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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81844; File No. SR-PEARL-2017-34]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the MIAX PEARL Fee Schedule

October 10, 2017

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 29, 2017, 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 Fee Schedule (the “Fee Schedule”).

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

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

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

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

1. Purpose

The Exchange proposes to amend the Add/Remove Tiered Rebates/Fees set forth in Section 1)a) of the Fee Schedule to increase the "Taker" fee in all Tiers assessable to all orders submitted by a Member for the account of a Priority Customer.³ The Exchange also proposes to make a number of non-substantive changes to its routing fee table set forth Section 1)b) of the Fee Schedule to reflect recent corporate name changes to some of the options exchanges listed in the table.

Taker Fee Changes

The Exchange currently assesses tiered transaction rebates and fees to all market participants which are based upon the total monthly volume executed by the Member⁴ on MIAX PEARL in the relevant, respective origin type (not including Excluded Contracts)⁵ expressed as a percentage of TCV.⁶ In addition, the per contract transaction rebates and fees are applied

³ "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). See Exchange Rule 100, including Interpretations and Policies .01.

⁴ "Member" means an individual or organization that is registered with the Exchange pursuant to Chapter II of the 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.

⁵ "Excluded Contracts" means any contracts routed to an away market for execution. See the Definitions Section of the Fee Schedule.

⁶ "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

retroactively to all eligible volume for that origin type once the respective threshold tier (“Tier”) has been reached by the Member. The Exchange aggregates the volume of Members and their Affiliates.⁷ Members that place resting liquidity, i.e., orders resting on the book of the MIAX PEARL System,⁸ 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 uncrossing transactions, per contract transaction rebates and fees are waived for all market participants. Finally, Members are assessed lower transaction fees

consolidated volume executed during the period time [sic] in which the Exchange experiences an “Exchange System Disruption” (solely in the option classes of the affected Matching Engine (as defined below)). The term Exchange System Disruption, which is defined in the Definitions section of the Fee Schedule, means an outage of a Matching Engine or collective Matching Engines for a period of two consecutive hours or more, during trading hours. The term Matching Engine, which is also defined in the Definitions section of the Fee Schedule, 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. 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. See the Definitions Section of the Fee Schedule.

⁷ “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 process described in the Fee Schedule. See the Definitions Section of the Fee Schedule.

⁸ The term “System” means the automated trading system used by the Exchange for the trading of securities. See Exchange Rule 100.

and receive lower rebates for order executions in standard option classes in the Penny Pilot Program⁹ (“Penny classes”) than for order executions in standard option classes which are not in the Penny Pilot Program (“Non-Penny classes”), where Members are assessed higher transaction fees and receive higher rebates.

Transaction rebates and fees applicable to orders submitted by a Member for the account of a Priority Customer¹⁰ are currently assessed according to the following table:

			Per Contract Rebates/Fees for Penny Classes		Per Contract Rebates/Fees for Non-Penny Classes	
Origin	Tier	Volume Criteria	Maker	Taker*	Maker	Taker
Priority Customer	1	0.00% - 0.05%	(\$0.25)	\$0.38	(\$0.85)	\$0.87
	2	Above 0.05% - 0.35%	(\$0.40)	\$0.38	(\$1.05)	\$0.86
	3	Above 0.35% - 0.50%	(\$0.50)	\$0.38	(\$1.05)	\$0.85
	4	Above 0.50% - 0.75%	(\$0.53)	\$0.38	(\$1.05)	\$0.84
	5	Above 0.75%	(\$0.54)	\$0.38	(\$1.05)	\$0.84

* For all Penny classes other than SPY. For SPY, the Priority Customer Taker Fee shall be \$0.35 per contract.

The Exchange now proposes, with respect to orders submitted by a Member for the account of a Priority Customer, to: (i) increase the Taker fee for all Penny classes (other than SPY, QQQ, IWM, and VXX) in all Tiers to \$0.42 per contract; (ii) increase the Taker fee for

⁹ See Securities Exchange Act Release Nos. 79778 (January 12, 2017), 82 FR 6662 (January 19, 2017)(SR-PEARL-2016-01); 80758 (May 24, 2017), 82 FR 25022 (May 31, 2017)(SR-PEARL-2017-24).

