

or the Agreement State equivalent forms, are used by low-level radioactive waste (LLW) collectors and processors that are shipping LLW attributed to others for disposal at a licensed land disposal facility. NRC Form 542/542A, combined with NRC Forms 540/540A and 541/541A, are collectively referred to as the Uniform Low-Level Radioactive Waste Manifest forms. The disposal facilities and their Agreement State regulators, where applicable, use the information found on the forms to ensure waste disposal meets the requirements in part 61 of title 10 of the *Code of Federal Regulations* (10 CFR) for the protection of the public and environment. The NRC does not collect or retain data on the forms and the forms are not sent to or received by the NRC. NRC Form 541/541A and NRC Form 542/542A are (1) mailed or electronically transferred to the intended consignee prior to the shipment arriving at the consignee or (2) delivered with the waste to the consignee. NRC Form 540 and 540A are required to be with the shipment regardless of which of the above methods is chosen.

6. *Who will be required or asked to respond:* NRC Form 542 and continuation Form 542A are completed by collectors and processors of LLW intended for ultimate disposal at a licensed land disposal facility.

7. *The estimated number of annual responses:* 623.

8. *The estimated number of annual respondents:* 71.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 467.

10. *Abstract:* The NRC Form 542, completed by LLW collectors and processors, contains information needed to satisfy the waste manifesting requirements of the NRC's 10 CFR part 20 and information on the attribution of the waste. Each waste container shipped from a waste collector or processor may contain waste from several different generators. Tracking the identity of the original waste generator becomes more complicated when the waste forms, dimensions, or packaging are changed by the waste processor. These forms are used to attribute the waste to the original generator for regional waste compact tabulation. The information provided on the NRC Form 542 permits the States and Compacts to know the original generators of LLW, as authorized by the Low-Level Radioactive Waste Policy Amendments Act of 1985, so they can ensure that waste is disposed of in the appropriate Compact. NUREG/BR-0204, Rev. 3,

contains instructions for completing NRC Forms 540, 540A, 541, 541A, 542, and 542A. The forms were originally developed by the NRC at the request of low-level waste industry groups. The forms are intended to provide uniformity and efficiency in the collection of information contained in manifests which are required to control transfers of LLW intended for disposal at a land disposal facility. However, as stated in 10 CFR part 20, Appendix G, "Licensees need not use originals of these NRC Forms as long as any substitute forms are equivalent to the original documentation in respect to content, clarity, size, and location of information . . ." The NRC previously noticed the availability of revisions to the Uniform Low-Level Radioactive Waste Manifest Forms in the **Federal Register** on June 25, 2021 (86 FR 33783). The information collection contained in the current extension request does not include any material changes to the forms, except for: (1) changes to the Paperwork Reduction Act statement to indicate that licensees may use equivalent forms, and (2) the deletion of the expiration date.

Dated: November 17, 2022.

For the Nuclear Regulatory Commission.

**David C. Cullison,**

*NRC Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 2022-25485 Filed 11-22-22; 8:45 am]

**BILLING CODE 7590-01-P**

## OFFICE OF PERSONNEL MANAGEMENT

### Notice of Submission for a New Information Collection Common Form: Personnel Vetting Questionnaire

**AGENCY:** Office of Personnel Management.

**ACTION:** 60-Day notice and request for comments.

**SUMMARY:** The Office of Personnel Management (OPM) offers the opportunity to comment on a new information collection request (ICR) titled Personnel Vetting Questionnaire (PVQ). The proposed information collection will streamline multiple existing information collections, as well as the renewal cycle for them, commensurate with on-going efforts to improve personnel vetting processes and the experience of individuals undergoing personnel vetting. OPM is proposing to discontinue the information collections for OMB control numbers 3206-0261, 3206-0258, and 3206-0005 as these information

collections will become parts of the new Personnel Vetting Questionnaire information collection and assigned a new OMB control number.

