the month of September 2024.[30] 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, including with respect to executions of orders in securities priced at or above $1.00 per share for Added Displayed Volume, 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.

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 self-regulatory organization (''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.'' [31] The fact that this market is competitive has also long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the DC 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' . . .''.[32] 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,[33] and Rule 19b–4(f)(2) [34] 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 (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–PEARL–2024–50 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–2024–50. 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–2024–50 and should be submitted on or before December 10, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–26870 Filed 11–18–24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101605; File No. SR–PEARL–2024–49]

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

November 13, 2024.

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, 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, 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.

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[30] *See supra* note 26.

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

[32] *See 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)).

[33] 15 U.S.C. 78s(b)(3)(A)(ii).

[34] 17 CFR 240.19b–4(f)(2).

[35] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

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 MIAX Pearl Options Fee Schedule (''Fee Schedule'').

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)a) of the Fee Schedule, Exchange Rebates/Fees—Add/Remove Tiered Rebates/Fees, to: (1) amend the Priority Customer [3] origin to reduce certain Maker rebates in Penny Classes (defined below); and (2) remove the ''Step-Up Maker Rebate'' (described below) for the MIAX Pearl Market Maker [4] origin in Non-Penny Classes.

Background

The Exchange currently assesses transaction rebates and fees to all market participants which are based upon the total monthly volume executed by the Member [5] on MIAX Pearl in the relevant, respective origin type (not including Excluded Contracts) [6] (as the numerator) expressed as a percentage of (divided by) TCV [7] (as the denominator). In addition, the per contract transaction rebates and fees are applied retroactively to all eligible volume for that origin type once the respective threshold tier has been reached by the Member. The Exchange aggregates the volume of Members and their Affiliates.[8] Members that place resting liquidity, *i.e.,* orders resting on the Book [9] of the MIAX Pearl System,[10] are paid the specified ''maker'' rebate (each a ''Maker''), and Members that execute against resting liquidity are assessed the specified ''taker'' fee (each a ''Taker''). For opening transactions and ABBO [11] uncrossing transactions, per contract transaction rebates and fees are waived for all market participants. Finally, Members are assessed lower transaction fees and receive lower rebates for order executions in standard option classes in the Penny Interval Program [12] (''Penny Classes'') than for order executions in standard option classes which are not in the Penny Interval Program (''Non-Penny Classes''), where Members are assessed higher transaction fees and receive higher rebates.

Proposal To Amend the Priority Customer Origin in the Exchange Rebates/Fees—Add/Remove Tier Rebates/Fees Table at Section 1)a) of the Fee Schedule To Decrease Certain Maker Rebates in Penny Classes

First, the Exchange proposes to amend the Priority Customer origin in the Exchange Rebates/Fees—Add/Remove Tier Rebates/Fees table at Section 1)a) of the Fee Schedule to decrease the Maker rebates in tiers 1 and 2 for Priority Customer Orders [13] in Penny Classes that trade against all origins. Currently, the Priority Customer origin in the Exchange Rebates/Fees—Add/Remove Tier Rebates/Fees table at

[3] The term ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial accounts(s). The number of orders shall be counted in accordance with Interpretation and Policy .01 of Exchange Rule 100. *See* the Definitions section of the Fee Schedule and Exchange Rule 100, including Interpretation and Policy .01.

[4] The term ''Market Maker'' means a Member registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter VI of Exchange Rules. *See* the Definitions section of the Fee Schedule and Exchange Rule 100.

[5] The term ''Member'' means an individual or organization that is registered with the Exchange pursuant to Chapter II of Exchange Rules for purposes of trading on the Exchange as an ''Electronic Exchange Member'' or ''Market Maker.'' Members are deemed ''members'' under the Exchange Act. *See* the Definitions section of the Fee Schedule and Exchange Rule 100.

[6] The term ''Excluded Contracts'' means any contracts routed to an away market for execution. *See* the Definitions section of the Fee Schedule.

