accordance with the ICE Trade Vault schedule of fees and charges, to reimburse ICE Trade Vault for its reasonable expenses in producing data in response to such request or requirement as such expenses are incurred.[111] Similarly, ICE Trade Vault may require a user to pay all reasonable expenses associated with producing records relating to its transactions pursuant to a court order or other legal process, as those expenses are incurred by ICE Trade Vault, whether such production is required at the instance of such user or at the instance of another party with authority to compel ICE Trade Vault to produce such records.[112]

F. Disclosure

ICE Trade Vault publishes a disclosure document to provide a summary of information regarding its service offerings and the SBS data it maintains.[113] Specifically, the disclosure document sets forth a description of the following: (i) criteria for access to the ICE Trade Vault service and SBS data; (ii) criteria for connection and linking to ICE Trade Vault; (iii) policies and procedures to safeguard SBS data and operational reliability; (iv) policies and procedures to protect the privacy of SBS data; (v) policies and procedures on ICE Trade Vault commercial and non-commercial use of SBS data; (vi) ICE Trade Vault data accuracy and dispute resolution procedures; (vii) ICE Trade Vault services; (viii) ICE Trade Vault pricing; and (ix) ICE Trade Vault governance arrangements.[114]

G. Regulatory Reporting and Public Dissemination

As a registered SDR, ICE Trade Vault would carry out an important role in the regulatory reporting and public dissemination of SBS transactions. As noted above, ICE Trade Vault has stated that it intends to rely on the no-action statement included in the ANE Adopting Release for the period set forth in the ANE Adopting Release with respect to the credit derivatives asset class.[115] Therefore, ICE Trade Vault does not need to include materials in its application explaining how it would comply with the provisions of the SBS Reporting Rules noted in the no-action statement.[116] Instead, ICE Trade Vault may rely on its discussion about how it complies with comparable CFTC requirements pertaining to regulatory reporting and public dissemination of swap transactions.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning ICE Trade Vault's Form SDR, including whether ICE Trade Vault has satisfied the requirements for registration as an SDR and as a SIP. Commenters are requested, to the extent possible, to provide empirical data and other factual support for their views. Comments may be submitted by any of the following methods:

Electronic comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/proposed.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SBSDR–2021–01 on the subject line.

Paper comments

- Send paper comments to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090. All submissions should refer to File Number SBSDR–2021–01.

To help the Commission process and review your comments more efficiently, please use only one method of submission. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/other.shtml*).

Copies of the Form SDR, all subsequent amendments, all written statements with respect to the Form SDR that are filed with the Commission, and all written communications relating to the Form SDR 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 Section, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m.

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 SBSDR–2021–01 and should be submitted on or before April 9, 2021.

By the Commission.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–05744 Filed 3–18–21; 8:45 am]

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[111] *See id.; see also* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 7.1.

[112] *See id.*

[113] *See* Security-Based SDR Service Disclosure Document, Ex. V.2.

[114] *See id.*

[115] *See supra* note 29 and accompanying text.

[116] However, the ICE Trade Vault application includes provisions explaining how it would require users to identify SBS, as required by Rule 901(c)(1) of Regulation SBSR. *See* Security-Based SDR Service Disclosure Document, Ex. N.5 (fields 146–148). The ICE Trade Vault application also includes a provision explaining how it would comply with a condition to the no-action statement included in the ANE Adopting Release. *See* Security-Based SDR Service Disclosure Document, Ex. N.4, sec. 3.5 (providing, in the case of a credit security-based swap, for dissemination of a capped notional size of $5 million if the true notional size of the transaction is $5 million or greater).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91323; File No. SR–PEARL–2021–07]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adopt a Minimum Execution Quantity Instruction for Orders

March 15, 2021.

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 March 1, 2021, MIAX PEARL, LLC (''MIAX PEARL'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the 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 Exchange Rule 2614, Orders and Order Instructions, to adopt the Minimum Execution Quantity instruction.

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.

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

[2] 17 CFR 240.19b-4.

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 amend Exchange Rule 2614, Orders and Order Instructions, to adopt the Minimum Execution Quantity (''MEQ'') instruction that would be available to orders in equity securities traded on the Exchange's equity trading platform (referred to herein as ''MIAX PEARL Equities''). An MEQ instruction would enable a User[3] to specify a minimum share amount at which the order will execute. An order to buy (sell) with an MEQ instruction would not execute unless the volume of orders to sell (buy) meets or exceeds the order to buy (sell)'s designated minimum quantity condition. The proposed MEQ instruction is based on similar functionality offered at other exchanges.[4]

The Exchange understands that some market participants avoid sending large orders to MIAX PEARL Equities out of concern that such orders may interact with small orders entered by professional traders, possibly adversely impacting the execution of their larger order. Institutional orders are often much larger in size than the average order in the marketplace. To facilitate the liquidation or acquisition of a large position, market participants tend to submit multiple orders into the market that may only represent a fraction of the overall institutional position to be executed. Various strategies used by institutional market participants to execute large orders are intended to limit price movement of the security at issue. Executing in small sizes may impact the market for that security such that the additional orders the market participant has yet to enter into the market may be more costly to execute. If an institution is able to execute in larger sizes, the contra-party to the execution is less likely to be a participant that reacts to short term changes in the stock price, and as such, the price impact to the stock may be less acute when larger individual executions are obtained.[5] As a result, these orders are often executed away from the Exchange in dark pools or other exchanges that offer the same functionality as proposed herein,[6] or via broker-dealer internalization.

