

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-95298; File No. SR-PEARL-2022-29)

July 15, 2022

Self-Regulatory Organizations: Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by MIAX PEARL, LLC to Amend the Route to Primary Auction Routing Option Under Exchange Rule 2617(b)(5)(B).

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 July 13, 2022 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. 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 proposed rule change to amend the Route to Primary Auction (“PAC”) routing option under Exchange Rule 2617(b)(5)(B).

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

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 purpose of the proposed rule change is to amend the PAC routing option under Exchange Rule 2617(b)(5)(B) that is available to orders in equity securities traded on the Exchange's equity trading platform (referred to herein as "MIAX Pearl Equities"). Specifically, the Exchange proposes to amend subparagraph (b)(5)(B)(1)(ii)(b) to provide for the routing of Market Orders³ entered at or after 3:50 p.m. Eastern Time to the primary listing market's closing process in the event the primary listing market declared a regulatory halt and is to conduct its closing process. The Exchange also proposes to make a clarifying change to Exchange Rule 2617(b)(5)(B) to replace two references to "primary listing exchange" with the term "primary listing market" to ensure consistent terms are used within the Rule.

The Exchange offers its Equity Members⁴ optional routing functionality that allows them to use the Exchange to access liquidity on other trading centers. The functionality includes routing algorithms that determine the destination or pattern of routing. Exchange Rule 2617(b)(5) sets forth that there is a particular pattern of routing to other trading centers, known as the "System routing table", as well as sets forth the Exchange's available routing options. All routing is designed to be conducted in a manner consistent with

³ See Exchange Rule 2614(a)(2).

⁴ The term "Equity Member" is a Member authorized by the Exchange to transact business on MIAX Pearl Equities. See Exchange Rule 1901.

Regulation NMS.

The Exchange recently launched the PAC routing option,⁵ which enables an Equity Member to designate that their order be routed to the primary listing market to participate in the primary listing market's opening, re-opening or closing process. In sum, Exchange Rule 2617(b)(5)(B) describes PAC as a routing option for Market Orders and displayed Limit Orders⁶ designated with a time-in-force of Regular Hours Only ("RHO")⁷ that the entering firm wishes to designate for participation in the opening, re-opening (following a regulatory halt, suspension, or pause), or closing process of a primary listing market (BZX, the New York Stock Exchange LLC ("NYSE"), Nasdaq, NYSE American LLC ("NYSE American"), or NYSE Arca, Inc. ("NYSE Arca")) if received before the opening, re-opening, or closing process of such market.

Market Orders and Closing Process

Market Orders coupled with the PAC routing option are currently not eligible for routing to the primary listing market's closing process. Accordingly, Exchange Rule 2617(b)(5)(B)(1)(ii)(b) provides that a Market Order designated as RHO is not eligible to be

⁵ See Securities Exchange Act Release No. 94301 (February 23, 2022), 87 FR 11739 (March 2, 2022) (SR-PEARL-2022-06). See also MIAX Pearl Equities - Expansion of Functionality Through New Route to Primary Auction (PAC) Strategy - Rollout Postponed until June 27, 2022, dated June 8, 2022, available at <https://www.miaxoptions.com/alerts/2022/06/08/miax-pearl-equities-expansion-functionality-through-new-route-primary-auction-pac> (last visited June 28, 2022).

⁶ See Exchange Rule 2614(a)(1).

⁷ Exchange Rule 2614(b)(2) defines "Regular Hours Only" or "RHO" as "[a]n order that is designated for execution only during Regular Trading Hours, which includes the Opening Process for equity securities. An order with a time-in-force of RHO entered into the System before the opening of business on the Exchange as determined pursuant to Exchange Rule 2600 will be accepted but not eligible for execution until the start of Regular Trading Hours."

routed to participate in the primary listing market’s closing process.⁸ Exchange Rule 2617(b)(5)(B)(1)(ii)(b) further provides that a Market Order designated as RHO received at or after the time the Exchange begins to route existing orders to participate in the primary listing market’s closing process, but before market close, will be cancelled.

