

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-BOX-2024-05 and should be submitted on or before February 15, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024-01393 Filed 1-24-24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-99394; File No. SR-PEARL-2024-03]

Self-Regulatory Organizations; MIAX PEARL LLC; Notice of Filing of a Proposed Rule Change To Amend Exchange Rule 402, Criteria for Underlying Securities

January 19, 2024.

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 January 12, 2024, MIAX PEARL LLC ("MIAX Pearl" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a

proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Exchange Rule 402, Criteria for Underlying Securities.

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 Exchange Rule 402, Criteria for Underlying Securities,³ to allow the Exchange to list and trade options on Exchange-Traded Fund Shares ("ETFs") that represent interests in a trust that holds bitcoin ("Bitcoin ETPs"), designating them as ETFs deemed appropriate for options trading on the Exchange.

Current Exchange Rule 402(i)(4) provides that, subject to certain other criteria set forth in that Rule, securities deemed appropriate for options trading include ETFs that represent certain types of interests,⁴ including interests in

³ The Exchange notes that its affiliate exchange, MIAX Options, has submitted a substantively identical proposal.

⁴ See Exchange Rule 402(i), which permits options trading on ETFs that: (1) represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that hold portfolios of securities and/or financial instruments ("Funds"), including, but not limited to, stock index futures contracts,

certain specific trusts that hold financial instruments, money market instruments, or precious metals (which are deemed commodities).

Bitcoin ETPs are bitcoin-backed commodity ETPs structured as trusts.⁵ Similar to any ETFs currently deemed appropriate for options trading under Exchange Rule 402, the investment objective of a Bitcoin ETP trust is for its shares to reflect the performance of bitcoin (less the expenses of the trust's operations), offering investors an opportunity to gain exposure to bitcoin without the complexities of bitcoin delivery. As is the case for ETFs currently deemed appropriate for

options on futures, options on securities and indices, equity caps, collars and floors, swap agreements, forward contracts, repurchase agreements and reverse repurchase agreements (the "Financial Instruments"), and money market instruments, including, but not limited to, U.S. government securities and repurchase agreements (the "Money Market Instruments") comprising or otherwise based on or representing investments in broad-based indexes or portfolios of securities and/or Financial Instruments and Money Market Instruments (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities and/or Financial Instruments and Money Market Instruments); (2) represent interests in a trust or similar entity that holds a specified non-U.S. currency or currencies deposited with the trust which when aggregated in some specified minimum number may be surrendered to the trust or similar entity by the beneficial owner to receive the specified non-U.S. currency or currencies and pays the beneficial owner interest and other distributions on the deposited non-U.S. currency or currencies, if any, declared and paid by the trust ("Currency Trust Shares"); (3) represent commodity pool interests principally engaged, directly or indirectly, in holding and/or managing portfolios or baskets of securities, commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and/or non-U.S. currency ("Commodity Pool ETFs"); (4) are issued by the SPDR® Gold Trust or the iShares COMEX Gold Trust or the iShares Silver Trust or the ETFs Silver Trust or the ETFS Gold Trust or the ETFS Palladium Trust or the ETFS Platinum Trust or the Sprott Physical Gold Trust; or (5) represent an interest in a registered investment company ("Investment Company") organized as an open-end management company or similar entity, 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, which is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value ("NAV"), and when aggregated in the same specified minimum number, may be redeemed at a holder's request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined NAV ("Managed Fund Share"); provided that all of the conditions listed in (5)(i) and 5(ii) are met.

⁵ The Exchange notes several filings to list and trade ETFs that hold bitcoin as NMS stocks (and registration statements for those Units) are currently pending with the Securities and Exchange Commission (the "Commission"). Pursuant to the Exchange's Rules, the Exchange would only have authority to list and trade ETFs that are trading as NMS stocks.

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

options trading, a Bitcoin ETP's shares represent units of fractional undivided beneficial interest in the trust, the assets of which consist principally of bitcoin and are designed to track bitcoin or the performance of the price of bitcoin and offer access to the bitcoin market.⁶ Bitcoin ETPs provide investors with cost efficient alternatives that allow a level of participation in the bitcoin market through the securities market. The primary substantive difference between Bitcoin ETPs and ETFs currently deemed appropriate for options trading are that ETFs may hold securities, certain financial instruments, and specified precious metals (which are commodities), while Bitcoin ETPs hold bitcoin (which is also deemed a commodity).

