designates the proposed rule change to be operative upon filing.[13]

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 will institute proceedings to determine whether the proposed rule change 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 (*https://www.sec.gov/rules/sro.shtml*); or

• Send an email to *rule-comments@sec.gov*. Please include file number SR–NYSECHX–2023–20 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–NYSECHX–2023–20. 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 (*https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSECHX–2023–20 and should be submitted on or before December 5, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–25011 Filed 11–13–23; 8:45 am]

BILLING CODE 8011–01–P

[13] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98873; File No. SR–PEARL–2023–60]

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

November 7, 2023.

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 October 31, 2023, MIAX PEARL, LLC (''MIAX Pearl'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange is filing a proposal to amend the fee schedule (the ''Fee Schedule'') applicable to MIAX Pearl Equities, an equities trading facility of the Exchange.

The text of the proposed rule change is available on the Exchange's website at *https://www.miaxglobal.com/markets/us-options/pearl-options/rule-filings,* 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 Exchange proposes to amend Section 1)e) of the Fee Schedule to amend the Midpoint Peg Order Adding Liquidity at Midpoint Volume Tiers table to offer a new enhanced rebate for executions of Midpoint Peg Orders[3] in securities priced at or above $1.00 per share that execute at the midpoint of the Protected NBBO[4] and add liquidity to the Exchange in all Tapes. In response to the competitive environment, the Exchange offers tiered pricing, which provides Equity Members[5] with opportunities to qualify for higher rebates or lower fees when certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Equity Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

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

[2] 17 CFR 240.19b–4.

[3] A Midpoint Peg Order is a non-displayed Limit Order that is assigned a working price pegged to the midpoint of the PBBO. A Midpoint Peg Order receives a new timestamp each time its working price changes in response to changes in the midpoint of the PBBO. *See* Exchange Rule 2614(a)(3).

[4] With respect to the trading of equity securities, the term ''the term ''Protected NBB'' or ''PBB'' shall mean the national best bid that is a Protected Quotation, the term ''Protected NBO'' or ''PBO'' shall mean the national best offer that is a Protected Quotation, and the term ''Protected NBBO'' or ''PBBO'' shall mean the national best bid and offer that is a Protected Quotation. *See* Exchange Rule 1901.

[5] The term ''Equity Member'' is a Member authorized by the Exchange to transact business on MIAX Pearl Equities. *See* Exchange Rule 1901.

Midpoint Peg Orders

The Exchange currently provides a standard rebate of ($0.00205) [6] per share for executions of Midpoint Peg Orders in securities priced at or above $1.00 per share that execute at the midpoint of the Protected NBBO and add liquidity to the Exchange in all Tapes.[7]

The Exchange also provides enhanced rebates through a tiered pricing structure for executions of Midpoint Peg Orders in securities priced at or above $1.00 per share that execute at the midpoint of the Protected NBBO and add liquidity to the Exchange in all Tapes based on an Equity Member achieving certain ''Midpoint ADAV'' thresholds (defined below) (the ''Midpoint Volume Tiers Program'').[8] Pursuant to the Midpoint Volume Tiers Program, Midpoint ADAV means the average daily added volume (''ADAV'') for the current month consisting of Midpoint Peg Orders in securities priced at or above $1.00 per share that execute at the midpoint of the Protected NBBO and add liquidity to the Exchange.[9] Pursuant to Tier 1 of the Midpoint Volume Tiers Program, Equity Members may qualify for an enhanced rebate of ($0.0025) per share for executions of Midpoint Peg Orders in securities priced at or above $1.00 per share that execute at the midpoint of the Protected NBBO and add liquidity to the Exchange by achieving a Midpoint ADAV equal to or greater than 500,000 shares. Pursuant to Tier 2 of the Midpoint Volume Tiers Program, Equity Members may qualify for an enhanced rebate of ($0.0027) per share for executions of Midpoint Peg Orders in securities priced at or above $1.00 per share that execute at the midpoint of the Protected NBBO and add liquidity to the Exchange by achieving a Midpoint ADAV equal to or greater than 1,000,000 shares.