**DATES:** Comments are encouraged and will be accepted until January 23, 2023.

**ADDRESSES:** You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title, by the following method:

—*Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

All submissions received must include the agency name and docket number or RIN for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** A copy of this ICR, with applicable supporting documentation, may be obtained by email to [SuitEAforms@opm.gov](mailto:SuitEAforms@opm.gov), or by contacting Alexys Stanley, 202-606-1800, or U.S. Office of Personnel Management, Suitability Executive Agent Programs, P.O. Box 699, Slippery Rock, PA 16057.

**SUPPLEMENTARY INFORMATION:** As required by the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104-106), OPM is soliciting comments for this collection (OMB No. 3206-XXXX). OPM is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

### Background

The PVQ will be a common form and will consolidate the following ICRs:

Office of Management and Budget (OMB) No. 3206–0261 Questionnaire for Non-Sensitive Positions (SF 85), OMB No. 3206–0258 Questionnaire for Public Trust Positions and Supplemental Questionnaire for Selected Positions (SF 85P and SF 85P–S), and OMB No. 3206–0005 Questionnaire for National Security Positions (SF 86) into one comprehensive information collection, consisting of four parts. As a “common form” this information collection will be hosted by the OPM and other agencies can request authorization to use the collection from OMB. Individual respondents will be asked to complete only the parts that are appropriate to the risk and sensitivity of their position, also known as their position designation, as directed by the federal agency requesting their background investigation consistent with guidance issued by OPM and the Office of the Director of National Intelligence as the Suitability and Credentialing Executive Agent and the Security Executive Agent, respectively.

As appropriate to the risk and sensitivity of an individual’s position, questions contained within the proposed personnel vetting questionnaire will be used by the U.S. Government in conducting personnel vetting investigations for persons under consideration for, or retention in, low risk, public trust, and/or national security positions as defined in 5 CFR 731 and 5 CFR 1400, including individuals requiring eligibility for access to classified information under Executive Order 12968, as amended.

This questionnaire will also be used for making trust determinations associated with an individual’s initial and ongoing suitability or fitness for Federal employment, fitness for contract employment, eligibility to hold a sensitive position or for access to classified information, or eligibility for physical and logical access to federally controlled facilities or information systems.

OPM serves as the sponsor for the common form PVQ, collecting comments as well as posting the information collection; however, OPM works closely with the Office of the Director of National Intelligence (ODNI), National Counterintelligence and Security Center to develop and propose content, since the information collected is used for background investigations that are under the purview of OPM as the Suitability and Credentialing Executive Agent and ODNI as the Security Executive Agent, pursuant to Executive Order 13467, as amended. The information collection is used for background investigations conducted by the Defense Counterintelligence and Security Agency (DCSA), the Government’s primary background investigations provider and other authorized investigating agencies. The information is used by federal agencies in making trust determinations as described above.

OPM is requesting clearance of the comprehensive personnel vetting questionnaire that contains all of the potential questions that could be asked of individuals undergoing personnel vetting investigations; however, the respondent completing the form will only be asked to complete the questions required for their position risk and designation. The higher the risk and sensitivity of the position, the greater the information collection. Part A of the PVQ contains a set of core required questions that will be required of all individuals undergoing a background investigation. Part B contains additional questions that will be required of individuals in non-sensitive public trust positions as well as individuals in sensitive positions, and Part C contains further questions that will be required only of individuals in sensitive positions.

Currently, there are multiple standard form questionnaires for personnel vetting investigations:

- The SF 85, Questionnaire for Non-Sensitive Positions, completed by

individuals in non-sensitive low risk positions. This will be replaced by Part A of the PVQ.

- The SF 85P, Questionnaire for Public Trust Positions, completed by individuals in non-sensitive moderate risk and high-risk positions. The SF 85P will be replaced by Parts A and B of the PVQ.

- The SF 86, Questionnaire for National Security Positions, completed by individuals in national security positions, as the term is defined at 5 CFR part 1400, including individuals requiring eligibility for access to classified information under E.O. 12968. The SF 86 will be replaced by Parts A, B, and C of the PVQ.

- Individuals in certain law enforcement positions may also complete the supplemental form SF 85P–S, Supplemental Questionnaire for Selected Positions. The SF 85P–S will be replaced by Part D of the PVQ.

