proposed Step-Up Maker Rebate is equitable and not unfairly discriminatory because it will be available equally to all Market Makers and will be provided in an equal manner to all Market Makers that satisfy the volume threshold requirements of the Step-Up Maker Rebate.

The proposed Step-Up Maker Rebate promotes just and equitable principles of trade, fosters cooperation and coordination with persons engaged in facilitating transactions in securities, and protects investors and the public interest because the proposed Step-Up Maker Rebate may encourage Market Makers to send more orders to the Exchange in Non-Penny Classes, which are typically less liquid as compared to Penny Classes. To the extent that Market Maker order flow in Non-Penny classes is increased by the proposal, market participants may increasingly compete for the opportunity to trade on the Exchange, including sending more orders which will have the potential to be assessed lower fees and higher rebates. The resulting increased volume and liquidity in Non-Penny Classes may benefit all Exchange participants by providing more trading opportunities and tighter spreads in option classes that are typically less liquid.

Additionally, the Exchange believes the proposed Step-Up Maker Rebate of ($0.86) per contract is reasonable because it is the same, or within the range, of similar rebates offered by competing options exchanges for transactions by market makers in Non-Penny Classes.[32] Also, the proposed calculation of the Step-Up Maker Rebate is reasonable and not unfairly

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31 See, generally, Chapter VI of the Exchange's Rules.

32 See supra note 20

discriminatory because it is similar to the calculation method utilized by at least two competing options exchanges that provide enhanced rebates or reduced fees for certain types of market participant orders by taking a volume comparison of the current month to a prior baseline month.[33] Accordingly, this approach to determining an enhanced rebate (or reduced fee) is not new or novel.

The Exchange believes that it is reasonable to include the sunset period in the Fee Schedule to provide clarity to all Market Makers that, unless the Exchange determines to amend or otherwise modify the Step-Up Maker Rebate, the Step-Up Maker Rebate will expire at the end of the sunset period.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to use a baseline for added liquidity in Non-Penny Classes of 0.00% of TCV for market participants that become Market Makers of the Exchange after July 2024 for the purpose of the Step-Up Maker Rebate calculation because it will provide an additional incentive for prospective firms to become Market Makers. The Exchange believes this will incentivize new Market Makers to trade on the Exchange, which will add to 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 Members and market participants. The Exchange notes that the proposed Step-Up Maker Rebate will not adversely impact any Market Maker's ability to qualify for reduced fees or enhanced rebates offered under other pricing tiers/incentives on the Exchange. Should a Market Maker not meet the required criteria of the Step-Up Maker Rebate, the Market Maker will merely not receive the corresponding enhanced rebate.

<u>Proposal to Remove Certain Alternative Volume Criteria and Corresponding Footnotes</u>

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[33] <u>See</u> <u>supra</u> note 21.

The Exchange believes its proposal to remove the alternative volume criteria and corresponding footnotes described above that are applicable to executions of orders for the Market Maker and Professional Member origins is reasonable, equitably allocated and not unfairly discriminatory. The Exchange initially established each of the above alternative volume criteria in order to attract Market Maker and Professional Member order flow. The Exchange recently conducted an internal review and analysis of fees and rebates and determined that it was reasonable, equitable and not unfairly discriminatory to remove the alternative volume calculations described above. The Exchange believes its standard volume calculation methods (and the two remaining alternative volume calculation methods for tier 2 of the Marker Maker origin) remain highly competitive such that they should enable the Exchange to continue to attract Market Maker and Professional Member order flow and maintain market share.

The Exchange believes these proposed changes are equitable and not unfairly discriminatory because no Member has recently achieved any of the three alternative volume calculation methods that the Exchange proposes to remove from the Fee Schedule. As such, no Member will currently be impacted by the removal of these alternative volume calculation methods. The Exchange further believes that the removal of these alternative volume calculations will reduce complexity within the Fee Schedule and provide greater clarity to all Members, particularly since these methods are not utilized. Less complexity and greater clarity in the Fee Schedule helps promote just and equitable principles of trade and removes impediments to and perfects the mechanisms of a free and open market and a national market system.