To attract larger orders, the Exchange proposes to add new optional functionality in the form of the MEQ instruction. The proposed MEQ instruction would be described under new paragraph (c)(7) of Exchange Rule 2614 and described as an instruction a User may attach to a non-displayed order requiring the System to execute the order only to the extent that a minimum quantity can be satisfied. Accordingly, the Exchange also proposes to amend Exchange Rule 2614(a) to specify that the MEQ instruction may be attached to a non-displayed Limit Order,[7] a Market Order, and a Midpoint Peg Order.

Operation Upon Entry

The proposed MEQ instruction would operate differently upon entry than when resting on the MIAX PEARL Equities Book.[8] Proposed Exchange Rule 2614(c)(7)(A) would describe the operation of the MEQ instruction upon entry and provide that an order with an MEQ will execute upon entry against individual orders resting on the MIAX PEARL Equities Book that each satisfy the order's minimum quantity condition. Subparagraph (c)(7)(A)(i) to Exchange Rule 2614 would provide that a User may alternatively specify that the incoming order's minimum quantity condition need not be satisfied by each individual resting order and that the order's minimum quantity condition be satisfied by one or multiple orders resting on the MIAX PEARL Equities Book that in the aggregate satisfy the order's minimum quantity condition.[9]

Subparagraph (c)(7)(A) to Exchange Rule 2614 would also provide that if there are orders that satisfy the minimum quantity condition, but there are also orders that do not satisfy the minimum quantity condition, the order with the MEQ instruction will execute against orders resting on the MIAX PEARL Equities Book in accordance with Rule 2616, Priority of Orders, until it reaches an order that does not satisfy the minimum quantity condition, and then the remainder of the order with an MEQ instruction will be posted to the MIAX PEARL Equities Book or cancelled in accordance with the terms of the order.[10]

The following example illustrates when a User elects for an order with an MEQ instruction to execute upon entry against any number of smaller contra-side orders that, in aggregate, meet the order's minimum quantity condition. Assume there are two orders to sell at $10.00 resting on the MIAX PEARL Equities Book—the first for 300 shares and a second for 400 shares, with the 300 share order having time priority ahead of the 400 share order. If a User entered an order with an MEQ instruction to buy 700 shares at $10.00 with a minimum quantity of 500 shares,

[3] Exchange Rule 1901 defines the term ''User'' as ''any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Exchange Rule 2602.''

[4] *See, e.g.,* Cboe BYX Exchange, Inc. (''BYX'') and Cboe BZX Exchange, Inc. Rules 11.9(c)(5), Cboe EDGA Exchange, Inc. (''EDGA'') and Cboe EDGX Exchange, Inc. (''EDGX'', collectively with BYX, BZX, and EDGA, the ''Cboe Equity Exchanges'') Rules 11.6(h), New York Stock Exchange LLC (''NYSE'') Rule 7.31(i)(3), NYSE Arca, Inc. (''NYSE Arca'') Rule 7.31–E(i)(3), NYSE American LLC (''NYSE American'', collectively with NYSE and NYSE Arca, the ''NYSE Exchanges'') Rule 7.31E(i)(3), Investors Exchange, Inc. (''IEX'') Rule 11.190(h)(11), The NASDAQ Stock Market LLC (''NASDAQ'') Rule 4703(e), and MEMX LLC (''MEMX'') Rule 11.6(f).

[5] The Commission has long recognized this concern: ''[a]nother type of implicit transaction cost reflected in the price of a security is short-term price volatility caused by temporary imbalances in trading interest. For example, a significant implicit cost for large investors (who often represent the consolidated investments of many individuals) is the price impact that their large trades can have on the market. Indeed, disclosure of these large orders can reduce the likelihood of their being filled.'' *See* Securities Exchange Act Release No. 42450 (February 23, 2000), 65 FR 10577, 10581 (February 28, 2000) (SR–NYSE–99–48).

[6] *See supra* note 4.

[7] Unlike the Cboe Equity Exchanges and MEMX, the Exchange will not permit displayed Limit Orders with a time-in-force of Immediate-or-Cancel (''IOC'') to include a minimum quantity condition. *See, e.g.,* EDGX Rule 11.8(b)(3). *See also* MEMX Rule 11.8(b)(2).

[8] Exchange Rule 1901 defines the term ''MIAX PEARL Equities Book'' as ''the electronic book of orders in equity securities maintained by the System.''