The Exchange's initial listing standards for ETFs on which options may be listed and traded on the Exchange will apply to the Bitcoin ETPs. The Exchange expects Bitcoin ETPs to satisfy the initial listing standards as set forth in Exchange Rule 402(a) and Exchange Rule 402(i). Pursuant to Exchange Rule 402(a), a security (which includes ETFs) on which options may be listed and traded on the Exchange must be duly registered (with the Commission) and be an NMS stock (as defined in Rule 600 of Regulation NMS under the Act,) and be characterized by a substantial number of outstanding shares that are widely held and actively traded.⁷ Exchange Rule 402(i) requires that ETFs must either (1) meet the criteria and standards set forth in Exchange Rule 402(a) or Exchange Rule 402(b), or (2) be available for creation or redemption each business day from or through the issuer in cash or in kind at a price related to net asset value, and the issuer must be obligated to issue ETFs in a specified aggregate number even if some or all of the investment assets required to be deposited have not been received by the issuer, subject to the condition that the person obligated to deposit the investments has undertaken to deliver the investment assets as soon as possible and such undertaking is secured by the delivery and

maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer, as provided in the respective prospectus. The Exchange expects that Bitcoin ETPs would satisfy Exchange Rule 402(i)(5)(i)(B).⁸

Options on Bitcoin ETPs will also be subject to the Exchange's continued listing standards set forth in Exchange Rule 403(g), for ETFs deemed appropriate for options trading pursuant to Exchange Rule 402(i). Specifically, Exchange Rule 403(g) provides that ETFs that were initially approved for options trading pursuant to Exchange Rule 402(i) shall be deemed not to meet the requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering that such ETFs, if the ETFs are delisted from trading pursuant to Exchange Rule 403(b)(4), are halted or suspended from trading in their primary market. Additionally, options on ETFs may be subject to the suspension of opening transactions in any of the following circumstances: (1) in the case of options covering ETFs approved for trading under Exchange Rule 402(i)(5)(i)(A), in accordance with the terms of paragraphs (b)(1), (2), and (3) of Exchange Rule 403; (2) in the case of options covering ETFs approved for trading under Exchange Rule 402(i)(5)(i)(B), following the initial twelve-month period beginning upon the commencement of trading in the ETFs on a national securities exchange and are defined as an NMS stock [sic], there are fewer than 50 record and/or beneficial holders of such ETFs for 30 or more consecutive trading days; (3) the value of the index or portfolio of securities, non-U.S. currency, or portfolio of commodities including commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and/or financial instruments and money market instruments on which the Units are based is no longer calculated or available; or (4) such other event shall occur or condition exist that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

Options on a Bitcoin ETP will be physically settled contracts with

American-style exercise.⁹ Consistent with current Exchange Rule 404, which governs the opening of options series on a specific underlying security (including ETFs), the Exchange will open at least one expiration month for options on each Bitcoin ETP¹⁰ at the commencement of trading on the Exchange and may also list series of options on a Bitcoin ETP for trading on a weekly¹¹ monthly,¹² or quarterly¹³ basis. The Exchange may also list long-term equity option series ("LEAPS") that expire from 12 to 180 months from the time they are listed.¹⁴

Pursuant to Exchange Rule 404, Interpretation and Policy .06, which governs strike prices of series of options on Trust Issued Receipts, the interval of strikes prices for series of options Bitcoin ETPs will be \$1 or greater when the strike price is \$200 or less and \$5 or greater where the strike price is over \$200.¹⁵ Additionally, the Exchange may list series of options pursuant to the \$1 Strike Price Interval Program,¹⁶ the

⁹ See Exchange Rule 401, which provides that the rights and obligations of holders and writers are set forth in the Rules of the Options Clearing Corporation ("OCC"); see also OCC Rules, Chapters VIII (which governs exercise and assignment) and Chapter IX (which governs the discharge of delivery and payment obligations arising out of the exercise of physically settled stock option contracts).

¹⁰ See Exchange Rule 404(b). The monthly expirations are subject to certain listing criteria for underlying securities described within Exchange Rule 404 and its Interpretations and Policies. Monthly listings expire the third Friday of the month. The term "expiration date" (unless separately defined elsewhere in the OCC By-Laws), when used in respect of an option contract (subject to certain exceptions), means the third Friday of the expiration month of such option contract, or if such Friday is a day on which the exchange on which such option is listed is not open for business, the preceding day on which such exchange is open for business. See OCC By-Laws Article I, Section 1. Pursuant to Exchange Rule 404(c), additional series of options of the same class may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying stock moves more than five strike prices from the initial exercise price or prices. Pursuant to Exchange Rule 404(e), new series of options on an individual stock may be added until the beginning of the month in which the options contract will expire. Due to unusual market conditions, the Exchange, in its discretion, may add a new series of options on an individual stock until the close of trading on the business day prior to expiration.