The Exchange also believes it is equitable and not unfairly discriminatory to remove the alternative volume criteria described above because with the proposed changes, the Exchange's standard volume criteria (and the two remaining alternative volume calculation methods for tier

2 of the Marker Maker origin) will continue to apply equally to all Market Maker and Professional Member order flow, in each origin respectively.

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

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

Intra-Market Competition

The Exchange does not believe that any of the proposed changes will impose any burden on intra-market competition.

Proposal to Amend the Priority Customer Origin Table to Increase Certain Maker Rebates in Penny Classes

The Exchange believes its proposal to amend the Priority Customer origin to increase the Maker rebates in tiers 1 and 2 from ($0.25) to ($0.31) per contract for Priority Customer orders in Penny Classes that trade against all origins will not impose any burden on intra-market competition. Instead, the Exchange believes this proposed change will promote competition because it will further incentivize Priority Customer orders to the Exchange. The Exchange believes that this may, in turn, encourage Members to submit more Priority Customer orders, leading to increased liquidity on the Exchange to the benefit of all market participants by providing more trading opportunities and tighter spreads.

Proposal to Establish the Step-Up Maker Rebate for Market Maker Orders in Non-Penny Classes

The Exchange believes its proposal to establish the Step-Up Maker Rebate will not impose any burden on intra-market competition because it provides all Market Makers with an additional incentive to achieve a certain volume threshold on the Exchange in Non-Penny Classes. The Exchange believes that this may encourage Market Makers to add more liquidity in Non-Penny Classes, 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. Again, the Exchange believes that this proposed change promotes competition to the benefit of all market participants on the Exchange, particularly in Non-Penny Classes, which are traditionally less liquid. The resulting increased volume and liquidity in Non-Penny Classes may benefit all Exchange participants by providing more trading opportunities and tighter spreads in option classes that are typically less liquid.

The Exchange also believes that using a baseline for added liquidity in Non-Penny Classes of 0.00% of TCV for market participants that become Market Makers of the Exchange after July 2024 for the purpose of the Step-Up Maker Rebate calculation will incentivize new market participants to trade on the Exchange and become Market Makers. In turn, this may add to 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 Members and market participants. Greater liquidity benefits all Members by providing more trading opportunities and encourages Members to send additional orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants. As described above, the opportunity to qualify for the proposed new Step-Up Maker Rebate will continue to be available to all Market Makers that meet the associated volume requirement. As such the Exchange does not believe the proposed changes would impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purpose of the Act.

Proposal to Remove Certain Footnotes and Alternative Volume Criteria

The Exchange believes its proposal to remove the alternative volume criteria and corresponding footnotes described above that are applicable to executions of orders for the Market Maker and Professional Member origins will not impose any burden on intra-market competition. Each of these alternative volume criteria were established in order to attract Market

Maker and Professional Member order flow. Based on the Exchange's recent internal review and analysis of fees and rebates, the Exchange believes its standard volume calculation methods (and the two remaining alternative volume calculation methods for tier 2 of the Marker Maker origin) remain highly competitive such that they should enable the Exchange to continue to attract Market Maker and Professional Member order flow.

The Exchange believes these proposed changes do not impose any burden on intra-market competition because no Member has recently achieved any of the three alternative volume calculation methods that the Exchange proposes to remove from the Fee Schedule. As such, no Member will currently be impacted by the removal of these alternative volume calculation methods.

