

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89969; File No. SR-PEARL-2020-15]

### Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Exchange Rule 1014, Imposition of Fines for Minor Rule Violations

September 23, 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 September 8, 2020, MIAX PEARL, LLC (“MIAX PEARL” or the “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. On September 22, 2020, the Exchange filed Amendment No. 1 to the proposed rule change, which supersedes the original filing in its entirety.<sup>3</sup> The Commission is publishing this notice to solicit comments on Amendment No. 1 from interested persons and approving the proposal, as modified by Amendment No. 1, on an accelerated basis.

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

The Exchange is filing a change to add certain rules applicable to the trading of equity securities to the list of minor rule violations in Rule 1014.

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

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

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

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

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

##### 1. Purpose

On December 13, 2016, the Commission issued an order granting the Exchange’s application for registration as a national securities exchange.<sup>4</sup> On February 6, 2020, the Commission published for public comment an Exchange proposal to adopt rules governing the trading of equity securities.<sup>5</sup> On August 14, 2020, the Commission approved the Exchange’s proposal to adopt rules governing the trading of equity securities.<sup>6</sup> MIAX PEARL anticipates to begin trading equity securities on September 25, 2020. On December 21, 2017, the Commission issued an order declaring effective the Exchange’s MRVP.<sup>7</sup> The Exchange now proposes to add certain rules applicable to the trading of equity securities to the list of minor rule violations in Exchange Rule 1014.

Exchange Rule 1014 sets forth the list of rules under which a Member may be subject to a fine. Exchange Rule 1014 permits the Exchange to impose a fine of up to \$5,000 on any member or a person associated with or employed by a member for a minor violation of an eligible rule. The Exchange proposes to amend Exchange Rule 1014 to add certain rules applicable to the trading of equity securities to the list of rules eligible for disposition pursuant to a minor fine under Exchange Rule 1014.<sup>8</sup>

<sup>4</sup> See Securities Exchange Act Release No. 79543 (December 13, 2016), 81 FR 92901 (December 20, 2016) (File No. 10-227).

<sup>5</sup> See Securities Exchange Act Release No. 88132 (February 6, 2020), 85 FR 8053 (February 12, 2020) (SR-PEARL-2020-03).

<sup>6</sup> See Securities Exchange Act Release No. 89563 (August 14, 2020), 85 FR 51510 (August 20, 2020) (“Approval Order”).

<sup>7</sup> See Securities Exchange Act Release No. 82385 (December 21, 2017), 82 FR 61613 (December 28, 2017) (File No. 4-715).

<sup>8</sup> FINRA’s maximum fine for minor rule violations under FINRA Rule 9216(b) is \$2,500. The Exchange will apply an identical maximum fine amount for eligible violations to achieve consistency with FINRA and also to amend its minor rule violation plan to include such fines. Like FINRA, the Exchange would be able to pursue a fine greater than \$2,500 for violations of Rules 2202, 2606(a)(1), 2623, 2624, and 2104 in a regular disciplinary proceeding or Letter of Consent under Rule 1003 as appropriate. Any fine imposed in excess of \$2,500 or not otherwise covered by Rule 19d-1(c)(2) of the Act would be subject to prompt notice to the Commission pursuant to Rule 19d-1 under the Act.

The Exchange proposes that, as set forth in proposed Exchange Rule 1014(d)(15), violations of the following rules would be appropriate for disposition under the MRVP: Rule 2202 and Interpretations thereunder (requiring the submission of responses to Exchange requests for trading data within specified time period); Rule 2623 (requirement to identify short sale orders as such); Rule 2624 (requirement to comply with locked and crossed market rules); Rule 2104 (Communications with the Public); Rule 2202 and Interpretations thereunder (related to the requirement to furnish Exchange-related order, market and transaction data, as well as financial or regulatory records and information); and Rule 2606(a)(1) (requirements for Equities Market Makers to maintain continuous two-sided quotations).<sup>9</sup>

Violations of Exchange Rules 2202, Preamble (requiring the submission of responses to Exchange requests for trading data within specified time period), 2623, 2624, and 2104 would be subject to the following fines:

Occurrence *	Individual	Member firm
First time fined ..	\$100	\$500
Second time fined .....	300	1,000
Third time fined	500	2,500

\* Within a “rolling” 12-month period.