¹¹ See Exchange Rule 404, Interpretations and Policies .02.

¹² See Exchange Rule 404, Interpretations and Policies .13.

¹³ See Exchange Rule 404, Interpretations and Policies .03.

¹⁴ See Exchange Rule 404(d).

¹⁵ See Exchange Rule 404, Interpretation and Policy .06.

¹⁶ See Exchange Rule 404, Interpretation and Policy .01.

⁶ The trust may include minimal cash.

⁷ As noted above, there are currently no Bitcoin ETPs trading as NMS stocks on a national securities exchange; however, registration statements and rule filings to list and trade several Bitcoin ETPs are currently pending with the Commission. See Securities Exchange Act Release No. 99306 (January 10, 2024) (citing all the proposed rule changes to list and trade Bitcoin ETPs on U.S. securities exchanges). The Exchange represents it would not list options on a Bitcoin ETP unless it satisfied the criteria in Exchange Rule 402(a) the proposed listing criteria, and any other applicable listing criteria.

⁸ See, e.g., Form S-1 Registration Statement filed on November 29, 2023 (Registration No. 333-275781) (pending registration statement for shares of the Pando Asset Spot Bitcoin Trust); and Form S-1 Registration Statement filed on September 12, 2023 (Registration No. 333-274474) (pending registration statement for shares of the Franklin Bitcoin ETF).

\$0.50 Strike Program,¹⁷ and the \$2.50 Strike Price Program.¹⁸ Pursuant to Exchange Rule 510, where the price of a series of a Bitcoin ETP option is less than \$3.00, the minimum increment will be \$0.05, and where the price is \$3.00 or higher, the minimum increment will be \$0.10.¹⁹ Any and all new series of Bitcoin ETP options that the Exchange lists will be consistent and comply with the expirations, strike prices, and minimum increments set forth in Rules 404 and 510, as applicable.

Bitcoin ETP options will trade in the same manner as any other ETF options on the Exchange. The Exchange Rules that currently apply to the listing and trading of all ETFs options on the Exchange, including, for example, Exchange Rules that govern listing criteria, expiration and exercise prices, minimum increments, position and exercise limits, margin requirements, customer accounts and trading halt procedures will apply to the listing and trading of Bitcoin ETPs on the Exchange in the same manner as they apply to other options on all other ETFs that are listed and traded on the Exchange, including the precious-metal backed commodity ETFs already deemed appropriate for options trading on the Exchange pursuant to current Exchange Rule 402(i)(4).

Position and exercise limits for options on ETFs, including options on Bitcoin ETPs, are determined pursuant to Exchange Rules, Chapter III, Business Conduct. Position and exercise limits for ETFs options vary according to the number of outstanding shares and the trading volumes of the Underlying Security²⁰ over the past six months, where the largest in capitalization and the most frequently traded ETFs have an option position and exercise limit of 250,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market; and smaller capitalization Units have position and exercise limits of 200,000, 75,000, 50,000 or 25,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market.²¹ The Exchange further notes that

Exchange Rules, Chapter XV, Margins, which governs margin requirements applicable to trading on the Exchange, will also apply to the trading of Bitcoin ETP options.

The Exchange represents that the same surveillance procedures applicable to all other options on ETFs currently listed and traded on the Exchange will apply to options on Bitcoin ETPs, and that it has the necessary systems capacity to support the new option series. The Exchange believes that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might potentially arise from listing and trading ETFs options, including precious metal-commodity backed ETFs options, as proposed. Also, the Exchange may obtain information from CME Group Inc.'s designated contract markets that are members of the Intermarket Surveillance Group related to any financial instrument that is based, in whole or in part, upon an interest in or performance of bitcoin, as applicable.

The Exchange has also analyzed its capacity and represents that it believes the Exchange and OPRA have the necessary systems capacity to handle the additional traffic associated with the listing of new series that may result from the introduction of options on Bitcoin ETPs up to the number of expirations currently permissible under the Rules. Because the proposal is limited to ETFs on a single commodity, the Exchange believes any additional traffic that may be generated from the introduction of Bitcoin ETP options will be manageable.