Inter-Market Competition

The Exchange does not believe that the proposed changes will impose any burden on inter-market competition and the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. There are currently 18 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange had more than approximately 14-15% of the multiply-listed equity options market share for the month of July 2024.[34] Therefore, no exchange possesses significant pricing power. More specifically, the Exchange had a market share of approximately 3.45% of executed volume of multiply-listed equity options for the month of July 2024.[35]

34 See supra note 28.

35 See id.

In such an environment, the Exchange must continually adjust its rebates and tiers to remain competitive with other options exchanges. Because competitors are free to modify their own fees and tiers in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. The Exchange believes that the proposed rule changes reflect this competitive environment because they modify the Exchange's tiers and rebates in a manner that encourages market participants to continue to provide liquidity and to send order flow to the Exchange.

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

Written comments were neither solicited nor received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[36] and Rule 19b-4(f)(2)[37] 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

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36 15 U.S.C. 78s(b)(3)(A)(ii).

37 17 CFR 240.19b-4(f)(2).

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 email to rule-comments@sec.gov. Please include file number SR-PEARL-2024-44 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-2024-44. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (https://www.sec.gov/rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 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-2024-44 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.[38]

Sherry R. Haywood,

Assistant Secretary.

[38] 17 CFR 200.30-3(a)(12).

Exhibit 5

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

MIAX Pearl Options Exchange Fee Schedule

* * * * *

1) Transaction Rebates/Fees

a) Exchange Rebates/Fees – Add/Remove Tiered Rebates/Fees

Origin	Tier	Volume Criteria	Per Contract Rebates/Fees for Penny Classes				Per Contract Rebates/Fees for Non-Penny Classes	
			Maker	Taker*	SPY Taker	QQQ, IWM Taker	Maker	Taker
Priority Customer	1	0.00% - 0.15%	[($0.25)] ($0.31)	$0.48	$0.46	$0.48	($0.85)	$0.85
	2	Above 0.15% - 0.40%	[($0.25)] ($0.31)	$0.48	$0.46	$0.48	($0.95)	$0.85
	3	Above 0.40% - 0.85%	($0.45)	$0.48	$0.45	$0.48	($1.00)	$0.85
	4	Above 0.85% - 1.25%	($0.49)	$0.48	$0.44	$0.47	($1.03)	$0.85
	5	Above 1.25% - 2.25%	($0.52)	$0.48	$0.43	$0.46	($1.04)	$0.85
	6	Above 2.25%	($0.52)	$0.47	$0.42	$0.45	($1.04)	$0.85

* For all Penny Classes other than SPY, QQQ, and IWM.

<table>
<tr><th rowspan="2">Origin</th><th rowspan="2">Tier</th><th rowspan="2">Volume Criteria</th><th colspan="4">Per Contract Rebates/Fees for Penny Classes</th><th colspan="2">Per Contract Rebates/Fees for Non-Penny Classes</th></tr>
<tr><th>Maker (Contra Origins ex Priority Customer)</th><th>Maker (Contra Priority Customer Origin)</th><th>Taker (Contra Origins ex Priority Customer)</th><th>Taker (Contra Priority Customer Origin)</th><th>Maker[**]ⓘ</th><th>Taker[**]</th></tr>
<tr><td rowspan="9">All MIAX Pearl Market Makers</td><td>1</td><td>0.00% – 0.20%</td><td>($0.25)</td><td>($0.22)</td><td>$0.50</td><td>$0.50</td><td>($0.30)</td><td>$1.10</td></tr>
<tr><td rowspan="4">2</td><td>Above 0.20% - 0.50%; or</td><td rowspan="4">($0.40)</td><td rowspan="4">($0.37)</td><td rowspan="4">$0.50</td><td rowspan="4">$0.50</td><td rowspan="4">($0.30)</td><td rowspan="4">$1.10</td></tr>
<tr><td>Above 0.55% in SPY/QQQ/IWM; or</td></tr>
<tr><td>Above 0.30% in SPY/QQQ/IWM when Adding Liquidity[; or]</td></tr>
<tr><td>[Tier 2 in both the “NBBO Setter Plus Program” and “Midpoint Peg Order Adding Liquidity at Midpoint Volume Tiers” on the Pearl Equities Exchange#]</td></tr>
<tr><td>3</td><td>Above 0.50% - 0.85%
or
Above 1.10% in SPY when Adding Liquidity♦</td><td>($0.40)</td><td>($0.37)</td><td>$0.50</td><td>$0.50</td><td>($0.60)</td><td>$1.10</td></tr>
<tr><td>4</td><td>Above 0.85% - 1.25%
or
Above 2.50% in SPY</td><td>($0.47)</td><td>($0.44)</td><td>$0.50</td><td>$0.50</td><td>($0.65)</td><td>$1.09</td></tr>
<tr><td>5</td><td>Above 1.25% - 1.40%</td><td>($0.48)</td><td>($0.45)</td><td>$0.50</td><td>$0.50</td><td>($0.70)</td><td>$1.08</td></tr>
<tr><td>6</td><td>Above 1.40%</td><td>($0.48)</td><td>($0.46)</td><td>$0.50</td><td>$0.50</td><td>($0.85)</td><td>$1.07</td></tr>
</table>