[7] The term ''TCV'' means total consolidated volume calculated as the total national volume in those classes listed on MIAX Pearl for the month for which the fees apply, excluding consolidated volume executed during the period time in which the Exchange experiences an ''Exchange System Disruption'' (solely in the option classes of the affected Matching Engine (as defined below)). *See* the Definitions section of the Fee Schedule. The term ''Exchange System Disruption'' means an outage of a Matching Engine or collective Matching Engines for a period of two consecutive hours or more, during trading hours. *Id.* A ''Matching Engine'' is a part of the MIAX Pearl electronic system that processes options orders and trades on a symbol-by-symbol basis. Some Matching Engines will process option classes with multiple root symbols, and other Matching Engines may be dedicated to one single option root symbol (for example, options on SPY may be processed by one single Matching Engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated Matching Engine. A particular root symbol may not be assigned to multiple Matching Engines. *Id.* The Exchange believes that it is reasonable and appropriate to select two consecutive hours as the amount of time necessary to constitute an Exchange System Disruption, as two hours equates to approximately 1.4% of available trading time per month. The Exchange notes that the term ''Exchange System Disruption'' and its meaning have no applicability outside of the Fee Schedule, as it is used solely for purposes of calculating volume for the threshold tiers in the Fee Schedule.

[8] The term ''Affiliate'' means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An ''Appointed Market Maker'' is a MIAX Pearl Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an ''Appointed EEM'' is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAX Pearl Market Maker) that has been appointed by a MIAX Pearl Market Maker, pursuant to the following process. A MIAX Pearl Market Maker appoints an EEM and an EEM appoints a MIAX Pearl Market Maker, for the purposes of the Fee Schedule, by each completing and sending an executed Volume Aggregation Request Form by email to *membership@miaxoptions.com* no later than 2 business days prior to the first business day of the month in which the designation is to become effective. Transmittal of a validly completed and executed form to the Exchange along with the Exchange's acknowledgement of the effective designation to each of the Market Maker and EEM will be viewed as acceptance of the appointment. The Exchange will only recognize one designation per Member. A Member may make a designation not more than once every 12 months (from the date of its most recent designation), which designation shall remain in effect unless or until the Exchange receives written notice submitted 2 business days prior to the first business day of the month from either Member indicating that the appointment has been terminated. Designations will become operative on the first business day of the effective month and may not be terminated prior to the end of the month. Execution data and reports will be provided to both parties. *See* the Definitions section of the Fee Schedule.

[9] The term ''Book'' means the electronic book of buy and sell orders and quotes maintained by the System. *See* Exchange Rule 100.

[10] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[11] The term ''ABBO'' means the best bid(s) or offer(s) disseminated by other Eligible Exchanges (defined in Exchange Rule 1400(g)) and calculated by the Exchange based on market information received by the Exchange from OPRA. *See* the Definitions section of the Fee Schedule and Exchange Rule 100.

[12] *See* Securities Exchange Act Release No. 88992 (June 2, 2020), 85 FR 35142 (June 8, 2020) (SR–PEARL–2020–06).

[13] The term ''Priority Customer Order'' means an order for the account of a Priority Customer. *See* Exchange Rule 100.

Section 1)a) of the Fee Schedule provides certain volume criteria thresholds for all tiers that are based upon the total monthly volume executed in all option classes by a Priority Customer on MIAX Pearl as a percentage of TCV. Pursuant to the Priority Customer origin in the Exchange Rebates/Fees—Add/Remove Tier Rebates/Fees table at Section 1)a) of the Fee Schedule, Priority Customers qualify for the following Maker rebates when Priority Customer orders in Penny Classes trade against all origins: (i) ($0.31) [14] per contract in tiers 1 and 2 if the Priority Customer executes above 0.00% to at least 0.40% of TCV; (ii) ($0.45) per contract in tier 3 if the Priority Customer executes above 0.40% to at least 0.85% of TCV; (iii) ($0.49) per contract in tier 4 if the Priority Customer executes above 0.85% to at least 1.25% of TCV; and (iv) ($0.52) per contract in tiers 5 and 6 if the Priority Customer executes above 1.25% of TCV.