¹⁰ “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). See Exchange Rule 100, including Interpretations and Policies .01.

SPY in all Tiers to \$0.38 per contract; and (iii) increase the Taker fee for QQQ, IWM, and VXX in all Tiers to \$0.40 per contract. The Exchange notes that QQQ, IWM, and VXX are not currently carved out from the Taker fee that applies to all Penny classes (other than SPY) in the Tiers. With this proposed change, QQQ, IWM, and VXX will become carved out alongside SPY from the Taker fee that applies to all Penny classes in the Tiers, and the Taker fee for transactions in those classes will be set forth in a sentence beneath the Priority Customer table in the Add/Remove Tiered Rebates/Fees (by way of an asterisk to the Taker fee) to state that the Taker fee in the table applies “For all Penny Classes other than SPY, QQQ, IWM, and VXX. For SPY, the Priority Customer Taker Fee shall be \$0.38 per contract. For QQQ, IWM, and VXX, the Priority Customer Taker Fee shall be \$0.40 per contract.”

Accordingly, as amended, transaction rebates and fees applicable to orders submitted by a Member for the account of a Priority Customer will be assessed according to the following table:

			Per Contract Rebates/Fees for Penny Classes		Per Contract Rebates/Fees for Non-Penny Classes	
Origin	Tier	Volume Criteria	Maker	Taker*	Maker	Taker
Priority Customer	1	0.00% - 0.05%	(\$0.25)	\$0.42	(\$0.85)	\$0.87
	2	Above 0.05% - 0.35%	(\$0.40)	\$0.42	(\$1.05)	\$0.86
	3	Above 0.35% - 0.50%	(\$0.50)	\$0.42	(\$1.05)	\$0.85
	4	Above 0.50% - 0.75%	(\$0.53)	\$0.42	(\$1.05)	\$0.84
	5	Above 0.75%	(\$0.54)	\$0.42	(\$1.05)	\$0.84

* For all Penny Classes other than SPY, QQQ, IWM, and VXX. For SPY, the Priority Customer Taker Fee shall be \$0.38 per contract. For QQQ, IWM, and VXX, the Priority Customer Taker Fee shall be \$0.40 per contract.

The purpose of increasing the Taker fees for Priority Customer orders is for business and competitive reasons. As a new exchange, in order to attract order flow, the Exchange recently set its Taker fees for Priority Customer orders so that they were significantly lower than other options exchanges that operate comparable maker/taker pricing models.¹¹ The Exchange now believes that it is appropriate to slightly increase those Taker fees so that they are not as steeply lower versus such other exchanges, but will still remain highly competitive such that they should enable the Exchange to continue to attract order flow and grow market share. The Exchange notes that, even as amended, its Taker fees for Priority Customers are still lower than most other options exchanges operating competing models. For example, with respect to taker fees for Priority Customer orders in Penny classes, BATS BZX Options¹² and Nasdaq Options Market¹³ each assess a fee of \$0.50 per contract; NYSE Arca Options¹⁴ assesses a fee of \$0.49 per contract; and Nasdaq ISE¹⁵ assesses a fee of \$0.44 per contract (other than SPY, QQQ, IWM, and VXX classes). With respect to taker fees for Priority Customer orders in SPY, NOM¹⁶ assesses a fee of \$0.48 per contract.

The purpose of separately carving out QQQ, IWM, and VXX from the Taker fee that applies to all Penny classes in the Tiers is to tailor transaction fees specifically for these select

¹¹ See Securities Exchange Act Release Nos. 80915 (June 13, 2017), 82 FR 27912 (June 19, 2017)(SR-PEARL-2017-29); 80914 (June 13, 2017), 82 FR 27910 (June 19, 2017)(SR-PEARL-2017-30).

¹² See BATS BZX Fee Schedule at: https://www.bats.com/us/options/membership/fee_schedule/bzx/.

¹³ See NOM Fee Schedule at: <https://www.nasdaqtrader.com/Micro.aspx?id=OptionsPricing>.

¹⁴ See NYSE Arca Options Fee Schedule at: https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf

¹⁵ See Nasdaq ISE Fee Schedule at: <https://www.ise.com/fees>.