Questions within the PVQ will be presented to individuals in the electronic application system of the Defense Counterintelligence and Security Agency (DCSA) that is the successor to the Electronic Questionnaires for Investigations Processing (e-QIP) system. As in e-QIP today, the questions will branch to collect additional details as appropriate to the individual’s response. For example, if a respondent responds affirmatively to a question regarding foreign travel, the question will expand to ask for the country, dates of travel, and other details. In this sense, the information collection is tailored to the individual’s personal history and the burden on the individual will vary depending on the extent to which each individual has relevant information to provide.

For further clarity, below is a comparison, by position designation, of the current forms required and the parts of the PVQ that will be required to be completed.

Position designation	Current form	PVQ part
Non-Sensitive Low Risk .....	SF 85 .....	Part A.
Non-Sensitive Moderate Risk Public Trust .....	SF 85P .....	Part A and Part B.
Non-Sensitive High Risk Public Trust .....	SF 85P .....	Part A and Part B.
Non-Critical Sensitive Moderate Risk Public Trust .....	SF 86 .....	Part A, Part B, and Part C.
Critical-Sensitive High Risk Public Trust .....	SF 86 .....	Part A, Part B and Part C.
Special-Sensitive High Risk Public Trust .....	SF 86 .....	Part A, Part B and Part C.
Non-Sensitive Moderate Risk or High Risk Law Enforcement Position as specified by an agency.	SF 85P and SF 85P–S .....	Part A, Part B, and Part D.

Part A contains questions covering the following areas:

- Introduction
- General Information
- U.S. Passport Information
- U.S. Citizenship Information
- Additional Citizenships
- Residences
- Education

- Employment Activities
- Other Federal Employment
- U.S. Military and U.S. Uniform Service
- People Who Know You Well
- Police Record
- Drug Activity
- Marijuana and Cannabis-Derivative Use
- U.S. Personnel Vetting Investigations, Security Clearances, and Federal Debarments
- Federal Debt
- Information Technology Systems
- Handling Protected Information
- Associations

Part B contains the following additional areas:

- Continuation Questions for Sections 4, 5, 6, 7, and 11
- Use of Alcohol and Rehabilitative Actions
- Relationship Status
- Relatives
- Foreign Travel
- Financial Record
- Civil Court Actions

Part C contains the following additional areas:

- Continuation Questions for Section 9
- Foreign Contacts
- Foreign Financial Interest and Foreign Benefits
- Foreign Business Affairs and Foreign Government Activities
- Psychological and Emotional Health
- Criminal Convictions Resulting in Sentences Over One Year

Part D contains the following areas:

- Psychological and Emotional Health

Streamlining the multiple existing information collections into parts that build upon one another according to the risk and sensitivity of the position will allow for greater efficiency in vetting processes and reduce the burden on individuals who move to positions of greater risk or sensitivity. The PVQ will introduce the ability to collect the additional part(s) needed for the position rather than requiring the individual to start from scratch with a different investigative questionnaire. This practice will align with the streamlined personnel vetting investigative requirements for transfer of trust and upgrades as issued by OPM and ODNI under the Trusted Workforce 2.0 transformation of personnel vetting. In addition to enhancing the experience of individuals undergoing personnel vetting and providing efficiencies for federal agencies' personnel vetting processes, the PVQ will consolidate the renewal cycle and process for the personnel vetting information collections, thereby reducing the level

of effort and resources required for managing multiple renewal cycles.

In comparison to the content of the current investigative questionnaires, the content of each part of the PVQ uses more plain language to collect information from the respondents and provides additional explanations to the respondents regarding the reasons for the questions. To the extent practicable, the framing of more complex questions has been simplified and avoids "double-barreled" questions. While some questions in Part A have been expanded to cover a greater scope of time, the overall effect of streamlining the collection into parts that build upon each other in support of the Trusted Workforce investigative standards is a general reduction in the scope of time covered by the questions.