(i) A Market Maker may qualify for a Step-Up Maker Rebate of ($0.86) per contract for their Market Maker origin in Non-Penny Classes, instead of the applicable tiered Maker rebate. To receive the Step-Up Maker Rebate of ($0.86) per contract, a Market Maker must have an increase in the percentage of their added liquidity in Non-Penny Classes, represented as a percentage of TCV, of at least 0.12% as compared to the Market Maker's July 2024 added liquidity in Non-Penny Classes. This Step-Up Maker Rebate will expire no later than January 31, 2025.

[# See MIAX Pearl Equities Exchange Fee Schedule, Section 1)c), NBBO Setter Plus Program table; and Section 1)e) Midpoint Peg Order Adding Liquidity at Midpoint Volume Tiers table.]

			Per Contract Rebates/Fees for Penny Classes				Per Contract Rebates/Fees for Non-Penny Classes	
Origin	Tier	Volume Criteria	Maker[^] (Contra Origins ex Priority Customer)	Maker[^] (Contra Priority Customer Origin)	Taker◊ (Contra Origins ex Priority Customer)	Taker (Contra Priority Customer Origin)	Maker[**^]	Taker[**]
Non-Priority Customer, Firm, BD, and Non-MIAX Pearl Market Makers	1	0.00% – 0.20%	($0.25)	($0.22)	$0.50	$0.50	($0.30)	$1.10
	2	Above 0.20% – 0.50%	($0.40)	($0.37)	$0.50	$0.50	($0.30)	$1.10
	3	Above 0.50% – 0.85%	($0.40)	($0.37)	$0.50	$0.50	($0.60)	$1.10
	4	Above 0.85% – 1.25%	($0.47)	($0.44)	$0.50	$0.50	($0.65)	$1.10
	5	Above 1.25% – 1.50%	($0.48)	($0.45)	$0.50	$0.50	($0.70)	$1.09
	6	Above 1.50%	($0.48)	($0.45)	$0.50	$0.50	($0.85)	$1.09

[** Members may qualify for the Maker Rebate and the Taker Fee associated with the highest Tier for transactions in Non-Penny classes if the Member executes more than 0.30% volume in Non-Penny classes, not including Excluded Contracts, as compared to the TCV in all MIAX Pearl listed option classes. For purposes of qualifying for such rates, the Exchange will aggregate the volume transacted by Members and their Affiliates in the following Origin types in Non-Penny classes: MIAX Pearl Market Makers, and Non-Priority Customer, Firm, BD, and Non-MIAX Pearl Market Makers.]

[^ Members may qualify for Maker Rebates equal to the greater of: (A) ($0.37) for Penny Classes and ($0.65) for Non-Penny Classes, or (B) the amount set forth in the applicable Tier reached by the Member in the relevant Origin, if the Member and their Affiliates execute at least 1.25% volume in the relevant month, in Priority Customer Origin type, in all options classes, not including Excluded Contracts, as compared to the TCV in all MIAX Pearl listed option classes.]

* * * * *