¹⁶ See supra footnote 13.

products. The concept of carving out separate pricing for select products is not novel, and is currently employed by a number of other options exchanges.¹⁷

Non-Substantive Changes

As a result of recent exchange consolidation and corporate re-branding, some options exchanges have changed their names. The names of all options exchanges are set forth in the Exchange’s routing fee table set forth Section 1)b) of the Fee Schedule, which sets forth the fees for customer orders that are routed to those options exchanges for execution. Accordingly, the Exchange proposes to update its routing fee table set forth in Section 1)b) of the Fee Schedule to reflect those recent exchange name changes. No other changes are proposed to the routing fee table. Accordingly, as amended, the routing fee table shall be as follows:

(b) Fees and Rebates for Customer Orders Routed to Another Options Exchange

MIAX PEARL will assess a Routing Fee to market participants on all orders routed to and executed on an away market as set forth in the table below.

Description	Fees
Routed, Priority Customer, Penny Pilot, to: NYSE American, BOX, CBOE, Bats EDGX Options, Nasdaq MRX, MIAX OPTIONS, Nasdaq PHLX (except SPY), Nasdaq BX Options	\$0.15
Routed, Priority Customer, Penny Pilot, to: NYSE Arca Options, Bats BZX Options, C2, Nasdaq GEMX, Nasdaq ISE, NOM, Nasdaq PHLX (SPY only)	\$0.65
Routed, Priority Customer, Non-Penny Pilot, to: NYSE American, BOX, CBOE, Bats EDGX Options, Nasdaq ISE, Nasdaq MRX, MIAX OPTIONS, Nasdaq PHLX, Nasdaq BX Options	\$0.15
Routed, Priority Customer, Non-Penny Pilot, to: NYSE Arca Options, Bats BZX	\$0.97

¹⁷ See, for example, Nasdaq ISE Fee Schedule, which has separate pricing for SPY, as well as QQQ, IWM, and VXX, at: <https://www.ise.com/fees>; see also CBOE Fee Schedule at: http://www.cboe.com/framed/pdf/framed?content=/publish/feeschedule/CBOEFeeSchedule.pdf§ion=SEC_RESOURCES&title=CBOE%20Fee%20Schedule; see also NOM Fee Schedule at: <https://www.nasdaqtrader.com/Micro.aspx?id=OptionsPricing>.

Options, C2, Nasdaq GEMX, NOM	
Routed, Public Customer that is not a Priority Customer, Penny Pilot, to: NYSE American, NYSE Arca Options, BATS, BOX, CBOE, C2, Bats EDGX Options, Nasdaq GEMX, Nasdaq ISE, Nasdaq MRX, MIAX OPTIONS, NOM, Nasdaq PHLX, Nasdaq BX Options	\$0.65
Routed, Public Customer that is not a Priority Customer, Non-Penny Pilot, to: NYSE American	\$0.65
Routed, Public Customer that is not a Priority Customer, Non-Penny Pilot, to: NYSE Arca Options, Bats BZX Options, C2, Nasdaq GEMX, Nasdaq MRX, Nasdaq BX Options	\$1.20
Routed (Public Customer that is not a Priority Customer), Non-Penny Pilot, to: BOX, CBOE, Bats EDGX Options, Nasdaq ISE, MIAX OPTIONS, NOM, Nasdaq PHLX	\$0.97

The proposed rule changes are scheduled to become operative October 1, 2017.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act¹⁸ in general, and furthers the objectives of Section 6(b)(4) of the Act,¹⁹ 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,²⁰ 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 proposed Taker fee increases applicable to orders submitted by a Member for the account of a Priority Customer are reasonable, equitable and not unfairly discriminatory because

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(4).

