

only with respect to government and/or public assets.

4. Member countries have requested that the Applicant provide them with asset management and related services (back office, risk, accounting, advisory and other support services) to help them develop additional internal capacities. The Applicant would exercise discretionary authority with respect to the assets, acting as the agent for Potential Clients.

5. Member countries have also requested advice and instruction relating to hedging activities and to capital markets borrowings. The Applicant proposes to provide detailed advice on debt management, hedging techniques for specific transactions, and capital markets borrowings. The Applicant also proposes to provide targeted training seminars and courses at the IDB's offices, at Potential Clients' locations, or online.

6. The Applicant expects to charge a fee for the activities/services it provides that would allow it to recover the associated costs.

#### Applicants' Legal Analysis

1. Section 202(a)(11) of the Advisers Act defines "investment adviser" to mean "any person who, for compensation, engages in the business of advising others . . . as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities . . . ."

2. The Applicant proposes to offer asset management and advisory services on a regular, recurring basis and to charge recipients a fee for these services. Accordingly, the Applicant would be "in the business of" providing investment advice for compensation and would be an "investment adviser" for purposes of the Advisers Act.

3. Section 202(a)(11)(H) of the Advisers Act authorizes the Commission to exclude from the definition of "investment adviser" persons that are not within the intent of section 202(a)(11). The Applicant requests that the Commission issue an order under section 202(a)(11)(H) declaring it to be a person not within the intent of section 202(a)(11).

4. The Applicant argues that the Advisers Act contemplates the regulation of private sector entities and was not intended to regulate an entity that is an organization of sovereign nations providing investment advice to Potential Clients. The Applicant states that section 202(b) of the Advisers Act provides that the Advisers Act is not

applicable to the "United States, a State, or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing, or any corporation which is wholly owned directly or indirectly by any one or more of the foregoing, or any officer, agent, or employee of any of the foregoing acting as such in the course of his official duty, unless such provision makes specific reference thereto." While the Applicant acknowledges that the Advisers Act does not expressly exempt international organizations made up solely of sovereign nations, the Applicant argues that the Advisers Act seems clearly intended not to apply to such organizations.

5. The Applicant acknowledges that a foreign individual or corporation would reasonably expect the protections of the U.S. securities laws to apply when doing business with an investment adviser resident in the United States. The Applicant asserts, however, that, given the particular nature of the IDB, its unique purposes, and the nature of its constituent members, recipients of the proposed investment advice would not reasonably expect the Advisers Act to apply to those services.

For the Commission, by the Division of Investment Management, under delegated authority.

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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**BILLING CODE 8011-01-P**

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87829; File No. SR-PEARL-2019-35]

#### Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 100, Definitions, Exchange Rule 503, Openings on the Exchange, Exchange Rule 515, Execution of Orders, Exchange Rule 516, Order Types, and Exchange Rule 521, Nullification and Adjustment of Options Transactions Including Obvious Errors

December 20, 2019.

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 December 19, 2019, MIAX PEARL, LLC ("MIAX PEARL" or the "Exchange") filed with

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

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

the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I and II 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 Rule 100, Definitions; Exchange Rule 503, Openings on the Exchange; Exchange Rule 515, Execution of Orders; Exchange Rule 516, Order Types; and Exchange Rule 521, Nullification and Adjustment of Options Transactions Including Obvious Errors.

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 Exchange Rule 100, Definitions; Exchange Rule 503, Openings on the Exchange; Exchange Rule 515, Execution of Orders; Exchange Rule 516, Order Types; and Exchange Rule 521, Nullification and Adjustment of Options Transactions Including Obvious Errors, to make non-substantive edits to update internal cross references in the Exchange's rulebook.

The Exchange is an affiliate of the Miami International Securities Exchange, LLC ("MIAX") and incorporates by reference a number of MIAX Exchange rules into its rulebook. MIAX Exchange recently amended Rule 1400, Definitions, found in Chapter XIV of the MIAX Exchange rules, which are

its rules pertaining to the Options Order Protection and Locked and Crossed Market Plan.<sup>3</sup> The MIAX Exchange adopted a definition for Complex Trade which, when inserted into its proper alphabetical position in MIAX Exchange Rule 1400, caused the subsequent following definitions to be renumbered (e.g., the existing subparagraph (d) became new subparagraph (e); existing subparagraph (e) became new subparagraph (f), etc. . . .). As a result of the change to the MIAX Exchange Rule 1400, a number of internal cross references contained in the Exchange's rulebook must be updated.

Specifically, the internal cross-reference to Eligible Exchanges in the definition of ABBO or Away Best Bid or Offer, in Exchange Rule 100, must be updated from Rule 1400(f) to Rule 1400(g). The internal cross-reference to Eligible Exchanges in Exchange Rule 503(a)(5) must be updated from Rule 1400(f) to Rule 1400(g). The internal cross-reference to the NBBO in Exchange Rule 515(a) must be updated from Rule 1400(j) to Rule 1400(k). The internal cross-reference to Intermarket Sweep Orders in Exchange Rule 516(f) must be updated from Rule 1400(h) to Rule 1400(i). Similarly in Rule 516(f) the internal cross-references to Protected Quotations and Eligible Exchanges must be updated from 1400(p) and (f) to 1400(q) and (g) respectively. Lastly, in Rule 516(f), the internal cross-reference to Protected Bid or Protected Offer must be updated from 1400(o) to 1400 (p). Finally, the internal cross-reference to the Options Order Protection and Locked/Crossed Market Plan in Exchange Rule 521(j) must be updated from Rule 1400(n) to Rule 1400(o).