Proposal

The Exchange now proposes to amend the Midpoint Volume Tiers Program to add a new Tier 3 and associated increased rebate. In particular, the Exchange proposes that pursuant to Tier 3 of the Midpoint Volume Tiers Program, Equity Members may now qualify for an enhanced rebate of ($0.0029) per share for executions of Midpoint Peg Orders in securities priced at or above $1.00 per share that execute at the midpoint of the Protected NBBO and add liquidity to the Exchange by achieving a Midpoint ADAV equal to or greater than 1,500,000 shares.

The purpose of the proposed enhanced Tier 3 rebate for executions of Midpoint Peg Orders in securities priced at or above $1.00 per share that execute at the midpoint of the Protected NBBO and add liquidity to the Exchange is to encourage Equity Members that provide liquidity through non-displayed orders to strive for a higher Midpoint ADAV on the Exchange in order to qualify for the higher rebate, which should encourage increased order flow (particularly in the form of liquidity adding non-displayed Midpoint Peg Orders that execute at the midpoint of the Protected NBBO) to the Exchange, thereby contributing to a deeper and more liquid market to the benefit of all market participants.

The Exchange believes that providing a higher enhanced rebate for executions of Midpoint Peg Orders in securities priced at or above $1.00 per share that execute at the midpoint of the Protected NBBO and add liquidity to the Exchange is a reasonable means to incentivize additional liquidity at the midpoint of the Protected NBBO, which in turn should increase the attractiveness of the Exchange as a destination venue as Equity Members seeking price improvement would be more motivated to direct their orders to the Exchange because they would have a heightened expectation of the availability of liquidity at the midpoint of the Protected NBBO.

The Exchange notes that competing exchanges provide similar pricing structures and the proposed enhanced rebate is comparable to and higher than the rebate provided by at least two competing exchanges for executions of non-displayed orders in securities priced at or above $1.00 per share that are pegged to the midpoint of national best bid and offer.[10]

Implementation

The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal on November 1, 2023.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [11] in general, and furthers the objectives of Section 6(b)(4) of the Act [12] in particular, in that it is an equitable allocation of reasonable fees and other charges among its Equity Members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5) [13] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, and 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, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange operates in a highly fragmented and competitive market in which market participants can readily direct their order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 registered equities exchanges, and there are a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly

[6] Rebates are indicated by parentheses. *See* the General Notes section of the Fee Schedule.

[7] See Fee Schedule, Sections (1)(a) and (1)(b), Liquidity Indicator Code ''Ap'' (adds liquidity and executes at the midpoint, non-displayed Midpoint Peg Order (all Tapes)). The Exchange notes that the standard rebate is not changing under this proposal.

[8] *See* Fee schedule, Section (1)(e).

[9] ''ADAV'' means average daily added volume calculated as the number of shares added per day and ''ADV'' means average daily volume calculated as the number of shares added or removed, combined, per day. ADAV and ADV are calculated on a monthly basis. The Exchange excludes from its calculation of ADAV and ADV shares added or removed on any day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during regular trading hours (''Exchange System Disruption''), on any day with a scheduled early market close, and on the ''Russell Reconstitution Day'' (typically the last Friday in June). Routed shares are not included in the ADAV or ADV calculation. With prior notice to the Exchange, an Equity Member may aggregate ADAV or ADV with other Equity Members that control, are controlled by, or are under common control with such Equity Member (as evidenced on such Equity Member's Form BD). *See* the Definitions section of the Fee Schedule.