[9] The Exchange notes that this functionality is similar to that of the Cboe Equity Exchanges with the exception of the proposed default behavior. The CBOE Equity Exchanges default orders with a minimum execution quantity to execute against multiple aggregated contra-side orders upon entry. *See, e.g.,* EDGX Rule 11.6(h). The NYSE Exchanges and NASDAQ provide both alternatives but do not provide a default. *See, e.g.,* NYSE Rule 7.31(i)(3) *and* NASDAQ Rule 4703(e). The Exchange also notes that MEMX only allows orders with a minimum execution quantity to execute against a single order that satisfies the orders minimum quantity condition upon entry and does not provide for multiple contra-side orders to be aggregated to meet the order's minimum quantity condition. *See* MEMX Rule 11.6(f).

[10] This behavior is identical to that of the Cboe Equity Exchanges and MEMX. *See, e.g.,* EDGX Rule 11.6(h) *and* MEMX Rule 11.6(f).

and the order was marketable against the two resting sell orders for 300 and 400 shares, the System would aggregate both sell orders for purposes of meeting the minimum quantity, thus resulting in executions of 300 shares and then 400 shares respectively.

Following from the above example, assume, however, that the User did not make an affirmative election that their order with an MEQ instruction execute against multiple contra-side orders that, in aggregate, meet the order's minimum quantity condition, such that the order with an MEQ instruction will execute against only individual contra-side orders upon entry that each satisfy the minimum quantity condition. Assume further that the User elected a minimum quantity condition at 400 shares. The order with an MEQ instruction would not execute against the two sell orders because the 300 share order with time priority at the top of the MIAX PEARL Equities Book is less than the incoming order's 400 share minimum quantity condition. The order with an MEQ instruction would then be cancelled or posted to the MIAX PEARL Equities Book, non-displayed, when encountering an order with time priority that is of insufficient size to satisfy its minimum quantity condition.

Operation When Resting on the MIAX PEARL Equities Book

Proposed Exchange Rule 2614(c)(7)(B) would describe the operation of orders with an MEQ instruction when resting on the MIAX PEARL Equities Book. Specifically, proposed Exchange Rule 2614(c)(7)(B) would provide that where there is insufficient size to satisfy an incoming order's minimum quantity condition, that incoming order with an MEQ instruction and a time-in-force of Regular Hours Only (''RHO'') [11] will not trade and will be posted on the MIAX PEARL Equities Book. Subparagraph (c)(7)(B)(i) of Exchange Rule 2614 would provide that when posted on the MIAX PEARL Equities Book, the order may only execute against individual incoming orders with a size that satisfies the minimum quantity condition.[12]

Subparagraph (c)(7)(B)(i)(1) of Exchange Rule 2614 would provide that an order with an MEQ instruction cedes execution priority when it would lock or cross an order against which it would otherwise execute if it were not for the minimum quantity condition.[13] The following example illustrates this behavior. Assume the NBBO is $10.00 by $10.10 and no orders are resting on the MIAX PEARL Equities Book. A non-displayed order to sell 100 shares at $10.10 is entered and posted to the MIAX PEARL Equities Book (''Order A''). A non-displayed order to buy 700 shares at $10.10 with a minimum quantity condition to execute against a single order of 500 shares is then entered and posted to the MIAX PEARL Equities Book (''Order B''). Order B does not execute against Order A because Order A does not satisfy Order B's minimum quantity condition of 500 shares. As a result, Order A is posted to the MIAX PEARL Equities Book at $10.10, creating an internally locked book. An order to buy 100 shares at $10.10 is then entered and executes against Order A at $10.10 for 100 shares ahead of Order B because Order B's minimum quantity condition of 500 shares requires it now execute against a single incoming order that is of sufficient size to satisfy its minimum quantity condition.

Subparagraph (c)(7)(B)(i)(2) of Exchange Rule 2614 would provide that if a resting non-displayed sell (buy) order did not meet the minimum quantity condition of a same-priced resting order to buy (sell) with an MEQ instruction, a subsequently arriving sell (buy) order that meets the minimum quantity condition will trade ahead of such resting non-displayed sell (buy) order at that price. The following example illustrates this behavior. Assume the NBBO is $10.00 by $10.10 and no orders are resting on the MIAX PEARL Equities Book. A non-displayed order to buy 700 shares at $10.10 with a minimum quantity condition to execute against a single order of 500 shares is entered and posted to the MIAX PEARL Equities Book (''Order A''). A non-displayed order to sell 100 shares at $10.10 is then entered and posted to the MIAX PEARL Equities Book (''Order B''). Order B does not execute against Order A because Order B does not satisfy Order A's single minimum quantity condition of 500 shares. As a result, Order B is posted to the MIAX PEARL Equities Book at $10.10, creating an internally locked book. An order to sell 500 shares at $10.10 is then entered and executes against Order A at $10.10 for 500 shares because the incoming order is of sufficient size to satisfy Order A's minimum quantity condition of 500 shares.