The Exchange now proposes to amend the Priority Customer origin in the Exchange Rebates/Fees—Add/Remove Tier Rebates/Fees table at Section 1)a) of the Fee Schedule to decrease the Maker rebates in tiers 1 and 2 from ($0.31) to ($0.25) per contract for Priority Customer Orders in Penny Classes that trade against all origins. The Exchange does not propose to amend any of the volume threshold criteria or the Maker rebates or Taker fees in any other tier for Priority Customer Orders.

The purpose of this proposed change is for business and competitive reasons. The Exchange previously amended the Priority Customer origin in the Exchange Rebates/Fees—Add/Remove Tier Rebates/Fees table at Section 1)a) of the Fee Schedule to increase the Maker rebates in tiers 1 and 2 from ($0.25) to ($0.31) per contract for Priority Customer Orders in Penny Classes that trade against all origins in order to encourage Members to submit more Priority Customer Orders, which the Exchange believed may lead to increased liquidity on the Exchange.[15] The Exchange recently conducted an internal review and analysis of fees and rebates and determined that the Exchange has not experienced the desired increased liquidity and now proposes to reduce the Maker rebates in tiers 1 and 2 from ($0.31) to ($0.25) per contract for Priority Customer Orders in Penny Classes that trade against all origins. Even with the proposed change, the Exchange believes the Maker rebates in tiers 1 and 2 for Priority Customer Orders in Penny classes will remain highly competitive such that they should enable the Exchange to continue to attract Priority Customer order flow and maintain market share. The Exchange notes that the Maker rebate of ($0.25) per contract in tiers 1 and 2 for Priority Customer Orders in Penny Classes are equal to the rebates offered by at least two competing options exchanges for their customer orders.[16]

Proposal To Remove the Step-Up Maker Rebate for Market Maker Orders in Non-Penny Classes

Next, the Exchange proposes to amend the Market Maker origin in the Exchange Rebates/Fees—Add/Remove Tier Rebates/Fees table at Section 1)a) of the Fee Schedule to remove the ''Step-Up Maker Rebate,'' which is provided in footnote ''(i)'' following the table of transaction rebates and fees for the Market Maker origin in Section 1)a) of the Fee Schedule. Currently, pursuant to the Market Maker origin in the Exchange Rebates/Fees—Add/Remove Tier Rebates/Fees table at Section 1)a) of the Fee Schedule, Market Makers qualify for the following Maker rebates when Market Maker orders in Non-Penny Classes trade against all origins: (i) ($0.30) per contract in tier 1 if the Market Maker executes above 0.00% to at least 0.20% of TCV; (ii) ($0.30) per contract in tier 2 if the Market Maker executes above 0.20% to at least 0.50% of TCV, or satisfies one of the two alternative volume criteria of tier 2; [17] (iii) ($0.60) per contract in tier 3 if the Market Maker executes above 0.50% to at least 0.85% of TCV, or satisfies the alternative volume criteria of tier 3; [18] (iv) ($0.65) per contract in tier 4 if the Market Maker executes above 0.85% to at least 1.25% of TCV, or satisfies the alternative volume criteria of tier 4; [19] (v) ($0.70) per contract in tier 5 if the Market Maker executes above 1.25% to at least 1.40% of TCV; and (vi) ($0.85) per contract in tier 6 if the Market Maker executes above 1.40% of TCV.

Footnote ''(i)'' provides that a Market Maker may qualify for a Step-Up Maker Rebate of ($0.86) per contract for Market Maker orders for Non-Penny Classes, instead of the otherwise applicable standard tiered Maker rebate described above for tiers 1 through 6. In order to receive the Step-Up Maker Rebate, a Market Maker must have an increase in the percentage of their added liquidity in Non-Penny Classes, represented as a percentage of TCV, of at least 0.12% as compared to the Market Maker's July 2024 [20] added liquidity in Non-Penny Classes. The Step-Up Maker Rebate is currently set to expire no later than January 31, 2025.[21] The Exchange now proposes to remove footnote ''(i)'' and the corresponding Step-Up Maker Rebate. The Exchange does not propose to amend any of the volume threshold criteria or the Maker rebates or Taker

[14] Rebates are denoted in parentheses in the Fee Schedule.

