

Required fields are shown with yellow backgrounds and asterisks.

Filing by MEMX LLC
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
			Rule		
Pilot	Extension of Time Period for Commission Action *	Date Expires *	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) *	Section 806(e)(2) *
<input type="checkbox"/>	<input type="checkbox"/>
	Section 3C(b)(2) *
	<input type="checkbox"/>

Exhibit 2 Sent As Paper Document	Exhibit 3 Sent As Paper Document
<input type="checkbox"/>	<input type="checkbox"/>

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Proposed rule change to amend Exchange Rule 11.6(h)(1) to enable Users to include a limit price on a Pegged Order with a Primary Peg instruction.

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Anders Last Name * Franzon

Title * General Counsel

E-mail * afranzon@memx.com

Telephone * (551) 370-1003 Fax

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title *)

Date 02/24/2021 General Counsel

By Anders Franzon

(Name *)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Anders Franzon, afranzon@memx.com

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

Form 19b-4 Information *

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) MEMX LLC (“MEMX” or the “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (the “Commission”) a proposed rule change to amend Exchange Rule 11.6(h)(1) to enable Users³ to include a limit price on a Pegged Order⁴ with a Primary Peg instruction.⁵ The Exchange has designated this proposal as non-controversial pursuant to Section 19(b)(3)(A)(iii) of the Act⁶ and provided the Commission with the notice required by Rule 19b-4(f)(6)(iii) thereunder.⁷

A notice of the proposed rule change for publication in the Federal Register is provided as Exhibit 1, and the text of the proposed rule change is provided in Exhibit 5.

(b) Not applicable.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ As defined in Exchange Rule 1.5(jj), a “User” is a member of the Exchange (“Member”) or sponsored participant of a Member who is authorized to obtain access to the System pursuant to Exchange Rule 11.3. As defined in Exchange Rule 1.5(gg), the Exchange’s “System” is the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing.

⁴ Pegged Orders are described in Exchange Rules 11.6(h) and 11.8(c) and generally defined as an order that is pegged to a reference price and automatically re-prices in response to changes in the NBBO. The two types of peg instructions for Pegged Orders are: (1) Primary Peg, which pegs to the NBB (NBO) for buy (sell) orders; and (2) Midpoint Peg, which pegs to the midpoint of the NBBO.

⁵ A Primary Peg instruction is an instruction that may be placed on a Pegged Order that instructs the Exchange to peg the order to the NBB, for a buy order, or the NBO, for a sell order. A User may, but is not required to, select an offset equal to or greater than \$0.01 above or below the NBB or NBO that the order is pegged to. See Exchange Rule 11.6(h)(1).

⁶ 15 U.S.C. 78s(b)(3)(A)(iii).

⁷ 17 CFR 240.19b-4(f)(6)(iii).

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by Exchange staff pursuant to authority delegated to it by the Board of Directors of the Exchange (the “Board”). Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action is necessary for the filing of the proposed rule change.

The persons on the Exchange staff prepared to respond to questions and comments on the proposed rule change are:

Anders Franzon
General Counsel
MEMX LLC
(551) 370-1003

James Foley
Counsel
MEMX LLC
(551) 370-1042

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

a. Purpose

Currently, Exchange Rule 11.6(h)(1) provides that a User submitting a Pegged Order with a Primary Peg instruction may not include a limit price on such order.⁸ In contrast, Exchange Rule 11.6(h)(2) provides that a User submitting a Pegged Order with

⁸ As initially adopted, Exchange Rule 11.6(h)(1) was silent as to whether a User submitting a Pegged Order with a Primary Peg instruction may include a limit price on such order. The Exchange interpreted the Rule’s silence in this regard to mean that a limit price may not be included on such orders, which was the intended functionality for such orders at the time of the Exchange’s initial launch. However, after receiving inquiries from Users as to whether a limit price may be included on such orders, prior to commencing operations the Exchange adopted a change to Exchange Rule 11.6(h)(1) to expressly state that a User submitting a Pegged Order with a Primary Peg instruction may not include a limit price on such order. The purpose of this change was therefore to make Exchange Rule 11.6(h)(1) more clearly reflect the intended and actual functionality. See Securities Exchange Act Release No. 89581 (August 17, 2020), 85 FR 51799 (August 21, 2020) (SR-MEMX-2020-04).

a Midpoint Peg instruction may, but is not required to, include a limit price on such order. The Exchange therefore currently has different functionality with respect to a User's ability to include a limit price on a Pegged Order with a Primary Peg instruction and a Pegged Order with a Midpoint Peg instruction in that Users may only include a limit price on the latter.

