

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.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2021-51 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-Phlx-2021-51. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2021-51 and should be submitted on or before October 13, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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**BILLING CODE 8011-01-P**

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-93024; File No. SR-PEARL-2021-35]

#### Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend Exchange Rule 2616, Priority of Orders

September 16, 2021.

On July 20, 2021, MIAX PEARL, LLC ("Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to amend Exchange Rule 2616, Priority of Orders, to provide that an order will receive a new timestamp when its position is modified via a Cancel/Replace message during a Short Sale Period. The proposed rule change was published for comment in the **Federal Register** on August 6, 2021.<sup>3</sup> The Commission has not received any comment letters on the proposed rule change.

Section 19(b)(2) of the Act<sup>4</sup> provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is September 20, 2021.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds that it is appropriate

<sup>19</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 92545 (August 2, 2021), 86 FR 43279 (August 6, 2021).

<sup>4</sup> 15 U.S.C. 78s(b)(2).

to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> the Commission designates November 4, 2021, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-PEARL-2021-35).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-450, OMB Control No. 3235-0505]

#### Submission for OMB Review; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

##### *Extension:*

Rule 303 of Regulation ATS

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for approval of extension of the previously approved collection of information provided for in Rule 303 of Regulation ATS (17 CFR 242.303) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) ("Exchange Act").

Regulation ATS sets forth a regulatory regime for "alternative trading systems" ("ATSs"), which are entities that carry out exchange functions but are not required to register as national securities exchanges under the Act. In lieu of exchange registration, an ATS can instead opt to register with the Commission as a broker-dealer and, as a condition to not having to register as an exchange, must instead comply with Regulation ATS. Rule 303 of Regulation ATS (17 CFR 242.303) describes the record preservation requirements for ATSs. Rule 303 also describes how such

<sup>5</sup> *Id.*

<sup>6</sup> 17 CFR 200.30-3(a)(31).

records must be maintained, what entities may perform this function, and how long records must be preserved. Under Rule 303, ATSs are required to preserve all records made pursuant to Rule 302, which includes information relating to subscribers, trading summaries, and time-sequenced order information. Rule 303 also requires ATSs to preserve any notices provided to subscribers, including, but not limited to, notices regarding the ATSs operations and subscriber access. For an ATS subject to the fair access requirements described in Rule 301(b)(5)(ii) of Regulation ATS, Rule 303 further requires the ATS to preserve at least one copy of its standards for access to trading, all documents relevant to the ATS's decision to grant, deny, or limit access to any person, and all other documents made or received by the ATS in the course of complying with Rule 301(b)(5) of Regulation ATS. For an ATS subject to the capacity, integrity, and security requirements for automated systems under Rule 301(b)(6) of Regulation ATS, Rule 303 requires an ATS to preserve all documents made or received by the ATS related to its compliance, including all correspondence, memoranda, papers, books, notices, accounts, reports, test scripts, test results and other similar records. Rule 303(a)(1)(v) of Regulation ATS requires every ATS to preserve the written safeguards and written procedures mandated under Rule 301(b)(10). As provided in Rule 303(a)(1), ATSs are required to keep all of these records, as applicable, for a period of at least three years, the first two in an easily accessible place. In addition, Rule 303 requires ATSs to preserve records of partnership articles, articles of incorporation or charter, minute books, stock certificate books, copies of reports filed pursuant to Rule 301(b)(2) and Rule 304, and records made pursuant to Rule 301(b)(5) for the life of the ATS. ATSs that trade both NMS Stock and securities other than NMS Stock are required to file, and also preserve under Rule 303, both Form ATS and related amendments and Form ATS-N and related amendments.

The information contained in the records required to be preserved by Rule 303 will be used by examiners and other representatives of the Commission, state securities regulatory authorities, and the self-regulatory organizations ("SROs") to ensure that ATSs are in compliance with Regulation ATS as well as other applicable rules and regulations. Without the data required by the Rule, regulators would be limited in their ability to comply with their statutory

obligations, provide for the protection of investors, and promote the maintenance of fair and orderly markets.

Respondents consist of ATSs that choose to register as broker-dealers and comply with the requirements of Regulation ATS. There are currently 94 respondents. The Commission believes that the average ongoing hourly burden for a respondent to comply with the baseline record preservation requirements under Rule 303 is approximately 15 hours per year. We thus estimate that the average aggregate ongoing burden to comply with the baseline Rule 303 record preservation requirements is approximately 1,410 hours per year. (94 ATSs × 15 hours = 1,410 hours) In addition, there are currently two ATSs that transact in both NMS stock and non-NMS stock on their ATSs. These two ATSs have a slightly greater burden because they have to keep both Form ATS and Form ATS-N and related documents (*e.g.*, amendments). For these two ATSs, we estimate that the ongoing burden above the current baseline estimate for preserving records will be approximately 1 hour annually per ATS for a total annual burden above the current baseline burden estimate of 2 hours for all respondents. Thus, the estimated average annual aggregate burden for alternative trading systems to comply with Rule 303 is approximately 1,412 hours (1,410 hours + 2 hours).

Compliance with Rule 303 is mandatory. The information required by Rule 303 is available only for the examination of the Commission staff, state securities authorities and the SROs. Subject to the provisions of the Freedom of Information Act, 5 U.S.C. 522 ("FOIA"), and the Commission's rules thereunder (17 CFR 200.80(b)(4)(iii)), the Commission does not generally publish or make available information contained in any reports, summaries, analyses, letters, or memoranda arising out of, in anticipation of, or in connection with an examination or inspection of the books and records of any person or any other investigation.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: [www.reginfo.gov](http://www.reginfo.gov). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function. Written comments and recommendations for the proposed

information collection should be sent within 30 days of publication of this notice to (i) [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain) and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or by sending an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: September 16, 2021.

**J. Matthew Delesdernier,**  
Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-93019; File No. SR-PEARL-2021-41]

### 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 With Respect to Open-Close Report Data

September 16, 2021.

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 September 3, 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 is filing a proposal to amend the MIAX Pearl Options Fee Schedule (the "Fee Schedule") to provide historical Open-Close Report data for free by amending the fees for the Open-Close Report to: (i) Respond to ad hoc requests for end-of-day data free of charge; and (ii) provide mid-month subscribers data for the entire month in which they subscribe.

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.

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

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