Other differences between the PVQ and the current investigative questionnaires are provided as follows:

**Sex and Gender.** Unlike the current investigative questionnaires, the PVQ does not require the respondent to indicate "Male" or "Female." Data collection on sex has traditionally been used to assist in identity matching for a small number of data checks in the investigative process. However, over time, the utility of this information for data matching has been reduced by changes at the state and municipality level. At present, approximately 45 states allow an individual to amend their birth certificate to match their gender. A subset of 15 states allows an individual to choose a non-binary option. The process to change these records varies from self-certification to requiring court orders, depending on the jurisdiction. Similarly, states and municipalities vary on how they code certain records checked in investigations. Given the variables in data fields used by various records providers and the possibility that an individual's self-identified sex may differ than what was previously provided (such as at the time of a past arrest), the effectiveness of using an individual's self-identified sex as a tool for identity verification/validation has decreased. While additional fields could be added to the questionnaire, workarounds would be required to accomplish data matching due to the way vital records and criminal history repositories maintain the information and because an individual's self-identification may change over time. Ultimately, OPM and ODNI concluded that asking the respondent to indicate "Male" or "Female" no longer has utility in the investigative process to justify the burden of requiring it from respondents.

The PVQ uses gender inclusive terminology, such as parent and sibling, rather than terms that are not gender inclusive, such as mother, father, sister, brother. OPM and ODNI considered whether changes to use gender inclusive terminology would have any adverse consequences for effective background investigation and adjudication processing. OPM and ODNI concluded that changing terminology on the forms to be gender inclusive would not adversely affect personnel vetting processes.

The PVQ retains the requirement to provide "Other Names Used" as OPM and ODNI considered the necessity of this collection and determined that this collection is necessary for properly conducting background investigations of individuals. Recognizing that this collection is particularly sensitive for transgender and gender non-conforming and non-binary employees and applicants, the PVQ includes new instruction language designed to help mitigate privacy concerns by clarifying how the collected information will be used during the personnel vetting process.

These aspects of the PVQ are consistent with Administration priorities. On June 15, 2021, President Biden issued Executive Order (E.O.) 14035, on *Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce*, which established DEIA as priorities for the Administration and established additional procedures to advance these priorities across the Federal workforce. E.O. 14035 reaffirmed support for, and built upon, the procedures established by E.O.s 13583, 13988, and 14020, the Presidential Memorandum on Promoting Diversity and Inclusion in the National Security Workforce, and the National Security Memorandum on Revitalizing America's Foreign Policy and National Security Workforce, Institutions, and Partnerships (NSM-3).

E.O. 14035 directed that the Director of National Intelligence, in consultation with the Director of OPM and the heads of agencies, "take steps to mitigate any barriers in security clearance and background investigation processes for LGBTQ+ employees and applicants, in particular transgender and gender non-conforming and non-binary employees and applicants." Taken together with the NSM-3 direction to assess additional reforms to eliminate bias within personnel vetting processes, OPM and ODNI have embarked upon initiatives to improve federal personnel vetting processes in support of DEIA in the federal workforce.

Selective Service. Questions regarding Selective Service registration are no longer included as employing agencies collect necessary information regarding Selective Service registration earlier in the process using the Declaration for Federal Employment (OF 306). Confirmation of registration is available to agencies as a service during the hiring and staffing process and is no longer automatically included as part of the personnel vetting background investigation.

Handling Protected Information. The PVQ includes questions not included in the existing investigative questionnaires that inquire as to whether the respondent has deliberately violated rules or regulations for safeguarding protected information. In addition, questions regarding use of information technology systems that were previously asked of public trust positions and national security positions are now presented to all respondents in Part A. These questions are appropriate for all respondents as they are relevant to inform decisions regarding eligibility to be issued a federal personal identity credential permitting access to federal facilities and information systems. OPM's July 31, 2008, *Final Credentialing Standards for Issuing Personal Identity Verification Cards under HSPD-12*, require consideration of whether "There is reasonable basis to believe the individual will attempt to gain unauthorized access to classified documents, information protected by the Privacy Act, information that is proprietary in nature, or other sensitive or protected information," and whether "There is a reasonable basis to believe the individual will use Federally-controlled information systems unlawfully, make unauthorized modifications to such systems, corrupt or destroy such systems, or engage in inappropriate uses of such systems." Responses to these questions may also inform suitability determinations pursuant to OPM's regulation at 5 CFR part 731.202 and national security determinations pursuant to Security Executive Agent Directive 4, Guideline K: Handling Protected Information and Guideline M: Use of Information Technology, issued June 8, 2017.