The Exchange initially understood that Equity Members did not plan to utilize Market Orders to participate in the primary listing market’s closing process because they would prefer to enter Limit Orders⁹ for purposes of participating in the price discovery process conducted by the primary listing market’s closing process.¹⁰ Therefore, the Exchange initially proposed to not accept Market Orders for purposes of routing them to a primary listing market’s closing process. However, Equity Members recently expressed interest in having the ability to route Market Orders to participate in the primary listing market’s closing process where the primary listing market declares a regulatory halt that extends past 3:50 p.m. Eastern Time. In such case, there is no risk that such order would be executed during continuous trading because continuous trading concluded and the primary listing market is to proceed directly to conducting its closing process in accordance with its rules.¹¹ The Exchange understands Equity Members would welcome the

⁸ Market Orders coupled with the PAC routing option designated as Immediate-or-Cancel (“IOC”) will be cancelled. See Exchange Rule 2617(b)(5)(B)(2)(iv).

⁹ See Exchange Rule 2614(b).

¹⁰ The Exchange previously represented that it would submit a proposed rule change to route Market Orders to participate in the primary listing market’s closing process should Equity Members request such a change. See Securities Exchange Act Release No. 94301 at note 23 (February 23, 2022), 87 FR 11739 (March 2, 2022) (SR-PEARL-2022-06)

¹¹ See, e.g., NYSE Rule 7.35(d), Openings and Reopenings in Last Ten Minutes of Trading; BZX Rule 11.23(d)(2)(c), Incremental Quote Period Extensions for Halt Auctions Following a Regulatory Halt; and Nasdaq Rules 1420(a)(12)(H), Re-opening of Trading Following a Trading Pause, and 4754(b)(6), LULD Closing Cross Following Limit-Up-Limit-Down Trading Pause.

flexibility to route their Market Orders to participate in the primary listing market's closing process in this case.

The Exchange, therefore, proposes to amend Exchange Rule 2617(b)(5)(B)(1)(ii)(b) to provide that a Market Order designated as RHO would continue to not be eligible to be routed to participate in the primary listing market's closing process, unless such Market Order is: (i) entered at or after 3:50 p.m. Eastern Time, but before market close, (ii) the primary listing market has declared a regulatory halt; and (iii) the primary listing market is to conduct its closing process according to its applicable rules.¹² Exchange Rule 2617(b)(5)(B)(1)(ii)(b) would continue to provide that all other Market Orders designated as RHO received at or after the time the Exchange begins to route existing orders to participate in the primary listing market's closing process, but before market close, will be cancelled.

Clarifying Change

The Exchange notes that Exchange Rule 2617(b)(5)(B) used the term "primary listing market" through most of Exchange Rule 2617(b)(5)(B). Exchange Rule 2617(b)(5)(B) only uses the term "primary listing exchange" in two areas, subparagraphs (b)(5)(B)(1)(ii)(a) and (b). The Exchange proposes to make a clarifying change to Exchange Rule 2617(b)(5)(B) to replace these two references to "primary listing exchange" with "primary listing market" to ensure consistent terms are used within the Rule. These change would not amend the meaning of Exchange Rule 2617(b)(5)(B)(1)(ii)(a) and (b). They are simply intended to ensure consistent terminology is used throughout the description of the PAC routing option in Exchange Rule 2617(b)(5)(B) and avoid potential confusion.

¹² The Exchange notes that any shares that remain unexecuted after routing will be cancelled in accordance with the Market Order's RHO time-in-force instruction.

Implementation

Due to the technological changes associated with this proposed change, the Exchange will issue a trading alert publicly announcing the implementation date of this proposed rule change to provide Equity Members with adequate time to prepare for the associated technological changes. The Exchange anticipates that the implementation date will be in either the fourth quarter of 2022 or first quarter of 2023.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,¹³ in general, and furthers the objectives of Section 6(b)(5),¹⁴ in particular, because it is designed to promote just and equitable principles of trade, 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. The proposed rule change would remove impediments to a free and open market and promote just and equitable principles of trade because it would provide market participants with the ability to route Market Orders to participate directly in the primary listing market's closing process opening up another source of liquidity to Market Orders entered on the MIAX Pearl Equities. The Exchange only proposes to route Market Orders to participate in the primary listing market's closing process that are entered at or after 3:50 p.m. Eastern Time, but before market close, and the primary listing market declared a regulatory halt and is to conduct its closing process according to their applicable rules. The Exchange proposes to only route Market Orders in this discrete scenario because it is consistent with Equity Members' expectation that such Market Orders participate directly in the primary market's closing process only and not be

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

subject to market risk because continuous trading in the security would be halted.