To reduce the occurrences of an internally crossed non-displayed market, the Exchange proposes to re-price incoming orders with an MEQ instruction where that order would be posted at a price that may cross a displayed order posted on the MIAX PEARL Equities Book. Subparagraph (c)(7)(B)(ii) of Exchange Rule 2614 would provide that where there is insufficient size to satisfy the minimum quantity condition of an incoming order to buy (sell) and that incoming order, if posted at its limit price, would cross a displayed order to sell (buy) resting on the MIAX PEARL Equities Book, the order to buy (sell) with the Minimum Execution Quantity instruction will have a working price equal to the price of the displayed order to sell (buy).[14] For example, an order to buy at $11.00 with a minimum quantity condition of 500 shares is entered and there is a displayed order resting on the MIAX PEARL Equities Book to sell 200 shares at $10.99. The resting order to sell does not contain sufficient size to satisfy the incoming order's minimum quantity condition of 500 shares. The price of the incoming buy order, if posted to the MIAX PEARL Equities Book, would cross the price of the resting sell order. In such case, to avoid an internally crossed book, the System will re-price the incoming buy order to $10.99, the locking price.

As discussed above, proposed subparagraph (c)(7)(B)(ii) of Exchange Rule 2614 seeks to prevent incoming orders with an MEQ instruction from being posted to the MIAX PEARL Equities Book at a price that crosses resting displayed contra-side orders by re-pricing the order with an MEQ instruction to the locking price. However, once resting on the MIAX PEARL Equities Book, it is possible that an incoming order may be of insufficient size to satisfy the resting order's minimum quantity condition, and therefore, post on the MIAX PEARL Equities Book at a price that crosses the resting order with a minimum quantity condition, resulting in an internally crossed non-displayed book. To address intra-market priority in such a scenario, the Exchange proposes to adopt subparagraph (c)(7)(B)(iii) of Exchange Rule 2614 to describe when an order with an MEQ instruction would not be eligible to trade to prevent executions from occurring that may be inconsistent

[11] Exchange Rule 2614(b)(2).

[12] This behavior is identical to that of the Cboe Equity Exchanges and MEMX. *See, e.g.,* EDGX Rule 11.6(h) *and* MEMX Rule 11.6(f).

[13] *Id.*

[14] The Exchange notes that this behavior proposed by the Exchange was previously adopted by the Cboe Exchanges. *See e.g.,* Securities Exchange Act Release No. 81457 (August 22, 2017), 82 FR 40812 (August 28, 2017) (SR-BatsEDGX–2017–34). The Cboe Equity Exchanges subsequently amended this functionality to cancel an order with a minimum quantity condition where, if posted, it would lock or cross the displayed price of an order on their book. *See, e.g.,* Securities Exchange Act Release No. 82943 (March 23, 2018), 83 FR 13574 (March 29, 2018) (SR-CboeEDGX–2018–008).

with intra-market price priority or would result in a non-displayed order trading ahead of a same-priced, same-side displayed order. The Exchange would not permit an order with an MEQ instruction that crosses other displayed or non-displayed orders on the MIAX PEARL Equities Book to trade at prices that are worse than the price of such contra-side orders. The Exchange would also not permit a resting order with an MEQ instruction to trade at a price equal to a contra-side displayed order.

Specifically, proposed Exchange Rule 2614(c)(7)(B)(iii) would provide that an order to buy (sell) with an MEQ instruction that is posted to the MIAX PEARL Equities Book will not be eligible to trade: (1) At a price equal to or above (below) any sell (buy) displayed orders that have a ranked price equal to or below (above) the price of such order with a Minimum Execution Quantity instruction; or (2) at a price above (below) any sell (buy) non-displayed order that has a ranked price below (above) the price of such order with a Minimum Execution Quantity instruction.[15]

Subparagraph (c)(7)(B)(iv) of Exchange Rule 2614 would provide that an order with an MEQ instruction that crosses an order on the MIAX PEARL Equities Book may execute at a price less aggressive than its ranked price against an incoming order so long as such execution is consistent with the above restrictions. The Exchange notes that this behavior is consistent with that of other exchanges.[16]

The following examples describe the proposed operation of an order with a Minimum Execution Quantity during an internally crossed market. This first example addresses intra-market priority amongst an order with an MEQ instruction and other non-displayed orders in an internally crossed market as well as when an execution may occur at prices less aggressive than the resting order's ranked price. Assume the NBBO is $10.10 by $10.16. A Midpoint Peg Order to buy with a minimum quantity condition to execute against a single order of 100 shares is resting on the MIAX PEARL Equities Book at $10.13, the midpoint of the NBBO (''Order A''). A non-displayed order to sell 50 shares at $10.12 is then entered (''Order B''). Because Order A's minimum quantity condition cannot be met, Order B will not trade with Order A and will be posted and ranked on the MIAX PEARL Equities Book at $10.12, its limit price. The Exchange now has a non-displayed buy order crossing a non-displayed sell order on the MIAX PEARL Equities Book. Then a non-displayed order to sell 25 shares at $10.11 is entered (''Order C''). Like was the case for Order B, Order C does not satisfy Order A's minimum quantity condition and Order C is posted and ranked on the MIAX PEARL Equities Book at $10.11, its limit price. The Exchange now has a non-displayed buy order crossing both non-displayed sell orders on the MIAX PEARL Equities Book. If the Exchange then receives an order to sell for 100 shares at $10.11 (''Order D''),[17] although Order D would be marketable against Order A at $10.13, it would not trade at $10.13 because it is above the price of all resting sell orders. Order D will instead execute against Order A at $10.11, receiving price improvement relative to the midpoint of the NBBO.