[10] *See* MEMX Equities Fee Schedule, *available at https://info.memxtrading.com/equities-trading-resources/us-equities-fee-schedule/* (providing enhanced rebates ranging from ($0.0018) up to ($0.0028) per share for members that achieve non-displayed ADAV ranging from 1,000,000 shares to 8,000,000 shares, which includes midpoint peg order executions); *see also* Nasdaq PSX Pricing Schedule, *available at https://www.nasdaqtrader.com/Trader.aspx?id=PSX_Pricing* (providing a standard rebate of $0.0018 per share for all firms that add non-displayed liquidity via an order with midpoint pegging and a rebate of $0.0025 per share for firms that add non-displayed liquidity via an order with midpoint pegging of at least 1 million shares ADV).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4).

[13] 15 U.S.C. 78f(b)(5).

available information, as of October 26, 2023, no single registered equities exchange currently has more than approximately 15–16% of the total market share of executed volume of equities trading for the month of October 2023.[14] Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow, and the Exchange currently represents approximately 2.36% of the overall market share.[15] The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and also recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [16]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. The Exchange believes the proposal reflects a reasonable and competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance liquidity and market quality to the benefit of all Members and market participants.

The Exchange believes that the proposed change to add a new enhanced rebate to the Midpoint Volume Tiers Program is reasonable because it will provide Equity Members with an additional incentive to achieve higher volume thresholds on the Exchange. The Exchange notes that volume-based incentives for midpoint peg order executions have been adopted by competing exchanges,[17] and the Exchange believes its proposal is reasonable, equitable, and not unfairly discriminatory because it is open to all Equity Members on an equal basis and provides an additional benefit that is reasonably related to the value to of the Exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and the introduction of higher volumes of orders into the price and volume discovery processes. The Exchange believes that the proposal is reasonable because it is designed to incentivize market participants to direct additional order flow to the Exchange, which should enhance the Exchange's market quality and provide price improvement through the use of orders that are designed to execute at the midpoint of the Protected NBBO through the provision of enhanced rebates for executions of Midpoint Peg Orders in securities priced at or above $1.00 per share that execute at the midpoint of the Protected NBBO and add liquidity to the Exchange in all Tapes.[18] The Exchange believes its proposal will promote price improvement and increased liquidity on the Exchange which will benefit all market participants.

The Exchange believes the proposed enhanced Tier 3 rebate is equitable and not unfairly discriminatory because all Equity Members will continue to be eligible to qualify for the enhanced rebates provided in the Midpoint Volume Tiers Program, including the new enhanced Tier 3 rebate, and have the opportunity to receive the corresponding enhanced rebate if such criteria is achieved (as described above, based on Midpoint ADAV).

The Exchange further believes that the proposed criteria for the Tier 3 rebate in the Midpoint Volume Tiers Program (Midpoint ADAV equal to or greater than 1,500,000 shares) is reasonable because the proposed criteria is incrementally more difficult to achieve than that of the Tier 2 rebate; thus, proposed Tier 3 offers an appropriately higher rebate commensurate with the corresponding higher Midpoint ADAV requirement. Therefore, the Exchange believes the proposed changes to the Midpoint Volume Tiers Program is consistent with an equitable allocation of fees and rebates, as the more stringent criteria correlates with the corresponding tier's higher rebate. Additionally, the Exchange believes that the proposed rebate is reasonable as such rebate is comparable to, and higher than, the rebates for executions of liquidity-adding non-displayed orders provided by at least two other exchanges under similar volume-based tiers.[19]

For the reasons discussed above, the Exchange submits that the proposal satisfies the requirements of Sections 6(b)(4) and 6(b)(5) of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Equity Members and other persons using its facilities and is not designed to unfairly discriminate between customers, issuers, brokers, or dealers. As described more fully below in the Exchange's statement regarding the burden on competition, the Exchange believes that its transaction pricing is subject to significant competitive forces, and that the proposed fees and rebates described herein are appropriate to address such forces.