The Exchange now proposes to enable a User submitting a Pegged Order with a Primary Peg instruction to include a limit price on such order. The purpose of the proposed change is to align the functionality with respect to a User's ability to include a limit price for the two types of peg instructions for Pegged Orders (i.e., Primary Peg and Midpoint Peg), as the Exchange believes there should be no distinction with respect to this functionality for such orders. Thus, the language of the proposed change is based on and mirrors the relevant language applicable to Pegged Orders with a Midpoint Peg instruction set forth in Exchange Rule 11.6(h)(2) and, accordingly, provides that a User submitting a Pegged Order with a Primary Peg instruction may, but is not required to, include a limit price on such order.

The Exchange notes that by enabling a User to include a limit price on a Pegged Order with a Primary Peg instruction, the User is able to establish an additional risk protection in the form of a specified price limitation, which the Exchange believes would help to minimize the risk of executions of such orders at unintended price levels, thereby promoting the operation of a fair and orderly market. Accordingly, as Users would have greater flexibility in establishing a price limitation with respect to such orders, the Exchange believes that the proposed change would result in Users sending additional Pegged Orders with a Primary Peg instruction to the Exchange, which would deepen the

liquidity on the Exchange to the benefit of all Users. The Exchange also notes that the proposed change to enable Users to include a limit price on a Pegged Order with a Primary Peg instruction is consistent with the existing functionality of other exchanges.⁹

b. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹⁰ which requires, among other things, that the Exchange's rules must be designed to promote just and equitable principles of trade and 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 Section 6(b)(8) of the Act,¹¹ which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate.

As noted above, the proposed change is intended to align the functionality for Pegged Orders with a Primary Peg instruction with the functionality for Pegged Orders with a Midpoint Peg instruction with respect to enabling a User to include a limit price on such orders, as the Exchange believes there should be no distinction with respect to this functionality for such orders. The Exchange believes that the proposed change is appropriate and consistent with the Act as the Exchange believes that enabling Users to

⁹ See, e.g., Cboe EDGX Exchange, Inc. ("EDGX") Rule 11.8(b)(9), which provides that pegged functionality (including a primary peg instruction similar to the Exchange's Primary Peg instruction) is available for limit orders that are posted to the EDGX book; The Nasdaq Stock Market LLC ("Nasdaq") Rule 4703(d), which generally permits an order with pegging (including primary pegging similar to the Exchange's Primary Peg instruction) to specify a limit price beyond which the order may not be executed.

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ 15 U.S.C. 78f(b)(8).

establish additional risk protection in the form of a specified price limitation for Pegged Orders with a Primary Peg instruction would help to minimize the risk of executions of such orders at unintended price levels, which the Exchange believes would promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. The Exchange further believes that enabling Users to include a limit price on a Pegged Order with a Primary Peg instruction is appropriate and consistent with the Act as the Exchange believes that its Users would want to utilize this functionality, thereby resulting in additional liquidity in the form of Pegged Orders with a Primary Peg instruction being sent to the Exchange, which would deepen the liquidity on the Exchange to the benefit of all Users.

Furthermore, the proposed change would make the Exchange's functionality consistent with the functionality of certain other exchanges with respect to a User's ability to include a limit price on Pegged Orders with a Primary Peg instruction,¹² which the Exchange believes would promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, would protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange reiterates that the proposed rule change would make the functionality with respect to a User's ability to include a limit price on Pegged Orders

¹² See supra note 9.

with a Primary Peg instruction consistent with the functionality of other exchanges.¹³

The Exchange believes that the proposed rule change would not burden intramarket competition because the ability to include a limit price on Pegged Orders with a Primary Peg instruction would be applicable to all Users. The Exchange also believes that the proposed rule change would not burden, but rather increase, intermarket competition as the Exchange believes that enabling Users to include a limit price on Pegged Orders with a Primary Peg instruction would ultimately enable the Exchange to better compete with other exchanges that offer this same functionality. Thus, the Exchange believes that the proposed rule change would facilitate fair competition among national securities exchanges.

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

No written comments were either solicited or received.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii)¹⁴ of the Act and Rule 19b-4(f)(6) thereunder¹⁵ in that it effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not

¹³ See supra note 9.

¹⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁵ 17 CFR 240.19b-4(f)(6).

become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

Furthermore, Rule 19b-4(f)(6)(iii)¹⁶ requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change under that subsection at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

As noted above, the proposed change is intended to align the functionality for Pegged Orders with a Primary Peg instruction with the functionality for Pegged Orders with a Midpoint Peg instruction with respect to a User's ability to include a limit price on such orders, which is also consistent with the functionality of other exchanges, and thus does not raise any new issues that have not been previously considered by the Commission.¹⁷ Therefore, this rule filing qualifies as a "non-controversial" rule change under Rule 19b-4(f)(6), which renders the proposed rule change effective upon filing with the Commission.