[15] *See* Securities Exchange Act Release No. 101122 (September 20, 2024), 89 FR 78920 (September 26, 2024) (SR–PEARL–2024–44).

[16] *See e.g.,* NYSE Arca, Inc (''NYSE Arca'') Options Fee Schedule, Transaction Fees, Customer Penny Posting Credit Tiers, *available at https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf* (last visited October 28, 2024) (providing base credit $0.25 applied to electronic executions of customer posted interest in penny classes); *and* Nasdaq GEMX, LLC (''GEMX'') Options Fee Schedule, Section 3. Regular Order Fees and Rebates, *available at https://listingcenter.nasdaq.com/rulebook/gemx/rules/GEMX%20Options%207* (last visited October 28, 2024) (providing a standard maker rebate of $0.25 in tier 1 for Priority Customer orders in penny classes).

[17] A Market Maker need only to satisfy one of the following two alternative volume criteria in order to receive the rebates or fees associated with tier 2 of the Market Maker origin: (i) the total monthly volume executed by the Market Maker collectively in SPY/QQQ/IWM options on MIAX Pearl, not including Excluded Contracts, is above 0.55% of SPY/QQQ/IWM TCV; or (ii) the Market Maker adds liquidity collectively in SPY/QQQ/IWM options on MIAX Pearl, not including Excluded Contracts, above 0.30% of SPY/QQQ/IWM TCV. *See* Fee Schedule, Section 1)a), Market Maker origin. The term ''SPY/QQQ/IWM TCV'' means total consolidated volume in SPY, QQQ, and IWM calculated as the total national volume in SPY, QQQ, and IWM for the month for which the fees apply, excluding consolidated volume executed during the period of time in which the Exchange experiences an Exchange System Disruption (solely in SPY, QQQ, or IWM options). *See* the Definitions section of the Fee Schedule.

[18] Market Makers satisfy the alternative volume criteria of tier 3 by adding liquidity in SPY options on MIAX Pearl, not including Excluded Contracts, above 1.10% of SPY TCV. The term ''SPY TCV'' means total consolidated volume in SPY calculated as the total national volume in SPY for the month for which the fees apply, excluding consolidated volume executed during the period of time in which the Exchange experiences an Exchange System Disruption (solely in SPY options). *See* the Definitions section of the Fee Schedule. Further, Market Makers qualify for: (i) Maker rebates of ($0.44) per contract in SPY, QQQ and IWM options for their Market Maker origin when trading against origins other than Priority Customer, and (ii) Maker rebates of ($0.42) per contract in SPY, QQQ and IWM options for their Market Maker origin when trading against Priority Customer origins, if the Market Maker satisfies the alternative volume criteria of tier 3, described above, of at least 1.10% in SPY when adding liquidity. *See* Fee Schedule, Section 1)a), note ''♦''.

[19] Market Makers satisfy the alternative volume criteria of tier 4 if the Market Maker's executions solely in SPY options on MIAX Pearl, not including Excluded Contracts, is above 2.50% of SPY TCV.

[20] The Exchange uses a baseline for added liquidity in Non-Penny Classes of 0.00% of TCV for market participants that become Market Makers of the Exchange after July 2024 for the purpose of the Step-Up Maker Rebate calculation.

[21] The Exchange notes that at the end of the sunset period, the Step-Up Maker Rebate will no longer apply unless the Exchange files a rule filing pursuant to Rule 19b–4 of the Exchange Act with the Commission to amend the criteria terms or update the baseline month to a more recent month.

fees in any tier for Market Makers orders in Non-Penny Classes.