The proposed change to the PAC routing option would 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 it would provide Equity Members the option to route their Market Orders to an additional source of liquidity, potentially benefiting from improved execution prices and a more efficient marketplace. Therefore, the Exchange believes the proposed rule change would provide Equity Members with greater control and flexibility over the routing of their Market Orders, thereby facilitating transactions in securities and perfecting the mechanism of the national market system. The Exchange also notes that use of the PAC routing option, including routing Market Order to participate in the primary listing market's closing process, is completely voluntary and no Equity Member is required to route orders through the Exchange and may choose other methods to access liquidity on other trading centers.

The proposal would not impede the national market system because it is not designed to disrupt the ability of the primary listing market to conduct their closing processes. The proposed rule change is similar to existing routing options already provided by other equity exchanges,¹⁵ which the Exchange understands have not disrupted the primary listing market's ability to conduct their closing process. The proposed rule change would simply provide Equity Members with another means to route Market Orders to participate in the primary listing market's closing

¹⁵ See Cboe BZX Exchange, Inc. ("BZX") Rule 11.13(b)(3)(N) (describing the ROOC routing option and not prohibiting market orders from routing to the primary listing market's closing process), Cboe EDGX Exchange, Inc. ("EDGX") Rule 11.11(g)(8) (describing the ROOC routing option and not prohibiting market orders from routing to the primary listing market's closing process), and The Nasdaq Stock Market LLC ("Nasdaq") Rule 4758(a)(1)(A)(x) (describing the LIST routing option and not prohibiting market orders from routing to the primary listing market's closing process).

process. The primary listing markets are free to reject or cancel such orders should they deem them to be inconsistent with their applicable rules.

Finally, the proposed clarification to Exchange Rule 2617(b)(5)(B) to replace two references to “primary listing exchange” with the term “primary listing market” promotes just and equitable principles of trade and protects investors and the public interest because it ensures consistent terminology is used within the Exchange’s Rules, thereby avoiding potential investor confusion.

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. In fact, the Exchange believes that expanding its PAC routing option to route Market Orders entered at or after 3:50 p.m. Eastern Time to participate in the primary listing market’s closing process where a regulatory halt is declared may have a positive effect on competition because it would allow the Exchange to offer functionality similar to that offered by BZX, EDGX, and Nasdaq.¹⁶ The Exchange believes that its proposal promotes competition because it is designed to attract liquidity to the Exchange by providing market participants with additional routing functionality.

The Exchange believes that the proposal will not impose any burden on inter-market competition, but rather promote competition by enhancing the value of the Exchange’s PAC routing option. However, since the use of the Exchange’s PAC routing option is voluntary and Equity Members have numerous alternative mechanisms for order routing, the changes will not impair the ability of Equity Members to use other means to access the primary listing market’s

¹⁶ Id.

closing process. The proposed rule change would improve inter-market competition because it allows the Exchange to provide another means by which market participants would be able route Market Orders to participate in the primary listing market's closing processes that the Exchange believes is similar to that currently provided by other exchanges.¹⁷

The Exchange also believes that the proposal will not impose any burden on intra-market competition because it would be available to all Equity Members. Any Equity Member that seeks to have their Market Order routed to participate in the primary listing market's closing process in the above proposed scenario is free to select the PAC routing option or seek to access those markets through other means.

Finally, the proposed clarification to Exchange Rule 2617(b)(5(B) will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because it also does not enhance the Exchange's competitive position. Rather, it is simply intended to ensure consistent terminology is used in the Exchange's Rules.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the

¹⁷ Id.

Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act¹⁸ and Rule 19b-4(f)(6)¹⁹ 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

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-2022-29 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.

¹⁸ 15 U.S.C. 78s(b)(3)(A).

¹⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

All submissions should refer to File Number SR-PEARL-2022-29. 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. 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-2022-29 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.²⁰

J. Matthew DeLesDernier,
Assistant Secretary.

²⁰ 17 CFR 200.30-3(a)(12).