The Exchange believes that offering options on Bitcoin ETPs will benefit investors by providing them with an additional, relatively lower cost investing tool to gain exposure to the price of bitcoin and [sic] hedging vehicle to meet their investment needs in connection with bitcoin-related products and positions. The Exchange expects investors will transact in options on Bitcoin ETPs in the unregulated over-the-counter ("OTC") options market (if the Commission approves Bitcoin ETPs for exchange-trading),²² but may prefer to trade such options in a listed environment to receive the benefits of trading listing options, including (1) enhanced efficiency in initiating and closing out position; (2) increased market transparency; and (3) heightened contra-

party creditworthiness due to the role of OCC as issuer and guarantor of all listed options. The Exchange believes that listing Bitcoin ETP options may cause investors to bring this liquidity to the Exchange, would increase market transparency and enhance the process of price discovery conducted on the Exchange through increased order flow. The ETFs that hold financial instruments, money market instruments, or precious metal commodities on which the Exchange may already list and trade options are trusts structured in substantially the same manner as Bitcoin ETPs and essentially offer the same objectives and benefits to investors, just with respect to different assets. The Exchange notes that it has not identified any issues with the continued listing and trading of any ETFs options, including ETFs that hold commodities (*i.e.*, precious metals) that it currently lists and trades on the Exchange.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.²³ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁴ requirements that the rules of an exchange be 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.

In particular, the Exchange believes that the proposal to list and trade options on Bitcoin ETPs will remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors because offering options on Bitcoin ETPs will provide investors with an opportunity to realize the benefits of utilizing options on a bitcoin-based ETP, including cost efficiencies and increased hedging strategies. The Exchange believes that offering Bitcoin ETP options will benefit investors by providing them with a relatively lower-cost risk management tool, which will

¹⁷ See Exchange Rule 404, Interpretation and Policy .04.

¹⁸ See Exchange Rule 404(f).

¹⁹ See Exchange Rule 510.

²⁰ The term "underlying security" in respect of an option contract means the security which the Clearing Corporation shall be obligated to sell (in the case of a call option contract) or purchase (in the case of a put option contract) upon the valid exercise of the option contract. See Exchange Rule 100.

²¹ As Bitcoin ETPs do not currently trade, options on Bitcoin ETPs would be subject to the 25,000 option contract limit.

²² The Exchange understands from customers that investors have historically transacted in options on ETFs in the OTC options market if such options were not available for trading in a listed environment.

²³ 15 U.S.C. 78f(b).

²⁴ 15 U.S.C. 78f(b)(5).

allow them to manage their positions and associated risk in their portfolios more easily in connection with exposure to the price of bitcoin and with bitcoin-related products and positions. Additionally, the Exchange's offering of Bitcoin ETP options will provide investors with the ability to transact in such options in a listed market environment as opposed to in the unregulated OTC options market, which would increase market transparency and enhance the process of price discovery conducted on the Exchange through increased order flow to the benefit of all investors. The Exchange also notes that it already lists options on other commodity-based ETFs,²⁵ which, as described above, are trusts structured in substantially the same manner as Bitcoin ETPs and essentially offer the same objectives and benefits to investors, just with respect to a different commodity (*i.e.*, bitcoin rather than precious metals) and for which the Exchange has not identified any issues with the continued listing and trading of commodity-backed ETFs options it currently lists for trading.

The Exchange also believes the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, because it is consistent with current Exchange Rules, previously filed with the Commission. Options on Bitcoin ETPs must satisfy the initial listing standards and continued listing standards currently in the Exchange Rules, applicable to options on all ETFs, including ETFs that hold other commodities already deemed appropriate for options trading on the Exchange. Bitcoin ETP options will trade in the same manner as any other ETFs options—the same Exchange Rules that currently govern the listing and trading of all ETsF [sic] options, including permissible expirations, strike prices and minimum increments, and applicable position and exercise limits and margin requirements, will govern the listing and trading of options on Bitcoin ETPs in the same manner.

The Exchange represents that it has the necessary systems capacity to support the new ETF option series. The Exchange believes that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might arise from listing and trading ETF options, including Bitcoin ETP options.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as Bitcoin ETPs would need to satisfy the initial listing standards set forth in the Exchange Rules in the same manner as any other ETFs before the Exchange could list options on them.