This second example addresses intra-market priority amongst displayed orders, non-displayed orders with an MEQ instruction and other non-displayed orders. The Exchange notes that the below behavior is not unique to an internally crossed market as the Exchange's priority rule, 2616(a), currently prohibits non-displayed orders, which would include non-displayed orders with an MEQ instruction, from trading ahead of same-priced, same-side displayed orders. Assume the NBBO is $10.00 by $10.04. A non-displayed order to buy 500 shares at $10.00 is resting on the MIAX PEARL Equities Book (''Order A''). A displayed order to buy 100 shares at $10.00 is then entered and posted to the MIAX PEARL Equities Book (''Order B''). The Exchange receives a non-displayed order to sell 600 shares at $10.00 with a minimum quantity condition to execute against a single order of 500 shares (''Order C''). Although Order A satisfies Order C's minimum quantity condition and has time priority ahead of Order B, no execution occurs because Order B is a displayed order and has execution priority over Order A, a non-displayed order. Order C does not execute against Order B because Order B does not satisfy Order C's minimum quantity condition. Order C is then posted to the MIAX PEARL Equities Book at $10.00, non-displayed.

Partial Executions

Proposed Exchange Rule 2614(c)(7)(C) would describe the handling of orders with an MEQ instruction that are partially executed either upon arrival or when resting on the MIAX PEARL Equities Book. Specifically, subparagraph (c)(7)(C) of Exchange Rule 2614 would provide that an order with an MEQ instruction may be partially executed so long as the execution size of the individual order or aggregate size of multiple orders, as applicable, is equal to or exceeds the minimum quantity condition provided in the instruction. Subparagraph (c)(7)(C)(i) of Exchange Rule 2614 would provide that any shares remaining after a partial execution will continue to be executed at a size that is equal to or exceeds the quantity provided in the instruction. Subparagraph (c)(7)(C)(ii) of Exchange Rule 2614 would provide that where the number of shares remaining are less than the minimum quantity condition provided in the instruction, the minimum quantity condition shall be equal to the number of shares remaining.[18]

Routing

An order with an MEQ instruction would be non-routable. Proposed Exchange Rule 2614(c)(7)(D) would provide that orders that include an MEQ instruction would not be eligible to be routed to an away Trading Center in accordance with Exchange Rule 2617(b).[19]

Operation of Order With an MEQ Instruction Pre-Open and During the Opening and Re-Opening Processes

Currently, Exchange Rule 2600(a) provides that the Exchange will not accept orders designated as Post Only with a time-in-force of RHO, ISOs, and all orders with a time-in-force of IOC prior to 9:30 a.m. Eastern Time. Likewise, Exchange Rule 2600(a) would be amended to also provide that orders with an MEQ instruction will not be accepted prior to 9:30 a.m. Eastern Time.[20]

Orders with an MEQ instruction will also not be eligible to participate in either the opening or re-opening process described under Exchange Rule 2615. Specifically, the Exchange proposes to

[15] This behavior is identical to that of the Cboe Equity Exchanges, MEMX, and the NYSE Exchanges. *See, e.g.,* EDGX Rule 11.6(h), MEMX Rule 11.6(f), *and* NYSE Rule 7.31(i)(3)(C).

[16] This behavior is identical to that of the Cboe Equity Exchanges and MEMX. *See, e.g.,* EDGX Rule 11.6(h) *and* MEMX Rule 11.6(f).

[17] The Exchange understands that on the NYSE Exchanges, Order D will be posted to the book at $10.11 and not execute against Order A at $10.13.

[18] The Exchange notes that this behavior is identical to that of the Cboe Equity Exchanges. *See, e.g.,* EDGX Rule 11.6(h) (stating that ''[w]here the number of shares remaining after a partial execution are less than the quantity provided in the instruction, the Minimum Execution Quantity shall be equal to the number of shares remaining''). *See also* IEX Rule 11.190(h)(11)(G)(ii)(b).

[19] This behavior is identical to that of the Cboe Equity Exchanges and MEMX. *See, e.g.,* EDGX Rule 11.6(h) *and* MEMX Rule 11.6(f).

