

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89502; File No. SR–PEARL–2020–03]

### Self-Regulatory Organizations; MIAx PEARL, LLC; Notice of Designation of Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, To Establish Rules Governing the Trading of Equity Securities

August 6, 2020.

On January 24, 2020, MIAx PEARL, LLC (“MIAx PEARL” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> a proposed rule change to adopt rules to govern the trading of cash equities and establish an equities trading facility of the Exchange. The proposed rule change was published for comment in the **Federal Register** on February 12, 2020.<sup>3</sup> On March 25, 2020, pursuant to Section 19(b)(2) of the Act,<sup>4</sup> the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change, to May 12, 2020.<sup>5</sup> On May 8, 2020, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>6</sup> On May 12, 2020, the Commission published notice of Amendment No. 1 and instituted

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> See Securities Exchange Act Release No. 88132 (February 6, 2020), 85 FR 8053 (February 12, 2020) (“Notice”).

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> See Securities Exchange Act Release No. 88476 (March 25, 2020), 85 FR 17929 (March 31, 2020).

<sup>6</sup> In Amendment No. 1 the Exchange: (i) Deleted the definition of “Equity Securities” from proposed Exchange Rule 1901 and made corresponding changes throughout the proposed Exchange Rules to eliminate unnecessary confusion; (ii) substituted references to “PEARL Equities” with “MIAx PEARL Equities” throughout the proposed Exchange Rules; (iii) updated proposed Exchange Rule 2622 (Limit Up-Limit Down Plan and Trading Halts) regarding a Level 3 Market Decline to conform it to recent changes made by each of the national securities exchanges that trade equities and the Financial Industry Regulatory Authority (“FINRA”), and made a corresponding change to proposed Exchange Rule 2615 (Opening Process); and (iv) modified proposed Exchange Rule 2617(a)(4)(C) and (D) to account for the potential for orders to post and rest at prices that cross contra-side liquidity and also to correct a typographical error in proposed Exchange Rule 2617(a)(4)(D). Amendment No. 1 is available on the Commission’s website at: <https://www.sec.gov/comments/sr-pearl-2020-03/srpearl202003-7168815-216600a.pdf>.

proceedings pursuant to Section 19(b)(2)(B) of the Act<sup>7</sup> to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.<sup>8</sup> The Commission has received no comment letters on the proposed rule change, as modified by Amendment No. 1.

Section 19(b)(2) of the Act<sup>9</sup> provides that, after initiating proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on February 12, 2020.<sup>10</sup> August 10, 2020 is 180 days from that date, and October 9, 2020 is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change, as modified by Amendment No. 1, so that it has sufficient time to consider the proposed rule change, as modified by Amendment No. 1. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>11</sup> designates August 24, 2020 as the date by which the Commission should either approve or disapprove the proposed rule change (File No. SR–PEARL–2020–03), as modified by Amendment No. 1.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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<sup>7</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>8</sup> See Securities Exchange Act Release No. 88859 (May 12, 2020), 85 FR 29759 (May 18, 2020).

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> See Notice, *supra* note 3.

<sup>11</sup> 15 U.S.C. 78s(b)(2).

<sup>12</sup> 17 CFR 200.30–3(a)(57).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89499; File No. SR–NYSE–2020–55]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Order Granting Approval of a Proposed Rule Change To Amend Rules 7.36 and 7.37 Relating to Setter Priority and Allocation

August 6, 2020.

#### I. Introduction

On June 24, 2020, New York Stock Exchange, Inc. (“NYSE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> a proposed rule change to amend NYSE Rules 7.36 and 7.37 relating to Setter Priority and Allocation. The proposed rule change was published for comment in the **Federal Register** on June 30, 2020.<sup>3</sup> The Commission has received no comments on the proposed rule changes. The Commission is approving the proposed rule changes.

#### II. Description of the Proposed Rule Change

The Exchange proposes to modify the current operation of Setter Priority on the Exchange by changing the definition of orders eligible for Setter Priority and by changing the allocation that orders Setting Priority of contra-side Aggressing Orders.<sup>4</sup>

Currently, NYSE Rule 7.36(h) provides that an order may be assigned Setter Priority by (1) setting a new Best Bid or Offer (“BBO”) on the Exchange and (2) joining or setting the National Best Bid or Offer (“NBBO”), provided that such an order will not be eligible for Setter Priority if there is an odd-lot sized order with Setter Priority at that price.<sup>5</sup> Proposed NYSE Rule 7.36(h) would be amended to provide that an order is eligible for Setter Priority only if it sets a new NBBO.<sup>6</sup>

Currently, under NYSE Rule 7.37(b)(1), an order with Setter Priority equal to the BBO is eligible for a 15% allocation of an Aggressing Order

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> See Securities Exchange Act Release No. 89205 (June 30, 2020), 85 FR 40715 (June 30, 2020) (“Notice”).