²⁰ 15 U.S.C. 78f(b)(1) and (b)(5).

all Priority Customer option orders are subject to the same Taker fees and access to the Exchange is offered on terms that are not unfairly discriminatory. The Exchange initially set its Taker fees at the various levels based upon business determinations and an analysis of current Taker fees and volume levels at other exchanges. For competitive and business reasons, the Exchange recently set its Taker fees for Priority Customer orders so that they were significantly lower than other options exchanges that operate comparable maker/taker pricing models.²¹ The Exchange now believes that it is appropriate to slightly increase those Taker fees so that they are not as steeply lower versus such other exchanges, but will still remain highly competitive such that they should enable the Exchange to continue to attract order flow and grow market share. The Exchange notes that, even as amended, its Taker fees for Priority Customers are still lower than most other options exchanges operating competing models.²² The Exchange believes for these reasons that offering slightly increased Taker fees for Priority Customer transactions in all Tiers is equitable, reasonable and not unfairly discriminatory, and thus consistent with the Act.

The Exchange believes that its proposal to offer lower Taker fees assessable to transactions solely in SPY, QQQ, IWM, and VXX options is consistent with other options markets that also assess different transaction fees for select option classes (including SPY, QQQ, IWM, and VXX) as compared to other option classes. The Exchange believes that establishing different pricing for select products for Priority Customers is reasonable, equitable, and not unfairly discriminatory because these select products are generally more liquid than other option classes. Additionally, other competing options exchanges differentiate pricing in a similar manner.²³

²¹ See supra note 11.

²² See supra footnotes 11-15.

²³ See supra note 17.

Further, the Exchange believes that it is equitable and not unfairly discriminatory to assess lower fees to Priority Customer orders than to non-Priority Customer orders. A Priority Customer is by definition not a broker or dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). This limitation does not apply to participants on the Exchange whose behavior is substantially similar to that of market professionals, including non-Priority Customers, MIAX PEARL Market Makers, Firms, and Broker-Dealers, who will generally submit a higher number of orders (many of which do not result in executions) than Priority Customers.

Furthermore, the proposed slight increases to the Taker fees for Priority Customer transactions in all Tiers 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 even with the such slight increases, the Exchange's proposed Taker fees for Priority Customer orders still remain highly competitive with other options exchanges offering comparable pricing models, as they should enable the Exchange to continue to attract order flow and grow market share.²⁴ The Exchange believes that the amount of such fees, as proposed to be increased, will continue to encourage Members to send more Priority Customer orders to the Exchange even if it is an order which takes liquidity since they will be assessed a lower Taker fee in each Tier than most competing exchanges. To the extent that Priority Customer order flow is increased by the proposal, market participants will 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 than most competing options

²⁴ See supra note 22.

exchanges. The resulting increased volume and liquidity will benefit all Exchange participants by providing more trading opportunities and tighter spreads.

The Exchange believes the proposed changes to update its routing fee table set forth in Section 1)b) of the Fee Schedule to reflect recent exchange name changes promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule change makes non-substantive technical corrections and updates the Exchange's Fee Schedule. None of the name changes alter the application of any fees or rebates on the Fee Schedule. As such, the proposed amendments would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national exchange system. In particular, the Exchange believes that the proposed changes will provide greater clarity to Members and the public regarding the Exchange's Rules. It is in the public interest for rules to be accurate and concise so as to eliminate the potential for confusion.

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

MIAX PEARL 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. The proposed Taker fee increases are intended to keep the Exchange's fees highly competitive with those of other exchanges, and to encourage liquidity and should enable the Exchange to attract and compete for order flow with other exchanges which assess higher Priority Customer taker fees. The proposed changes to update its routing fee table set forth Section 1)b) of the Fee Schedule to reflect recent exchange name changes will have no impact on competition as they

are not designed to address any competitive issues but rather are designed to make non-substantive technical corrections and update the Exchange's Fee Schedule.

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. In such an environment, the Exchange must continually adjust its rebates and fees to remain competitive with other exchanges and to attract order flow. The Exchange believes that the proposed rule change reflects this competitive environment because it modifies the Exchange's fees in a manner that will continue to encourage market participants 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,²⁵ and Rule 19b-4(f)(2)²⁶ 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.

²⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

²⁶ 17 CFR 240.19b-4(f)(2).

IV. Solicitation of Comments

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

Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-PEARL-2017-34 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-2017-34. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the

Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-PEARL-2017-34 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁷

Eduardo A. Aleman
Assistant Secretary

²⁷ 17 CFR 200.30-3(a)(12).

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