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

The Exchange does not believe that the proposed changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed change will encourage Equity Members to maintain or increase their order flow to the Exchange, thereby contributing to a deeper and more liquid market to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue. As a result, the Exchange believes the proposal would enhance its competitiveness as a market that attracts actionable orders, thereby making it a more desirable destination venue for its customers. For these reasons, the Exchange believes that the proposal furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [20]

Intramarket Competition

The Exchange believes that the proposal would incentivize Equity Members to maintain or increase their order flow, thereby contributing to a

[14] *See* the ''Market Share'' section of the Exchange's website, *available at https://www.miaxglobal.com/* (last visited October 26, 2023).

[15] *Id.*

[16] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37499 (June 29, 2005).

[17] *See supra* note 10.

[18] The Exchange notes that Equity Members that do not qualify for one of the Midpoint Volume Tiers will continue to receive the standard rebate of ($0.00205) per share for executions of Midpoint Peg Orders in securities priced at or above $1.00 per share that execute at the midpoint of the Protected NBBO and add liquidity to the Exchange in all Tapes.

[19] *See supra* note 10.

[20] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 47396 (June 29, 2005).

deeper and more liquid market to the benefit of all market participants and enhance the attractiveness of the Exchange as a trading venue, and to provide price improvement through the use of orders that are designed to execute at the midpoint of the Protected NBBO, which the Exchange believes, in turn, would continue to encourage participants to direct order flow to the Exchange. Greater liquidity benefits all Equity Members by providing more trading opportunities and encourages Equity Members to send orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants. The opportunity to qualify for enhanced, incremental rebates under the Midpoint Volume Tiers Program is available to all Equity Members that meet the associated Midpoint ADAV requirements in any month. The Exchange believes the requirements in the Midpoint Volume Tiers Program are reasonably related to the enhanced market quality that the Midpoint Volume Tiers Program is designed to promote. Similarly, the proposed enhanced Tier 3 rebate for executions of Midpoint Peg Orders in securities priced at or above $1.00 per share that execute at the midpoint of the Protected NBBO and add liquidity to the Exchange would apply equally to all Equity Members. As such, the Exchange believes the proposed changes would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intermarket Competition

The Exchange believes its proposal will benefit competition, and the Exchange notes that it operates in a highly competitive market. Equity Members have numerous alternative venues they may participate on and direct their order flow to, including fifteen other equities exchanges and numerous alternative trading systems and other off-exchange venues. As noted above, for the month of October 2023, no single registered equities exchange currently has more than 15–16% of the total market share of executed volume of equities trading.[21] Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. Moreover, the Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow in response to new or different pricing structures being introduced to the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates generally, and market participants can readily choose to send their orders to other exchanges and off-exchange venues if they deem fee levels at those other venues to be more favorable.

As described above, the proposal is designed to enhance market quality on the Exchange and to encourage more Equity Members to maintain or increase their order flow, thereby contributing to a deeper and more liquid market to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue, and to encourage Equity Members to provide price improvement through the use of orders that are designed to execute at the midpoint of the Protected NBBO. In turn, the Exchange believes that the proposed enhanced Tier 3 rebate for executions of Midpoint Peg Orders in securities priced at or above $1.00 per share that execute at the midpoint of the Protected NBBO and add liquidity to the Exchange would encourage the submission of additional order flow to the Exchange, particularly in the form of Midpoint Peg Orders executed at the midpoint of Protected NBBO, thereby promoting market depth, enhanced execution opportunities, price improvement, and price discovery to the benefit of all Equity Members and market participants.

As described above the Exchange's proposal is a competitive proposal designed to encourage additional order flow to the Exchange through a combination of volume based incentives, which have been widely adopted by exchanges, and standard pricing that is comparable to, and/or competitive with, pricing for similar executions in place at other exchanges.[22]

Accordingly, the Exchange believes its proposal would not burden, but rather promote, intermarket competition by enabling it to better compete with other exchanges that offer similar standard pricing for Added Midpoint Volume to market participants that achieves certain volume criteria and thresholds.

Additionally, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies." [23] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission*, the D.C. circuit stated: "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possess a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . .".[24] Accordingly, the Exchange does not believe its proposed pricing changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[25] and Rule 19b–4(f)(2) [26] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule

[21] *See supra* note 14.