[20] The Exchange notes that this is similar to the Cboe Equity Exchanges. *See, e.g.,* EDGX Rule 11.1(a)(1).

amend subparagraph (a)(1) of Exchange Rule 2615 to provide that orders with an MEQ instruction are not eligible to participate in the opening process and subparagraph (e) of Exchange Rule 2615 would provide that orders with an MEQ instruction that are to participate in the re-opening process will be cancelled or rejected.[21]

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. The Exchange anticipates that the implementation date will be in either the second or third quarter of 2021.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[22] in general, and furthers the objectives of Section 6(b)(5),[23] 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 regulating, clearing, settling, processing information with respect to, and 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. The proposed rule change would remove impediments to and promote just and equitable principles of trade because it would provide market participants, including institutional firms who ultimately represent individual retail investors in many cases, with optional functionality that would provide them with better control over their orders. Therefore, the proposal would also provide them with greater potential to improve the quality of their order executions.

As discussed above, the functionality proposed herein would enable Users to avoid transacting with smaller orders that they believe ultimately increases the cost of the transaction. Because the Exchange does not have this functionality, the Exchange believes that market participants, such as large institutions that transact a large number of orders on behalf of retail investors, have avoided sending large orders to the Exchange to avoid potentially more expensive transactions.[24] In this regard, the Exchange notes that the proposed new optional MEQ instruction may improve the Exchange's market by attracting more order flow. Such new order flow will further enhance the depth and liquidity on the Exchange, which supports just and equitable principles of trade. Furthermore, the proposed MEQ instruction is consistent with providing market participants with greater control over the nature of their executions so that they may achieve their trading goals and improve the quality of their executions.

Furthermore, the Exchange believes its proposal promotes just and equitable principles of trade because the proposed operation of the MEQ instruction is based on similar functionality at other exchanges.[25] As described further below, while the operation varies in certain ways from that of other exchanges, no aspect of the proposed MEQ instructions operation is unique to the Exchange and is already in place at other exchanges that offer minimum trade size functionality.

The proposal allows Users to designate the minimum individual execution size upon entry or alternatively designate a minimum acceptable quantity on an order that may aggregate multiple executions to meet the minimum quantity requirement. The Exchange notes this proposed default behavior is the only area where the proposal differs from that of other exchanges. Most other equity exchanges provide their members the option for their order with a minimum execution quantity instruction to execute upon entry against a single order or multiple orders in the aggregate. The CBOE Equity Exchanges default orders with a minimum execution quantity to execute against multiple aggregated orders upon entry. NASDAQ, the NYSE Exchanges, and IEX do not provide a default and require that their members make an election upon entry. MEMX is the only exchange that does not provide both options and only allows orders with a minimum execution quantity to execute against a single contra-side order upon entry. The Exchange believes this difference is immaterial as, like most other exchanges, both options will continue to be available to Users. The Exchange believes its proposal to default orders with an MEQ instruction to execute against individual orders that each meet minimum quantity condition upon entry promotes just and equitable principles of trade because it based on discussions with market participants and would enable Users to avoid interacting with small orders entered by professional traders without making an affirmative election to do so, possibly adversely impacting the execution of their larger order. Once posted to the MIAX PEARL Equities Book, the MEQ instruction operates like that of other exchanges where the order would only be eligible to execute against a single contra-side order.[26]

The Exchange also believes that re-pricing incoming orders with an MEQ instruction where that order may cross a displayed order posted on the MIAX PEARL Equities Book promotes just and equitable principles of trade because it enables the Exchange to avoid an internally crossed book. The proposed re-pricing is also similar to how the Exchange currently reprices non-displayed orders that cross the Protected Quotation of an external market.[27] The Exchange notes that this behavior was previously adopted by the Cboe Exchanges.[28] In addition, both IEX and NASDAQ also re-price minimum quantity orders to avoid an internally crossed book. In certain circumstances, NASDAQ re-prices buy (sell) orders to one minimum price increment below (above) the lowest (highest) price of resting orders that do not satisfy the minimum quantity condition.[29] IEX re-prices non-displayed orders, such as minimum quantity orders, that include a limit price more aggressive than the midpoint of the NBBO to the midpoint of the NBBO.[30] Moreover, the proposed optional aggregation functionality for the MEQ instruction is substantially similar to that offered by NASDAQ and IEX, both of which have been approved by the Commission.[31]

[21] The Exchange notes that this is similar to the Cboe Equity Exchanges. *See, e.g.,* EDGX Rule 11.7(a)(2) and (e)(1).

[22] 15 U.S.C. 78f(b).

[23] 15 U.S.C. 78f(b)(5).

[24] As noted, the proposal is designed to attract liquidity to the Exchange by allowing market participants to designate a minimum size of a contra-side order to interact with, thus providing them with functionality available to them on dark markets.

[25] *See supra* note 4.

[26] *See* EDGX Rule 11.6(h) *and* MEMX Rule 11.6(f).

[27] *See* Exchange Rule 2614(g)(2).