<sup>4</sup> An “Aggressing Order” is defined as a buy (sell) order that is or becomes marketable against a sell (buy) interest on the Exchange Book. See NYSE Rule 7.36(a)(6).

<sup>5</sup> See Notice, *supra* note 3, 85 FR at 40716.

<sup>6</sup> See *id.* at 40715–16.

(rounded up to the next round lot size, or the full quantity of the Aggressing Order). Proposed NYSE Rule 7.37(b)(1) would be amended to provide that an order with Setter Priority equal to the BBO would be eligible to trade in full with the contra-side Aggressing Order.<sup>7</sup> The Exchange also represents that under the proposal, (1) if an Aggressing Order is greater in size than an order with Setter Priority, the order with Setter Priority would be executed in full and the remainder of the Aggressing Order would be allocated pursuant to NYSE Rule 7.37; and (2) if an Aggressing Order is smaller in size than an order with Setter Priority, the Aggressing Order would be executed in full, and the remainder of the order with Setter Priority would retain its Setter Priority status.<sup>8</sup>

### III. Discussion and Commission Findings

After careful consideration, the Commission finds that the Exchange's proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges. In particular, the Commission finds that the Exchange's proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>9</sup> which requires that the rules of an exchange be designed, among other things, 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, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange asserts that assigning Setter Priority only to orders that establish a new NBBO, and allowing such orders to execute in full against incoming Aggressing Orders, would allow orders with Setter Priority to operate similarly to top-of-book orders at national securities exchanges with a price-time priority execution model and would thereby incentivize member organizations to route price-forming, liquidity-providing orders to the Exchange to the benefit of all market participants.<sup>10</sup> Because the Exchange's

proposal would, unlike the current rule, require Setter Priority orders to set a new NBBO to be eligible for Setter Priority, and because the proposal would reward Setter Priority orders with a greater opportunity to trade against Aggressing Orders, the Commission believes that the proposed rule change is reasonably designed to incentivize member organizations to quote aggressively and improve the NBBO.

Based on the foregoing, the Commission therefore finds that the proposed rule change is consistent with the Act.

### IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>11</sup> that the proposed rule change (SR-NYSE-2020-55) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**J. Matthew DeLesDernier**,  
*Assistant Secretary*.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89497; File No. SR-CboeBZX-2020-059]

### Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Introduce a New Data Product To Be Known As Intraday Open-Close Data

August 6, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 29, 2020, Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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

Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") is filing with the Securities and Exchange Commission ("Commission") a proposed rule change to introduce a new data product to be known as Intraday Open-Close Data. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website ([http://markets.cboe.com/us/equities/regulation/rule\\_filings/bzx/](http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/)), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

##### 1. Purpose

The Exchange proposes to introduce a new data product on BZX to be known as Intraday Open-Close Data, which will be available for purchase to BZX Members ("Members") and non-Members.<sup>5</sup> Cboe LiveVol, LLC ("LiveVol"), a wholly owned subsidiary of the Exchange's parent company, Cboe Global Markets, Inc., will make the Intraday Open-Close Data available for purchase to Members and non-Members on the LiveVol DataShop website.<sup>6</sup> The Exchange also proposes to amend Exchange Rule 21.15(b) to provide that the Open-Close Data product will be available on an end-of-day basis and intraday basis.

Currently, the Exchange offers Open-Close Data, which is an end-of-day volume summary of trading activity on the Exchange at the option level by

<sup>5</sup> The Exchange intends to submit a separate rule filing to establish fees for Intraday Open-Close Data.

<sup>6</sup> See <https://datashop.cboe.com/>.

<sup>7</sup> The Exchange also proposes to delete existing text in NYSE Rule 7.37(b)(1)(C) pertaining to allocation when there are remaining quantities of an Aggressing Order and an order with Setter Priority. Under the proposal, either the order with Setter Priority, the Aggressing Order, or both orders would execute in full; thus, such an order book scenario would no longer be possible. See *id.* at 40716.

<sup>8</sup> See *id.* at 40715-16.

<sup>9</sup> 17 U.S.C. 78f(b)(5).

<sup>10</sup> See Notice, *supra* note 3, at 40717.

<sup>11</sup> 15 U.S.C. 78s(b)(2).

<sup>12</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).