The purpose of this change is for business and competitive reasons. The Exchange initially established the Step-Up Maker Rebate in order to encourage Market Makers to add more liquidity in Non-Penny Classes, thereby promoting price discovery and contributing to a deeper and more liquid market.[22] The Exchange recently conducted an internal review and analysis of fees and rebates and determined that the Exchange has not experienced the desired increase in liquidity in Non-Penny Classes and now proposes to remove the Step-Up Maker Rebate. The Exchange believes that the tiered Maker rebates for Market Makers orders in Non-Penny Classes remain highly competitive such that they should enable the Exchange to continue to attract Market Maker order flow and maintain market share. The Exchange notes that the tiered Maker rebates for Market Makers order in Non-Penny Classes fall within the range of similar rebates offered by competing options exchanges for transactions by market makers in Non-Penny Classes.[23]

Implementation

The proposed changes are effective beginning November 1, 2024.

2. Statutory Basis

The Exchange believes that its proposal to amend the Fee Schedule is consistent with Section 6(b) of the Act[24] in general, and furthers the objectives of Section 6(b)(4) of the Act,[25] in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange Members and issuers and other persons using its facilities, and 6(b)(5) of the Act,[26] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Commission has repeatedly expressed its 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.''[27]

There are currently 18 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange had more than approximately 14–15% of the multiply-listed equity options market share for the month of September 2024.[28] Therefore, no exchange possesses significant pricing power. More specifically, the Exchange had a market share of approximately 3.37% of executed volume of multiply-listed equity options for the month of September 2024.[29]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can discontinue or reduce use of certain categories of products and services, terminate an existing membership or determine to not become a new member, and/or shift order flow, in response to transaction fee changes.

Proposal To Amend the Priority Customer Origin in the Exchange Rebates/Fees—Add/Remove Tier Rebates/Fees Table at Section 1)a) of the Fee Schedule To Decrease Certain Maker Rebates in Penny Classes

The Exchange believes its proposal to amend the Priority Customer origin to decrease the Maker rebates in tiers 1 and 2 from ($0.31) to ($0.25) per contract for Priority Customer orders in Penny Classes that trade against all origins is reasonable, equitable and not unfairly discriminatory. The Exchange previously increased the Maker rebates in tiers 1 and 2 from ($0.25) to ($0.31) per contract for Priority Customer orders in Penny Classes that trade against all origins in order to encourage Members to submit more Priority Customer orders.[30] The Exchange recently conducted an internal review and analysis of fees and rebates and determined that the Exchange has not experienced the desired increased liquidity and believes it is reasonable to reduce the enhanced Maker rebates in tiers 1 and 2 from ($0.31) to ($0.25) per contract for Priority Customer orders in Penny Classes. With the proposed decrease, the Exchange's Maker rebate of ($0.25) per contract in tiers 1 and 2 for Priority Customer orders in Penny classes are equal to the rebates offered by at least two other competing options exchanges for their customer orders.[31] Accordingly, the Exchange believes that the proposed change should enable the Exchange to continue to attract Priority Customer order flow and maintain market share. The Exchange believes the proposed Maker rebate in tiers 1 and 2 for Priority Customer orders in Penny Classes is equitable and not unfairly discriminatory because it will apply equally to all market participants who provide Priority Customer orders in Penny Classes.

Proposal To Remove the Step-Up Maker Rebate for Market Maker Orders in Non-Penny Classes

The Exchange believes its proposal to remove the Step-Up Maker Rebate is reasonable, equitably allocated and not unfairly discriminatory. The Exchange initially established Step-Up Maker Rebate in order to encourage Market Makers to add more liquidity in Non-Penny Classes, thereby promoting price discovery and contributing to a deeper and more liquid market.[32] The Exchange recently conducted an internal review and analysis of fees and rebates and determined that the Exchange has not experienced the desired increased liquidity and believes it is reasonable to remove the Step-Up Maker Rebate. The Exchange's tiered Maker rebates for Market Makers order in Non-Penny Classes fall within the range of similar rebates offered by competing options exchanges for transactions by market makers in Non-Penny Classes,[33] and therefore, the Exchange believes that the Exchange's tiered Maker rebates for Market Makers orders in Non-Penny Classes remain highly competitive such that they should enable the Exchange to continue to attract Market Makers order flow and maintain market share. The Exchange

[22] *See supra* note 15.