Violations of Exchange Rules 2202, Interpretation .01 (related to the requirement to furnish Exchange-related order, market and transaction data, as well as financial or regulatory records and information) and 2606(a)(1) would be subject to fines \$100 per violation. The Exchange notes that these proposed fine levels are based on those approved for LTSE and proposed by MEMX.<sup>10</sup>

<sup>9</sup> MEMX, LLC’s (“MEMX”) proposal to adopt a MRVP includes MEMX Rule 12.11 Interpretations and Policy .01 and Exchange Act Rule 604 (failure to properly display limit orders) MEMX Rules 4.5 through 4.16 (Consolidated Audit Trail Compliance Rules). See Securities Exchange Act Release No. 89485 (August 5, 2020), 85 FR 48577 (August 11, 2020) (File No. 4-764). The Exchange notes that it recently amended Exchange Rule 1014 to include Chapter XVII, its Consolidated Order Trail Compliance Rule. See Securities Exchange Act Release No. 89166 (June 26, 2020), 85 FR 39943 (July 2, 2020) (SR-PEARL-2020-07). The Exchange Rules does not include a rule identical to MEMX Rule 12.11.01 that could be included in this proposal. The Exchange notes that MEMX Rule 12.11.01 simply refers to their member’s existing obligations under Exchange Act Rule 604 and a similar rule is also not included in Long Term Stock Exchange, Inc.’s (“LTSE”) MRVP. See Securities Exchange Act Release Nos. 87415 (October 29, 2019), 84 FR 59427 (November 4, 2019) (File No. 4-753).

<sup>10</sup> *Id.*

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

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

<sup>3</sup> In Amendment No. 1, the Exchange clarifies which fine amounts apply to violations of various provisions of Exchange Rule 2202.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>11</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>12</sup> in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

Minor rule fines provide a meaningful sanction for minor or technical violations of rules when the conduct at issue does not warrant stronger, immediately reportable disciplinary sanctions. The inclusion of a rule in the Exchange's MRVP does not minimize the importance of compliance with the rule, nor does it preclude the Exchange from choosing to pursue violations of eligible rules through a Letter of Consent if the nature of the violations or prior disciplinary history warrants more significant sanctions. Rather, the Exchange believes that the proposed rule change will strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities in cases where full disciplinary proceedings are unwarranted in view of the minor nature of the particular violation. Rather, the option to impose a minor rule sanction gives the Exchange additional flexibility to administer its enforcement program in the most effective and efficient manner while still fully meeting the Exchange's remedial objectives in addressing violative conduct. Specifically, the proposed rule change is designed to prevent fraudulent and manipulative acts and practices because it will provide the Exchange the ability to issue a minor rule fine for violations of certain rules related to the trading of equity securities where a more formal disciplinary action may not be warranted or appropriate consistent with the approach of other exchanges for the same conduct.

In connection with the fine level specified in the proposed rule change, adding language describing the fine levels would further the goal of transparency and add clarity to the Exchange's rules. Adopting the same caps as MEMX and LTSE for minor rule fines in connection with the included

rules applicable to the trading of equity securities would also promote regulatory consistency across self-regulatory organizations.

The Exchange further believes that the proposed amendments to Rule 1014 are consistent with Section 6(b)(6) of the Act,<sup>13</sup> which provides that members and persons associated with members shall be appropriately disciplined for violation of the provisions of the rules of the exchange, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction. As noted, the proposed rule change would provide the Exchange ability to sanction minor or technical violations of certain rules applicable to the trading of equity securities pursuant to the Exchange's rules.

Finally, the Exchange also believes that the proposed changes are designed to provide a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d) of the Act.<sup>14</sup> Rule 1014 does not preclude a member or a person associated with or employed by a member from contesting an alleged violation and receiving a hearing on the matter with the same procedural rights through a litigated disciplinary proceeding.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues but rather is concerned solely with making certain equity related rules eligible for a minor rule fine disposition, thereby strengthening the Exchange's ability to carry out its oversight and enforcement functions and deter potential violative conduct.

### *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. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 to

the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-PEARL-2020-15 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-2020-15. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-PEARL-2020-15 and should be submitted on or before October 20, 2020.

## IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder

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

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> 15 U.S.C. 78f(b)(6).

<sup>14</sup> 15 U.S.C. 78f(b)(7) and 78f(d).

applicable to a national securities exchange.<sup>15</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>16</sup> which requires that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission also believes that the proposal is consistent with Sections 6(b)(1) and 6(b)(6) of the Act<sup>17</sup> which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and Exchange rules. Finally, the Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d–1(c)(2) under the Act,<sup>18</sup> which governs minor rule violation plans.

