



SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91303; File No. SR-PEARL-2021-04]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Exchange Rule 2300, Supervision, and Exchange Rule 2301, Supervisory Control System

March 11, 2021.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 25, 2021, MIAX PEARL, LLC (“MIAX PEARL” or the “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 proposed rule change to amend Exchange Rules 2300 and 2301 to incorporate the provisions of Financial Industry Regulatory Authority Rules 3110 and 3120 regarding supervision and supervisory controls.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 purpose of the proposed rule change is to amend Exchange Rules 2300 and 2301 to incorporate the provisions of Financial Industry Regulatory Authority, Inc. (“FINRA”) Rules 3110 and 3120 regarding supervision and supervisory controls.³

Exchange Rule 2300, Supervision

The Exchange proposes to amend Exchange Rule 2300 to incorporate the provisions of FINRA Rule 3110. Exchange Rule 2300 would be identical to the FINRA Rule with the only differences being replacing references to “FINRA” with the “Exchange” and to replacing references to the following FINRA Rules with the applicable Exchange Rule:

- FINRA Rule 3110 would be replaced with Exchange Rule 2300
- FINRA Rule 3210 would be replaced with Exchange Rule 2305
- FINRA Rule 2210(b)(1) would be replaced with Exchange Rule 2104

Like FINRA Rule 3110, Exchange Rule 2300 would require a firm to establish and maintain a system to supervise the activities of its associated persons that is reasonably designed to achieve compliance with the applicable securities laws and regulations and Exchange rules.

Exchange Rule 2300 would detail requirements for a firm to have reasonably designed written supervisory procedures (“WSPs”) to supervise the activities of its associated persons and the types of businesses in which it engages. Among other things, a firm’s WSPs must address supervision of supervisory personnel and provide for the review of a firm's investment banking

³ The proposed rule change is based on Investors Exchange, Inc. (“IEX”) Rules 5.110 and 5.120.

and securities business, correspondence and internal communications, and customer complaints.

WSPs should describe:

- the specific individual(s) responsible for each review,
- the supervisory activities such persons will perform,
- the frequency of the review, and
- the manner of documentation.

The rule further sets forth requirements to designate and register branch offices and offices of supervisory jurisdiction (OSJs), conduct internal inspections and review transactions for insider trading.

Firms must also adopt procedures that include a means of customer confirmation for certain transactions such as transmittal of customer funds, changes in address, and changes in investment objectives.

Exchange Rule 2301, Supervisory Control System

The Exchange proposes to amend Exchange Rule 2301 to incorporate the provisions of FINRA Rule 3120. Exchange Rule 2301 would be identical to FINRA Rule 3120 with the only differences being replacing references to “FINRA” with the “Exchange”.

Like FINRA Rule 3120, Exchange Rule 2301 would require a firm to have a system of supervisory control policies and procedures (“SCPs”) that tests and verifies a firm's supervisory procedures. It is essential for a firm to recognize that FINRA Rule 3120's requirement to have specific SCPs differs from the requirement for WSPs. A firm not only needs to maintain WSPs, but the firm also must have SCPs to test and verify, at least annually, that its WSPs are reasonably designed with respect to the firm's and its associated persons' activities to achieve compliance with applicable securities laws and regulations and Exchange Rules, and to create additional or amend WSPs as identified by such testing and verification. Risk-based methodologies and sampling may be used to determine the scope of testing. The testing ensures

that a firm's supervisory procedures are reviewed and amended regularly in light of changing business and regulatory environments.

Pursuant to Exchange Rule 2301, like FINRA Rule 3120, a firm must designate principal(s) to be responsible for establishing, maintaining and enforcing a firm's SCPs. The designated principal(s) also must prepare, at least annually, a report detailing the firm's supervisory control system and submit it to senior management (Rule 2301 Report). The Rule 2301 Report must include a summary of the test results and significant identified exceptions, and any additional or amended supervisory procedures created in response to the test results.

If a firm has reported \$200 million or more in gross revenue on its FOCUS report in the prior calendar year, like FINRA Rule 3120, Exchange Rule 2301 would require that the firm's annual report include specified additional content, to the extent applicable to the firm's business.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,⁴ in general, and furthers the objectives of Section 6(b)(5),⁵ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, 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. The proposed rule change would remove impediments to and promote just and equitable principles of trade because it would memorialize within the Exchange's rules supervisory requirements identical to those set forth in FINRA Rules 3110 and 3120. Doing so would explicitly set forth Member's supervisory requirements within the Exchange Rules without setting forth additional supervisory requirements or undue burden on Members. The Exchange notes the proposed rule change would also align the Exchange's supervisory rules with those of IEX.⁶

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

⁶ IEX Rules 5.110 and 5.120.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to have a competitive impact because it is not intended to attract additional business to the Exchange. It is simply intended to incorporate the provisions of Financial Industry Regulatory Authority Rules 3110 and 3120 regarding supervision and supervisory controls within Exchange Rules 2300 and 2301.

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 Act⁷ and Rule 19b-4(f)(6)⁸ 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.

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 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.

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 e-mail [to rule-comments@sec.gov](mailto:to-rule-comments@sec.gov). Please include File Number SR-PEARL-2021-04 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-2021-04. 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-PEARL-2021-04 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.⁹

J. Matthew DeLesDernier,

Assistant Secretary.

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⁹ 17 CFR 200.30-3(a)(12).