[23] *See* GEMX Options 7 Pricing Schedule, Section 3, Regular Order Fees and Rebates, *available at https://listingcenter.nasdaq.com/rulebook/gemx/rules/GEMX%20Options%207* (last visited October 28, 2024) (providing tiered rebates ranging from $0.40 to $0.75 per contract for market makers that add liquidity in non-penny classes); *see also* Cboe BZX Exchange, Inc. (''BZX'') Options Fee Schedule, Transaction Fees, Standard Rates table, *available at https://www.cboe.com/us/options/membership/fee_schedule/bzx/* (last visited October 28, 2024) (providing tiered rebates ranging from $0.40 to $0.88 per contract for market makers that add liquidity in non-penny classes).

[24] 15 U.S.C. 78f(b).

[25] 15 U.S.C. 78f(b)(4).

[26] 15 U.S.C. 78f(b)(5).

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

[28] *See* the ''Market Share'' section of the Exchange's website, *available at https://www.miaxglobal.com/* (last visited October 28, 2024).

[29] *See id.*

[30] *See supra* note 15.

[31] *See supra* note 16.

[32] *See supra* note 15.

[33] *See supra* note 23.

also believes its proposal to remove the Step-Up Maker Rebate is equitable and not unfairly discriminatory because the tiered Maker rebates for Market Makers orders in Non-Penny Classes will continue to apply to all Market Makers. The Exchange further believes that the removal of the Step-Up Maker Rebate will reduce complexity within the Fee Schedule and provide greater clarity to all Members. Less complexity and greater clarity in the Fee Schedule helps promote just and equitable principles of trade and removes impediments to and perfects the mechanisms of a free and open market and a national market system.

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

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Intra-Market Competition

The Exchange does not believe that any of the proposed changes will impose any burden on intra-market competition.

Proposal To Amend the Priority Customer Origin in the Exchange Rebates/Fees—Add/Remove Tier Rebates/Fees Table at Section 1)a) of the Fee Schedule To Decrease Certain Maker Rebates in Penny Classes

The Exchange believes its proposal to amend the Priority Customer origin to decrease the Maker rebates in tiers 1 and 2 from ($0.31) to ($0.25) per contract for Priority Customer orders in Penny Classes that trade against all origins will not impose any burden on intra-market competition. The Exchange previously increased the Maker rebates in tiers 1 and 2 from ($0.25) to ($0.31) per contract for Priority Customer orders in Penny Classes that trade against all origins in order to encourage Members to submit more Priority Customer orders.[34] The Exchange recently conducted an internal review and analysis of fees and rebates and determined that the Exchange has not experienced the desired increased liquidity and it believes reducing the Maker rebates in tiers 1 and 2 from ($0.31) to ($0.25) per contract for Priority Customer orders in Penny Classes will not impose any burden on competition. The Exchange notes that even with the proposed change, the Exchange's Maker rebate of ($0.25) per contract for tiers 1 and 2 for Priority Customer orders in Penny classes are equal to the rebates offered by at least two other competing options exchanges for their customer orders in their base tiers.[35]

Proposal To Remove the Step-Up Maker Rebate for Market Maker Orders in Non-Penny Classes

The Exchange believes its proposal to establish the Step-Up Maker Rebate will not impose any burden on intra-market competition. The Exchange initially established Step-Up Maker Rebate in order to encourage Market Makers to add more liquidity in Non-Penny Classes, thereby promoting price discovery and contributing to a deeper and more liquid market, which benefits all market participants and enhances the attractiveness of the Exchange as a trading venue.[36] The Exchange recently conducted an internal review and analysis of fees and rebates and determined that the Exchange has not experienced the desired increased liquidity and believes that removing the Step-Up Maker Rebate will not impose any burden on competition. The Exchange's tiered Maker rebates for Market Maker orders in Non-Penny Classes fall within the range of similar rebates offered by competing options exchanges for transactions by market makers in Non-Penny Classes,[37] and therefore, the Exchange believes that the Exchange's tiered Maker rebates for Market Makers orders in Non-Penny Classes remain highly competitive such that they should enable the Exchange to continue to attract Market Makers order flow and maintain market share.