As stated above, the Exchange proposes to amend Exchange Rule 1014 to add certain rules applicable to the trading of equity securities to the list of rules eligible for disposition pursuant to a minor fine under Exchange Rule 1014. The Commission believes that the amended MRVP will permit the Exchange to carry out its oversight and enforcement responsibilities as a self-regulatory organization (“SRO”) more efficiently in cases where full disciplinary proceedings are not necessary due to the minor nature of the particular violation.

In declaring the Exchange’s amended MRVP effective, the Commission in no way minimizes the importance of compliance with Exchange rules and all other rules subject to the imposition of sanctions under Exchange Rule 1014. The Commission believes that the violation of an SRO’s rules, as well as Commission rules, is a serious matter. However, Exchange Rule 1014 provides a reasonable means of addressing violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that the Exchange will continue to conduct surveillance and make determinations based on its findings, on a case-by-case basis, regarding whether a sanction under the amended MRVP is

appropriate, or whether a violation requires formal disciplinary action.

For the same reasons discussed above, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>19</sup> for approving the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of the notice of the filing thereof in the **Federal Register**. The proposal merely amends Exchange Rule 1014 to add certain rules applicable to the trading of equity securities to the current list of rules eligible for disposition pursuant to a minor fine under Exchange Rule 1014. In addition, the Commission notes that the proposal is consistent with the minor rule violation plans of other SROs.<sup>20</sup> Accordingly, the Commission believes that a full notice-and-comment period is not necessary before approving the proposal.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act<sup>21</sup> and Rule 19d–1(c)(2) thereunder,<sup>22</sup> that the proposed rule change (SR–PEARL–2020–15), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>23</sup>

**J. Matthew DeLesDernier**,

*Assistant Secretary*.

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**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89971; File No. SR–PEARL–2020–16]

### Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 2618, Risk Settings and Trading Risk Metrics

September 23, 2020.

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>

<sup>1</sup> 15 U.S.C. 78s(b)(2).

<sup>2</sup> See Securities Exchange Act Release Nos. 87415 (October 29, 2019), 84 FR 59427 (November 4, 2019) (File No. 4–753) (order declaring effective the LTSE MRVP); and 89485 (September 11, 2020), 85 FR 58081 (September 17, 2020) (File No. 4–764) (order declaring effective the MEMX MRVP).

<sup>3</sup> *Id.*

<sup>4</sup> 27 CFR 240.19d–1(c)(2).

<sup>5</sup> 17 CFR 200.30–3(a)(12).

<sup>6</sup> 15 U.S.C. 78s(b)(1).

<sup>7</sup> 27 CFR 240.19b–4.

notice is hereby given that on September 14, 2020, MIAX PEARL, LLC (“MIAX PEARL” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II 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 the Substance of the Proposed Rule Change

The Exchange is filing a proposed rule change to provide Equity Members<sup>3</sup> certain optional risk settings under Exchange Rule 2618 when trading equity securities on the Exchange’s equity trading platform (referred to herein as “MIAX PEARL Equities”).

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

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

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

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

##### 1. Purpose

The purpose of the proposed rule change is to provide Equity Members certain optional risk settings under Exchange Rule 2618 when trading equity securities on MIAX PEARL Equities.<sup>4</sup> To help Equity Members

<sup>3</sup> See Exchange Rule 1901 for the definition of Equity Member.

<sup>4</sup> The proposed rule changes are substantially similar to a recent rule amendment by Cboe BZX Exchange, Inc. (“BZX”) and Cboe EDGX Exchange, Inc. (“EDGX”). See Interpretation and Policy .03 to BZX Rule 11.13 and Interpretation and Policy .03 to EDGX Rule 11.10. See Securities Exchange Act Nos. 88599 (April 8, 2020) 85 FR 20793 (April 14, 2020) (the “BZX Approval”); and 88783 (April 30, 2020), 85 FR 26991 (May 6, 2020) (the “EDGX Notice”). See also Securities Exchange Act Release

<sup>15</sup> In approving this proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>16</sup> 15 U.S.C. 78f(b)(5).

<sup>17</sup> 15 U.S.C. 78f(b)(1) and 78f(b)(6).

<sup>18</sup> 17 CFR 240.19d–1(c)(2).