[28] *See, e.g.,* Securities Exchange Act Release No. 81457 (August 22, 2017), 82 FR 40812 (August 28, 2017) (SR-BatsEDGX–2017–34). The Cboe Equity Exchanges subsequently amended this functionality to cancel an order with a minimum quantity condition where, if posted, it would lock or cross the displayed price of an order on their book. *See, e.g.,* Securities Exchange Act Release No. 82943 (March 23, 2018), 83 FR 13574 (March 29, 2018) (SR-CboeEDGX–2018–008).

[29] *See* NASDAQ Rule 4703(e). For example, NASDAQ Rule 4703(e) provides that if there was an order to buy at $11 with a minimum quantity condition of 500 shares, and there were resting orders on the NASDAQ Book to sell 200 shares at $10.99 and 300 shares at $11, the order would be repriced to $10.98 and ranked at that price.

[30] *See* IEX Rule 11.190(h)(2).

[31] *See* Securities Exchange Act Release No. 73959 (December 30, 2014), 80 FR 582 (January 6, 2015)

The proposed rule change also removes impediments to and perfects the mechanism of a free and open market and a national market system because it would ensure that there would not be an execution of a resting order with an MEQ instruction that either would be inconsistent with intra-market price priority or would result in a non-displayed order trading ahead of a same-side, same-priced displayed order. Specifically, the proposed rule change would protect displayed orders by preventing an order with an MEQ instruction from executing where it is locked by a contra-side displayed order. The proposed rule change also protects intra-market price priority by preventing a resting order with an MEQ instruction from executing where it is crossed by either a displayed or non-displayed order on the MIAX PEARL Equities Book. The Exchange also believes it is reasonable for: (i) An order with an MEQ instruction to cede execution priority when it would lock or cross an order against which it would otherwise execute if it were not for the minimum quantity condition; and (ii) a resting non-displayed order to cede execution priority to a subsequently arriving same-side order where that order is of sufficient size to satisfy a resting contra-side order's minimum quantity condition because doing so in both cases facilitates executions in accordance with the terms and conditions of each order. This portion of the proposed rule change is also substantially similar to minimum execution functionality on the Cboe Equity Exchanges and MEMX.[32]

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 the proposal may have a positive effect on competition because it will enable the Exchange to offer functionality substantially similar to that offered by the Cboe Equity Exchanges, the NYSE Exchanges, NASDAQ, MEMX, and IEX.[33] As noted above, the Exchange believes its lack of this functionality has put it at a competitive disadvantage as market participants, such as large institutions that transact a large number of orders on behalf of retail investors, have avoided sending large orders to the Exchange to avoid potentially more expensive transactions. This proposal is designed to allow the Exchange to directly compete with other exchanges that offer similar minimum quantity functionality. The proposal would therefore promote competition because it is designed to attract liquidity to the Exchange by allowing market participants to designate a minimum size of a contra-side interest to interact with, thus providing them with functionality available to them on dark markets and other exchanges.

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 Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act[34] and Rule 19b–4(f)(6)[35] 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 email to *rule-comments@sec.gov.* Please include File Number SR–PEARL–2021–07 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–2021–07. 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–2021–07, and should be submitted on or before April 9, 2021.

(order approving new optional functionality for Minimum Quantity Orders). *See* IEX Rule 11.190(b)(11) and Supplementary Material .03 (defining Minimum Quantity Orders and MinExec with Cancel Remaining and MinExec with AON Remaining). *See also* Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41141 (June 23, 2016) (order approving the IEX exchange application, which included IEX's Minimum Quantity Orders). The Exchange also notes that a letter was submitted in strong support of NASDAQ at the time they proposed similar changes to the operation of their Minimum Quantity order attribute under NASDAQ Rule 4703(e). *See* letter to the Commission from James J. Angel, Associate Professor of Finance, Georgetown University, dated November 26, 2014.

[32] *See supra* note 4.

[33] *Id.*

[34] 15 U.S.C. 78s(b)(3)(A).

[35] 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.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

J. Matthew DeLesDernier,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91322; File No. SR–NYSEArca–2021–17]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Listing and Trading of Shares of the T. Rowe Price U.S. Equity Research ETF Under NYSE Arca Rule 8.601–E

March 15, 2021.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 8, 2021, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') 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 self-regulatory organization. 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 proposes to list and trade shares of the following under NYSE Arca Rule 8.601–E: T. Rowe Price U.S. Equity Research ETF. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, 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 self-regulatory organization 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 those 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 parts of such statements.

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

1. Purpose

The Exchange has adopted NYSE Arca Rule 8.601–E for the purpose of permitting the listing and trading, or trading pursuant to unlisted trading privileges (''UTP''), of Active Proxy Portfolio Shares, which are securities issued by an actively managed open-end investment management company.[4] Commentary .01 to Rule 8.601–E requires the Exchange to file separate proposals under Section 19(b) of the Act before listing and trading any series of Active Proxy Portfolio Shares on the Exchange. Therefore, the Exchange is submitting this proposal in order to list and trade shares (''Shares'') as Active Proxy Portfolio Shares of the T. Rowe Price U.S. Equity Research ETF (the ''Fund'') under Rule 8.601–E.