Additionally, Bitcoin ETP options will be equally available to all market participants who wish to trade such options. The Exchange Rules currently applicable to the listing and trading of options on ETFs on the Exchange will apply in the same manner to the listing and trading of all options on Bitcoin ETPs. Also, and as stated above, the Exchange already lists options on other commodity-based ETFs.²⁶

The Exchange does not believe that the proposal to list and trade options on Bitcoin ETPs will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the extent that the advent of Bitcoin ETP options trading on the Exchange may make the Exchange a more attractive marketplace to market participants at other exchanges, such market participants are free to elect to become market participants on the Exchange. Additionally, other options exchanges are free to amend their listing rules, as applicable, to permit them to list and trade options on Bitcoin ETPs. Additionally, the Exchange notes that listing and trading Bitcoin ETP options on the Exchange will subject such options to transparent exchange-based rules as well as price discovery and liquidity, as opposed to alternatively trading such options in the OTC market. The Exchange believes that the proposed rule change may relieve any burden on, or otherwise promote, competition as it is designed to increase competition for order flow on the Exchange in a manner that is beneficial to investors by providing them with a lower-cost option to hedge their investment portfolios. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues that offer similar products. Ultimately, the

Exchange believes that offering Bitcoin ETP options for trading on the Exchange will promote competition by providing investors with an additional, relatively low-cost means to hedge their portfolios and meet their investment needs in connection with bitcoin prices and bitcoin-related products and positions on a listed options exchange.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

- A. by order approve or disapprove such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be 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-PEARL-2024-03 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-2024-03. 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

²⁵ See Exchange Rule 402(i)(4).

²⁶ *Id.*

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-2024-03 and should be submitted on or before February 15, 2024.

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

Sherry R. Haywood,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-99393; File No. SR-OCC-2024-001]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change by The Options Clearing Corporation Concerning Its Process for Adjusting Certain Parameters in Its Proprietary System for Calculating Margin Requirements During Periods When the Products It Clears and the Markets It Serves Experience High Volatility

January 19, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 10, 2024, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items

have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change would codify OCC's process for adjusting certain parameters in its proprietary system for calculating margin requirements during periods when the products OCC clears and the markets it serves experience high volatility. Proposed changes to OCC's Margin Policy are submitted in Exhibit 5 to File No. SR-OCC-2024-001. Material proposed to be added is marked by underlining and material proposed to be deleted is marked with strikethrough text. All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.³

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

OCC is the sole clearing agency for standardized equity options listed on national securities exchanges registered with the Commission. OCC also clears certain stock loan and futures transactions. In its role as a clearing agency, OCC guarantees the performance of its Clearing Members for all transactions cleared by OCC by becoming the buyer to every seller and the seller to every buyer (or the lender to every borrower and the borrower to every lender, in the case of stock loan transactions). These clearing activities could expose OCC to financial risks if a Clearing Member fails to fulfil its obligations to OCC. In its role as guarantor for all transactions cleared through OCC, one of the more material risks related to a Clearing Member's

failure to perform is credit risk arising from the activity of the Clearing Members whose performance OCC guarantees. OCC manages these financial risks through financial safeguards, including the collection of margin collateral from Clearing Members designed to, among other things, address the market risk associated with a Clearing Member's positions during the period of time OCC has determined it would take to liquidate those positions.

OCC has established a proprietary system, the System for Theoretical Analysis and Numerical Simulation ("STANS"), that runs various models used to calculate each Clearing Member's margin requirements. One of OCC's margin models generates variance forecasts for the returns on individual equity securities, the result of which OCC then includes as one of the inputs to the margin calculation. As discussed in more detail below, OCC has observed that this particular model may produce results that are "procyclical," which means that changes in margin requirements produced by the model may be positively correlated with the overall state of the market and, if not appropriately addressed, could threaten the stability of its members during periods of heightened volatility.⁴ For example, procyclicality may be evidenced by increasing margin in times of stressed market conditions and low margin when markets are calm. A sudden, extreme increase in margin requirements could stress a Clearing Member's ability to obtain liquidity to meet its obligations to OCC, particularly in periods of high volatility. If that Clearing Member subsequently defaulted, the resulting suspension and liquidation of the defaulting Clearing Member's positions could result in losses chargeable to the mutualized Clearing Fund.⁵ Charging a loss to the Clearing Fund may result in unexpected costs for non-defaulting Clearing Members, stressing their ability to obtain liquidity to meet their own financial obligations in stressed market conditions.

⁴ See Standards for Covered Clearing Agencies, Exchange Act Release No. 78961 (Sept. 28, 2016), 81 FR 70786, 70816 n.318 (S7-03-14) ("In this context, procyclicality typically refers to changes in risk-management practices that are positively correlated with market, business, or credit cycle fluctuations that may cause or exacerbate financial [in]stability.").

⁵ A mutualized, pre-funded guaranty fund comprised of deposits from each member, such as OCC's Clearing Fund, is another financial safeguard commonly employed by central counterparties to address credit risk as the guarantor of the products it clears.

²⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ OCC's By-Laws and Rules can be found on OCC's public website: <https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules>.