Inter-Market Competition

The Exchange does not believe that the proposed changes will impose any burden on inter-market competition and the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. There are currently 18 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange had more than approximately 14–15% of the multiply-listed equity options market share for the month of September 2024.[38] Therefore, no exchange possesses significant pricing power. More specifically, the Exchange had a market share of approximately 3.37% of executed volume of multiply-listed equity options for the month of September 2024.[39]

In such an environment, the Exchange must continually adjust its rebates and tiers to remain competitive with other options exchanges. Because competitors are free to modify their own fees and tiers in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. The Exchange believes that the proposed rule changes reflect this competitive environment because they modify the Exchange's tiers and rebates in a manner that encourages market participants to continue to provide liquidity and to send order flow to the 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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[40] and Rule 19b–4(f)(2)[41] 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 (*https://www.sec.gov/rules/sro.shtml*); or

[34] *See supra* note 15.

[35] *See supra* note 16.

[36] *See supra* note 15.

[37] *See supra* note 23.

[38] *See supra* note 28.

[39] *See id.*

[40] 15 U.S.C. 78s(b)(3)(A)(ii).

[41] 17 CFR 240.19b–4(f)(2).

• Send an email to *rule-comments@sec.gov.* Please include file number SR–PEARL–2024–49 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–2024–49. 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–2024–49 and should be submitted on or before December 10, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[42]

Sherry R. Haywood,

Assistant Secretary.

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[42] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101614; File No. SR–CboeBYX–2024–041]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Fees for Its New Offering of Market Data Reports

November 13, 2024.

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 November 1, 2024, Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') 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

Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') proposes to adopt fees for its new offering of market data reports. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*https://markets.cboe.com/us/equities/regulation/rule_filings/BYX/*), at the Exchange's Office of the Secretary, 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.

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

[2] 17 CFR 240.19b–4.

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 its fee schedule to adopt fees for Cboe Timestamping Service reports, effective November 1, 2024. The Exchange recently adopted a new data product known as the Cboe Timestamping Service.[3] The Cboe Timestamping Service provides timestamp information for orders and cancels for market participants. More specifically, the Cboe Timestamping Service reports provide various timestamps relating to the message lifecycle throughout the exchange system. The first report—the Missed Liquidity Report—covers order messages of the Member only and the second report—Cancels Report—covers cancel messages of the Member only. The reports are optional products that are available to all Members and Members may opt to choose both reports, one report, or neither report.

The Cancels Report provides response time details for orders that rest on the book where the Member attempted to cancel that resting order or any other resting order but was unable to do so as the resting order was executed before the system processed the cancel message. The Cancels Report assists the Member in determining by how much time that order missed being canceled instead of executing.

The Missed Liquidity Report provides time details for executions of orders that rest on the book where the Member attempted to execute against that resting order within an Exchange-determined amount of time (not to exceed 1 millisecond) after receipt of the first attempt to execute against the resting order and within an Exchange-determined amount of time (not to exceed 100 microseconds) before receipt of the first attempt to execute against the resting order.

Both the Missed Liquidity Report and Cancels Report include the following data elements for orders[4] and cancel messages,[5] respectively: (1) Member

[3] *See* Securities Exchange Act Release No. 100798 (August 27, 2024), 89 FR 68660 (August 21, 2024) (SR–CboeBYX–2024–030).

[4] The Missed Liquidity Report only includes trade events which are triggered by an order that removed liquidity on entry and will exclude trade events resulting from: elected stop orders, orders routed and executed at away venues, and peg order movements, and auctions.

[5] Includes individual order cancellations, mass cancels, and purge orders messages that are sent via Financial Information Exchange (''FIX'') protocol or Binary Order Entry (BOE) protocol by a subscriber.