Key Features of Active Proxy Portfolio Shares

While funds issuing Active Proxy Portfolio Shares will be actively-managed and, to that extent, will be similar to Managed Fund Shares, Active Proxy Portfolio Shares differ from Managed Fund Shares in the following important respects. First, in contrast to Managed Fund Shares, which are actively-managed funds listed and traded under NYSE Arca Rule 8.600–E [5] and for which a ''Disclosed Portfolio'' is required to be disseminated at least once daily,[6] the portfolio for each series of Active Proxy Portfolio Shares will be publicly disclosed within at least 60 days following the end of every fiscal quarter in accordance with normal disclosure requirements otherwise applicable to open-end management investment companies registered under the Investment Company Act of 1940 (the ''1940 Act'').[7] The composition of the portfolio of each series of Active Proxy Portfolio Shares would not be available at commencement of Exchange listing and trading. Second, in connection with the creation and redemption of Active Proxy Portfolio Shares, such creation or redemption may be exchanged for a Proxy Portfolio

[36] 17 CFR 200.30–3(a)(12).

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 89185 (June 29, 2020), 85 FR 40328 (July 6, 2020) (SR–NYSEArca–2019–95). Rule 8.601–E(c)(1) provides that ''[t]he term ''Active Proxy Portfolio Share'' means a security that (a) is issued by a investment company registered under the Investment Company Act of 1940 (''Investment Company'') organized as an open-end management investment company that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (b) is issued in a specified minimum number of shares, or multiples thereof, in return for a deposit by the purchaser of the Proxy Portfolio and/or cash with a value equal to the next determined net asset value (''NAV''); (c) when aggregated in the same specified minimum number of Active Proxy Portfolio Shares, or multiples thereof, may be redeemed at a holder's request in return for the Proxy Portfolio and/or cash to the holder by the issuer with a value equal to the next determined NAV; and (d) the portfolio holdings for which are disclosed within at least 60 days following the end of every fiscal quarter.'' Rule 8.601–E(c)(2) provides that ''[t]he term ''Actual Portfolio'' means the identities and quantities of the securities and other assets held by the Investment Company that shall form the basis for the Investment Company's calculation of NAV at the end of the business day.'' Rule 8.601–E(c)(3) provides that ''[t]he term ''Proxy Portfolio'' means a specified portfolio of securities, other financial instruments and/or cash designed to track closely the daily performance of the Actual Portfolio of a series of Active Proxy Portfolio Shares as provided in the exemptive relief pursuant to the Investment Company Act of 1940 applicable to such series.''

[5] The Commission has previously approved listing and trading on the Exchange of a number of issues of Managed Fund Shares under NYSE Arca Rule 8.600–E. *See, e.g.,* Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR–NYSEArca–2008–31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 60460 (August 7, 2009), 74 FR 41468 (August 17, 2009) (SR–NYSEArca–2009–55) (order approving listing of Dent Tactical ETF); 63076 (October 12, 2010), 75 FR 63874 (October 18, 2010) (SR–NYSEArca–2010–79) (order approving Exchange listing and trading of Cambria Global Tactical ETF); 63802 (January 31, 2011), 76 FR 6503 (February 4, 2011) (SR–NYSEArca–2010–118) (order approving Exchange listing and trading of the SiM Dynamic Allocation Diversified Income ETF and SiM Dynamic Allocation Growth Income ETF). The Commission also has approved a proposed rule change relating to generic listing standards for Managed Fund Shares. Securities Exchange Act Release No. 78397 (July 22, 2016), 81 FR 49320 (July 27, 2016 (SR–NYSEArca–2015–110) (amending NYSE Arca Equities Rule 8.600 to adopt generic listing standards for Managed Fund Shares).

[6] NYSE Arca Rule 8.600–E(c)(2) defines the term ''Disclosed Portfolio'' as the identities and quantities of the securities and other assets held by the Investment Company that will form the basis for the Investment Company's calculation of net asset value at the end of the business day. NYSE Arca Rule 8.600–E(d)(2)(B)(i) requires that the Disclosed Portfolio will be disseminated at least once daily and will be made available to all market participants at the same time.

[7] A mutual fund is required to file with the Commission its complete portfolio schedules for the second and fourth fiscal quarters on Form N–CSR under the 1940 Act. Information reported on Form N–PORT for the third month of a fund's fiscal quarter will be made publicly available 60 days after the end of a fund's fiscal quarter. Form N–PORT requires reporting of a fund's complete portfolio holdings on a position-by-position basis on a quarterly basis within 60 days after fiscal quarter end. Investors can obtain a fund's Statement of Additional Information (''SAI''), its Shareholder Reports, its Form N–CSR, filed twice a year, and its Form N–CEN, filed annually. A fund's SAI and Shareholder Reports will be available free upon request from the Investment Company, and those documents and the Form N–PORT, Form N–CSR, and Form N–CEN may be viewed on-screen or downloaded from the Commission's website at *www.sec.gov.*