[22] *See supra* note 10.

[23] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[24] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSE–2006–21)).

[25] 15 U.S.C. 78s(b)(3)(A)(ii).

[26] 17 CFR 240.19b–4(f)(2).

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 (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–PEARL–2023–60 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–2023–60. 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 (*https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–PEARL–2023–60 and should be submitted on or before December 5, 2023.

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

Christina Z. Milnor,

Assistant Secretary.

[FR Doc. 2023–25007 Filed 11–13–23; 8:45 am]

BILLING CODE 8011–01–P

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98878; File No. SR–NASDAQ–2023–036]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1, Relating to Nasdaq Rules 4120 and 4753

November 7, 2023.

I. Introduction

On September 12, 2023, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Rule 4120 (Limit Up-Limit Down and Trading Halts) and Rule 4753 (Nasdaq Halt Cross) to set forth specific requirements for halting and resuming trading in a security that is subject to a reverse stock split. The proposed rule change was published for comment in the **Federal Register** on September 28, 2023.[3]

On October 27, 2023, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced and superseded the proposed rule change as originally filed.[4] The Commission has received no comments on the proposal.

The Commission is publishing this notice to solicit comments on Amendment No. 1 from interested persons, and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Self-Regulatory Organization's Description of the Proposal, as Modified by Amendment No. 1

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

In conjunction with the increase in overall reverse stock splits in recent years, Nasdaq proposes to amend Rule 4120 and Rule 4753 to set forth specific requirements for halting trading in a security that is subject to a reverse stock split and resuming trading using the Nasdaq Halt Cross.[5] Current Rule 4120 does not specifically list rule reverse stock splits in the enumerated circumstances in which Nasdaq may halt trading in a security. The proposed amendments will be specific to the automatic initiation, pre-market trading and opening of a Nasdaq-listed security undergoing a reverse stock split.

Background

Nasdaq has observed that the current market environment has led to an increase in reverse stock split activity. In 2022, Nasdaq processed 196 reverse stock splits, compared to 35 in 2021 and 98 in 2020. Just in the first quarter of 2023, Nasdaq processed 78 reverse stock splits, and projects significantly more throughout 2023. Reverse stock splits are often effected by smaller companies that do not have broad media or research coverage. In most cases, the companies are listed on the Capital Market tier and are conducting reverse stock splits to achieve compliance with Nasdaq's $1 minimum bid price requirement.[6]

Nasdaq believes that the increase in companies effecting reverse stock splits warrants amendments to the trading halt rules to allow for Nasdaq to help reduce the potential for errors resulting in a material effect on the market resulting from market participants' processing of the reverse stock split, including incorrect adjustment or entry of orders. Nasdaq currently processes reverse

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 98489 (Sept. 22, 2023), 88 FR 66913 (Sept. 28, 2023) (SR–NASDAQ–2023–036) (''Notice'').

[4] In Amendment No. 1, the Exchange makes non-substantive clarifying changes and provides additional justification for the proposal. Amendment No. 1 to the proposed rule change is available at *https://www.sec.gov/comments/sr-nasdaq-2023-036/srnasdaq2023036-283339-691882.pdf.*

[5] The ''Nasdaq Halt Cross'' is the process for determining the price at which Eligible Interest shall be executed at the open of trading for a halted security and for executing that Eligible Interest. *See* Rule 4753(a)(4). ''Eligible Interest'' shall mean any quotation or any order that has been entered into the system and designated with a time-in-force that would allow the order to be in force at the time of the Halt Cross. *See* Nasdaq Rule 4753(a)(5).

[6] Rule 5550(a)(2) specifies that a Company that has its Primary Equity Security listed on the Capital Market must have a minimum bid price of at least $1 per share. *See* also Rule 5450(a)(1) (Global and Global Select Markets). Companies are afforded a grace period pursuant to Rule 5810(c)(3)(A) to regain compliance.