Illegal Use of Drugs and Drug Activity. Questions regarding illegal drug use on the PVQ are divided into separate areas to distinguish between use of marijuana or cannabis derivatives containing THC and use of other illegal drugs or controlled substances, in recognition of changing societal norms. In addition, the PVQ has a more limited scope of questioning regarding past use of marijuana in comparison to other

illegal drugs. Currently, use of marijuana by federal employees is prohibited, while past use of marijuana by applicants is evaluated on a case-by-case basis when agencies make trust determinations. Given the legal landscape at the state level regarding use of marijuana, distinguishing between past marijuana use and use of other illegal drugs on the PVQ may improve the pool of applicants for federal employee and federal contractor positions.

Association Record. OPM and ODNI conducted a careful review of the questions regarding association record on the existing investigative questionnaires. The PVQ contains some new questions as well as some updated questions that have been modified to reduce complexity and further compel candid responses. As with all aspects of PVQ, the information collection serves to inform investigations that are the basis for personnel vetting determinations, consistent with OPM's guidance for credentialing, suitability, and fitness determinations and ODNI's guidance for national security positions, as applicable.

The Association Record aspects of the PVQ are also consistent with Administration priorities. On his first full day in office, President Biden directed his national security team to lead a 100-day comprehensive review of U.S. Government efforts to address domestic terrorism. As part of that review, interagency experts identified the possibility that domestic terrorists could attempt to exploit or abuse authoritative positions or sensitive access and recommended potential modifications for consideration as part of the periodic update of the SF 85, 85P and 86.

As noted in the Administration's June 2021 National Strategy for Countering Domestic Terrorism, "Pre-employment background checks and re-investigations for government employees are a critical screening process that must account for all possible terrorist threats." Strategic Goal 3.3 of the Strategy, "Ensure that screening and vetting processes consider the full range of terrorism threats" recommended augmenting personnel vetting screening processes by considering changes to the investigative questionnaires, as recommended by the interagency experts. The objectives of the changes are to ensure new applicants and employees undergoing vetting abide by legal obligations, including in providing candid and forthright representations and to prevent individuals who pose domestic terrorism threats from being placed in positions of trust.

Psychological and Emotional Health. Questions regarding psychological and emotional health are presented only in Parts C and D of the PVQ, consistent with the existing questioning in this area that is limited to the Questionnaire for National Security Positions (SF 86) and the Supplemental Questionnaire for Selected Positions (SF 85P-S).

The language in the current SF 86 has been in place since 2016 and was the outcome of a protracted effort to shift the focus away from questions about seeking mental health treatment while allowing for the collection of information regarding potentially serious or uncontrolled conditions that could substantially affect judgment or reliability. While the intent this area of questioning has always been to surface any concerns regarding the individual's judgment or reliability, the approach has shifted from asking about all mental health treatment or counseling to a more tailored set of questions regarding hospitalization and specific diagnoses. The PVQ seeks to further reduce perceived stigma associated with seeking mental health treatment or counseling by further limiting the scope of questioning.

ODNI, as the Security Executive Agent, convened a working group through the ODNI National Security Psychology Leadership Council (NSPLC) consisting of clinical and research psychologists with subject matter expertise in personnel security, to examine the utility of the psychological and emotional health questions on the SF 86. The NSPLC provided recommendations to improve the efficacy of the questions while targeting issues of concern for national security, addressing perceived stigma, and protecting privacy.

The resulting questioning in the PVQ focuses on serious mental health illnesses that have very low base rates in the general population. Respondents receiving treatment or counseling for the most common mental health issues, such as depression and anxiety, as well as those seeking treatment or counseling after experiencing trauma or other stressful events, are unlikely to answer affirmatively to any of the items in the PVQ. By focusing on the most serious mental health illness, the PVQ will assist in enabling security professionals to screen for significant psychological and emotional health concerns with the intent to decrease the risk from insiders with significant mental illness, including risk of violence at federal installations.