The Exchange believes that these non-substantive changes will add clarity and precision to the Exchange's rules.

## 2. Statutory Basis

MIAX PEARL believes that its proposed rule change is consistent with Section 6(b) of the Act<sup>4</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>5</sup> in particular, 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 regulating, clearing, settling, processing information with respect to, and 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 Exchange believes that the proposed non-substantive rule changes to update internal cross-references within the Exchange's Rules promotes just and equitable principles of trade and removes impediments to and perfects the mechanism of a free and open market and a national market system and, in general, protects investors and the public interest by providing additional clarity and precision in the Exchange's rules. The Exchange believes it is in the public interest for rules to be accurate and precise so as to eliminate the potential for confusion.

### *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 Exchange does not believe that the proposed rule change will impose any burden on intermarket competition as the proposed change is non-substantive in nature. The non-substantive edits to update internal cross-references in the Exchange's rulebook provides precision and accuracy in the Exchange's rules.

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition as the non-substantive edits to update internal cross-references in the Exchange's rulebook provide additional detail and clarity in the Exchange's rules, which apply equally to all Exchange Members.<sup>6</sup>

### *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 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 from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (f)(6) of Rule 19b-4 thereunder.

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>7</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>8</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. Waiver of the operative delay would allow the Exchange to immediately harmonize its rules to MIAX Options to ensure that the internal cross-references in the Exchange's rulebook are correct. Therefore, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.<sup>9</sup>

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 change 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 (<http://www.sec.gov/rules/sro.shtml>); or

<sup>7</sup> 17 CFR 240.19b-4(f)(6).

<sup>8</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>9</sup> For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>3</sup> See Securities Exchange Act Release No. 87693 (December 9, 2019), 84 FR 68264 (December 13, 2019) (SR-MIAX-2019-48).

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

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

<sup>6</sup> The term "Member" means an individual or organization that is registered with the Exchange pursuant to Chapter II of the MIAX PEARL 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.

- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-PEARL-2019-35 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-2019-35. 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-PEARL-2019-35 and should be submitted on or before January 21, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**J. Matthew DeLesDernier,**  
Assistant Secretary.

[FR Doc. 2019-28085 Filed 12-27-19; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87844; File No. SR-GEMX-2019-18]

### Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt a Mass Cancellation Rule and Amend Other Sections of the Rulebook

December 23, 2019.

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 December 9, 2019, Nasdaq GEMX, LLC (“GEMX” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II 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 definitions within General 1, Section 1, adopt a new definition for “Away Best Bid or Offer” within Options 1, Section 1, and update rule citations in various other rules.

The text of the proposed rule change is available on the Exchange's website at <http://nasdaqgemx.cchwallstreet.com/>, at the principal office of the Exchange, 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 adopt a new rule at Options 3, Section 19 titled “Mass Cancellation of Trading Interest.” The Exchange also proposes to amend definitions within General 1, Section 1, adopt a new definition for “Away Best Bid or Offer” within Options 1, Section 1, and update rule citations in various other rules.

##### Mass Cancellation of Trading Interest

The Exchange proposes to adopt a new rule at Options 3, Section 19 titled “Mass Cancellation of Trading Interest.” The Nasdaq Options Market LLC (“NOM”) and Nasdaq BX, Inc. (“BX”) rules at Chapter VII, Section 11 permit Participants on those markets to contact market operations and manually request cancellation of interest. The Exchange proposes to adopt a rule which also permits Members to contact market operations and request the Exchange to manually cancel interest. The proposed new rule would state, “A Member may cancel any bids, offers, and orders in any series of options by requesting GEMX Market Operations<sup>3</sup> staff to effect such cancellation as per the instructions of the Member.” This new rule reflects the Exchange's current practice of allowing Members to contact GEMX Market Operations and request the Exchange to cancel any bid, offer or order in any series of options. The Exchange would cancel such bid, offer or order pursuant to the Member's instruction. The Exchange desires to memorialize the availability of this service.

##### Definitions

The Exchange proposes to make a technical amendment to General 1, Section 1(a)(6) to note the acronym for an Electronic Access Member, an “EAM” within the definition. The acronym is utilized throughout the Rulebook. Defining the acronym within the definition will add transparency to the Rulebook.

The Exchange proposes to add the definition of an “Away Best Bid or Offer” or “ABBO” within Options 1, Section 1(a)(4). This term is utilized throughout the Rulebook. Defining this term will bring greater transparency to the Rulebook. The Exchange also proposes to update the numbering in the remainder of the rule and also update

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

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

<sup>3</sup> The request to Market Operations is a manual request which is made telephonically.

<sup>10</sup> 17 CFR 200.30-3(a)(12).