

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-92348; File No. SR-PEARL-2021-28)

July 8, 2021

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 to Remove References and Fees Associated with the 10Gb Fiber Connection

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 28, 2021, 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 proposes to amend the MIAX Pearl Options Fee Schedule (the “Fee Schedule”) to remove text pertaining to 10 gigabit (“Gb”) connectivity that will no longer be offered by the Exchange and the corresponding fees for those services.

The text of the proposed rule change is available on the Exchange’s website at <http://www.miaxoptions.com/rule-filings/pearl> at MIAX Pearl’s principal office, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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 the Fee Schedule to remove references and fees for the 10Gb fiber connection for Members<sup>3</sup> and non-Members. The Exchange will cease offering 10Gb connectivity as of July 1, 2021. The Exchange will continue to offer 10Gb ultra-low latency (“ULL”) connectivity.

The Exchange currently offers various bandwidth alternatives for connectivity to the Exchange, including its primary and secondary facilities. These connectivity offerings consist of a 1Gb fiber connection, a 10Gb fiber connection, and a 10Gb ULL fiber connection. The Exchange’s MIAX Express Network Interconnect (“MENI”) can be configured to provide Members and non-Members of the Exchange network connectivity to the trading platforms, market data systems, test systems, and disaster recovery facilities of both the Exchange and its affiliate, Miami International Securities Exchange, LLC (“MIAX”), via a single, shared connection.

On February 4, 2021, the Exchange issued a notice that MIAX Pearl and MIAX would decommission the 10Gb fiber connection in June 2021.<sup>4</sup> This means that all Members and non-

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<sup>3</sup> “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 Exchange Rule 100.

<sup>4</sup> See <https://www.miaxoptions.com/alerts/2021/02/04/miax-options-and-miax-pearl-options-deprecation-10g-ll-infrastructure-and>. The Exchanged issued two subsequent

Members utilizing the 10Gb fiber connection would have to migrate their connections to either the 1Gb fiber connection or the 10Gb ULL fiber connection. Members and non-Members utilizing the 10Gb fiber connection could perform the migration from April 12, 2021 until June 30, 2021.

The Exchange now proposes to amend the Fee Schedule to remove references and fees associated with the 10Gb fiber connection. The Exchange proposes to remove the references to the 10Gb fiber connection from the tables in Sections 4)c)-d) of the Fee Schedule, which are related to Member and non-Member network connectivity testing and certification fees. The Exchange will continue to offer the 10 Gb ULL connection and does not propose to amend the fees for Member and non-Member network connectivity testing and certification. The Exchange also proposes to amend the tables in Sections 5)a)-b) of the Fee Schedule, related to Member and non-Member monthly network connectivity fees, to remove the fee columns for the 10Gb fiber connection.

## 2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act<sup>5</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>6</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among its members and issuers and other persons using its facilities. The Exchange also believes the

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alerts on March 4, 2021 and March 29, 2021 reminding market participants of its intent to decommission 10 Gb connectivity in June 2021. See <https://www.miaxoptions.com/alerts/2021/03/04/miax-options-and-miax-pearl-options-reminder-and-updates-deprecation-10g-ll> and <https://www.miaxoptions.com/alerts/2021/03/29/miax-options-and-miax-pearl-options-3rd-reminder-deprecation-10g-ll>.

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(4) and (5).

proposal furthers the objectives of Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, 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 is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange believes the elimination of the 10Gb fiber connection fee and related rule text is reasonable because the Exchange will no longer offer this functionality as of July 1, 2021, thus making the fees irrelevant going forward. The Exchange notes that, because the 10Gb fiber connection is outdated technology and that Members and non-Members have other connectivity options, the Exchange planned to phase out this connectivity service in its entirety on or before July 1, 2021.<sup>7</sup>

The Exchange believes the proposed change is reasonable, equitably allocated and not unfairly discriminatory because the Exchange has experienced a steady decrease in the number of Members and non-Members that purchase the 10Gb connection over the past few years. Further, as a consequence of more firms choosing to purchase the 10Gb ULL connection over the 10Gb connection, the Exchange believes that, if it did not decommission the 10Gb connections, it would be unable to provide the current level of support to those firms that have such connections. The Exchange notes that from the time the Exchange initially issued its notice that it would decommission the 10Gb connection to now, 11 Members and 2 non-Members migrated their 10Gb connections to 10Gb ULL connections.<sup>8</sup> The Exchange also believes the

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<sup>7</sup> See supra note 4.

<sup>8</sup> The Exchange notes that no Member or non-Member transferred from the 10Gb connection to a 1Gb connection and no Member or non-Member disconnected from the Exchange.

proposed changes are reasonable as the Exchange provided Members and non-Members six months' notice that the Exchange planned to make these changes. During that time, Members and non-Members had the ability to make the business decision to: (1) switch to the Exchange's 1Gb or 10Gb ULL connections; (2) access the Exchange through another Exchange Member as a Sponsored User;<sup>9</sup> or (3) no longer access the Exchange. Market participants can also choose from 15 competing options markets. In the event that a market participant views the Exchange's connectivity and access fees as more or less attractive than competing markets, that market participant can choose to connect to the Exchange indirectly or may choose not to connect to the Exchange and connect instead to one or more of the other 15 options markets.

Further, the Exchange notes that there is no regulatory or legal requirement for any Member or non-Member to connect to the Exchange. It is a business decision of each Member and non-Member whether to connect to the Exchange and, if so, whether to connect via 1Gb, 10Gb, or 10Gb ULL connection. The Exchange believes the proposed rule change to remove the fees and rule text related to the 10Gb fiber connection is reasonable as the Exchange has observed a minimal amount of Members and non-Members utilize the 10Gb fiber connection and, therefore, the continuation of this connectivity alternative does not warrant the infrastructure and ongoing Systems maintenance required to support this connectivity alternative. The Exchange notes that its affiliate, MIAX Emerald, LLC ("MIAX Emerald"), never offered the 10Gb fiber connection as a connectivity alternative. The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory because the Exchange will no longer

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<sup>9</sup> See Exchange Rule 210.

offer the 10Gb connection to all Members and non-Members while continuing to offer both 1Gb and 10Gb ULL connectivity to all.

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 not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes eliminate the fees and related rule text that apply to the 10Gb fiber connection, which the Exchange will no longer offer as of July 1, 2021. As noted above, while there are a very small number of Members and non-Members that utilized the 10Gb fiber connection, Members and non-Members are not required to utilize this connectivity alternative. As discussed above, decommissioning of the 10Gb connection should have minimal to no impact on Members and non-Members as those Members that utilize a 10Gb connection have other means to access the Exchange, either by transitioning to the 1Gb or 10Gb ULL connection, or access the Exchange through a Sponsored User. Accordingly, the Exchange does not believe that its proposal imposes any burden on intra-market competition, or places certain market participants at a relative disadvantage compared to other market participants.

In terms of inter-market competition, 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. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

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

Written comments were neither solicited nor received.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(6)<sup>11</sup> 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:

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-PEARL-2021-28 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-PEARL-2021-28. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to

make available publicly. All submissions should refer to File Number SR-PEARL-2021-28 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>12</sup> 17 CFR 200.30-3(a)(12).