*Analysis:* The following analysis of the burden associated with this information collection is specific to

OPM as the agency sponsoring the common form. Other agencies will be required to seek expedited approval to use the common form by submitting their agency-specific burden analyses to OMB.

Agency: Office of Personnel Management.

Title: Personnel Vetting Questionnaire.

OMB Number: 3206-XXXX.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 319.

Estimated Time per Respondent: 140 minutes.

Total Burden Hours: 780 hours.

Office of Personnel Management.

Kellie Cosgrove Riley,

Director, Office of Privacy and Information Management.

[FR Doc. 2022-25566 Filed 11-21-22; 8:45 am]

BILLING CODE 6325-66-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-96338; File No. SR-PEARL-2022-51]

### Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Trading Permit Fees for Market Makers in the MIAX PEARL Options Fee Schedule

November 17, 2022.

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 November 15, 2022, 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 amend its monthly Trading Permit<sup>3</sup> fees for Market Makers.<sup>4</sup>

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 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 amend the amount and calculation of the monthly Trading Permit fees for Market Makers. Currently, the Exchange assesses Trading Permit fees based upon the monthly total volume executed by the Member<sup>5</sup> and its Affiliates<sup>6</sup> on 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 the Exchange Rules. See the Definitions Section of the Fee Schedule and Exchange Rule 100.

<sup>5</sup>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 Exchange Rule 100 and the Definitions Section of the Fee Schedule.

<sup>6</sup>“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](mailto: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 across all origin types, not including Excluded Contracts,<sup>7</sup> as compared to the Total Consolidated Volume (“TCV”)<sup>8</sup> in all MIAX Pearl-listed options. This Trading Permit fee structure has been in place since 2018.<sup>9</sup> The Exchange adopted a tier-based fee structure based upon the volume-based tiers detailed in the definition of “Non-Transaction Fees Volume-Based Tiers”<sup>10</sup> in the Definitions section of the Fee Schedule. The Exchange also assesses Trading Permit fees based upon the type of interface used by the Member to connect to the Exchange—the FIX Interface<sup>11</sup> and/or the MEO Interface.<sup>12</sup>

The Exchange now proposes to amend the calculation and amount of Trading Permit fees for Market Makers by moving away from the above-described volume tier-based fee structure to harmonize the Trading Permit fee structure for Market Makers with that of the Exchange’s affiliates, Miami International Securities Exchange, LLC (“MIAX”) and MIAX Emerald, LLC (“MIAX Emerald”).<sup>13</sup> The Exchange also notes that this proposal is substantially

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.

<sup>7</sup>“Excluded Contracts” means any contracts routed to an away market for execution. See the Definitions Section of the Fee Schedule.

<sup>8</sup>“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 of time in which the Exchange experiences an Exchange System Disruption (solely in the option classes of the affected Matching Engine). See the Definitions Section of the Fee Schedule.

<sup>9</sup> See Securities Exchange Act Release No. 82867 (March 13, 2018), 83 FR 12044 (March 19, 2018) (SR-PEARL-2018-07).

<sup>10</sup> See the Definitions Section of the Fee Schedule for the monthly volume thresholds associated with each Tier.

<sup>11</sup>“FIX Interface” means the Financial Information Exchange interface for certain order types as set forth in Exchange Rule 516. See the Definitions Section of the Fee Schedule and Exchange Rule 100.

<sup>12</sup>“MEO Interface” or “MEO” means a binary order interface for certain order types as set forth in Rule 516 into the MIAX Pearl System. See the Definitions Section of the Fee Schedule and Exchange Rule 100.

<sup>13</sup> See MIAX Fee Schedule, Section 3(b) and MIAX Emerald Fee Schedule, Section 3(b).

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

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

<sup>3</sup> The term “Trading Permit” means a permit issued by the Exchange that confers the ability to transact on the Exchange. See Exchange Rule 100.

<sup>4</sup> The term “Market Maker” or “MM” means a Member registered with the Exchange for the