The Exchange respectfully requests that the Commission waive the 30-day operative delay period after which a proposed rule change under Rule 19b-4(f)(6) becomes effective. The proposed rule change does not introduce any new or novel issues but merely seeks to align the functionality for Pegged Orders with a Primary Peg instruction with the functionality for Pegged Orders with a Midpoint Peg instruction with respect to a User's ability to include a limit price on such orders, as the Exchange

¹⁶ 17 CFR 240.19b-4(f)(6)(iii).

¹⁷ See supra note 9.

believes there should be no distinction with respect to this functionality for such orders. Waiver of the operative delay would allow the Exchange to begin accepting Pegged Orders with a Primary Peg instruction that include a limit price as soon as practicable, thus benefitting Users and investors by sooner offering functionality that enables Users to establish an additional risk protection in the form of a specified price limitation for such orders, which the Exchange believes would help to minimize the risk of executions of such orders at unintended price levels, thereby promoting the operation of a fair and orderly market. The Exchange plans to implement the proposed rule change on or about March 15, 2021. For these reasons, the Exchange respectfully requests that the Commission waive the 30-day operative delay.

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.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

As noted above, the proposed change to enable Users to include a limit price on a Pegged Order with a Primary Peg instruction is consistent with the functionality provided for in EDGX Rule 11.8(b)(9) and Nasdaq Rule 4703(d).¹⁸ The effect of the proposed rule change is the same as the effect of such rules with respect to a User's ability to include a limit price on a Pegged Order with a Primary Peg instruction, however, such rules use different language in this regard to conform to their respective rulebooks and also

¹⁸ See supra note 9.

describe additional functionality with respect to such orders.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1 - Notice of Proposed Rule Change for publication in the Federal Register.

Exhibit 5 - Text of the proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34- ; File No. SR-MEMX-2021-03]
[Insert date]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Exchange Rule 11.6(h)(1) to Enable Users to Include a Limit Price on a Pegged Order with a Primary Peg Instruction

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on [insert date], MEMX LLC (“MEMX” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 with the Commission a proposed rule change to amend Exchange Rule 11.6(h)(1) to enable Users⁵ to include a limit price on a Pegged Order⁶

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ As defined in Exchange Rule 1.5(jj), a “User” is a member of the Exchange (“Member”) or sponsored participant of a Member who is authorized to obtain access to the System pursuant to Exchange Rule 11.3. As defined in Exchange Rule 1.5(gg), the Exchange’s “System” is the electronic communications and

with a Primary Peg instruction.⁷ The text of the proposed rule change is provided in Exhibit 5.

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

Currently, Exchange Rule 11.6(h)(1) provides that a User submitting a Pegged Order with a Primary Peg instruction may not include a limit price on such order.⁸ In

trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing.

⁶ Pegged Orders are described in Exchange Rules 11.6(h) and 11.8(c) and generally defined as an order that is pegged to a reference price and automatically re-prices in response to changes in the NBBO. The two types of peg instructions for Pegged Orders are: (1) Primary Peg, which pegs to the NBB (NBO) for buy (sell) orders; and (2) Midpoint Peg, which pegs to the midpoint of the NBBO.

⁷ A Primary Peg instruction is an instruction that may be placed on a Pegged Order that instructs the Exchange to peg the order to the NBB, for a buy order, or the NBO, for a sell order. A User may, but is not required to, select an offset equal to or greater than \$0.01 above or below the NBB or NBO that the order is pegged to. See Exchange Rule 11.6(h)(1).

⁸ As initially adopted, Exchange Rule 11.6(h)(1) was silent as to whether a User submitting a Pegged Order with a Primary Peg instruction may include a limit price on such order. The Exchange interpreted the Rule's silence in this regard to mean that a limit price may not be included on such orders, which was the intended functionality for such orders at the time of the Exchange's initial launch.

contrast, Exchange Rule 11.6(h)(2) provides that a User submitting a Pegged Order with a Midpoint Peg instruction may, but is not required to, include a limit price on such order. The Exchange therefore currently has different functionality with respect to a User's ability to include a limit price on a Pegged Order with a Primary Peg instruction and a Pegged Order with a Midpoint Peg instruction in that Users may only include a limit price on the latter.

The Exchange now proposes to enable a User submitting a Pegged Order with a Primary Peg instruction to include a limit price on such order. The purpose of the proposed change is to align the functionality with respect to a User's ability to include a limit price for the two types of peg instructions for Pegged Orders (i.e., Primary Peg and Midpoint Peg), as the Exchange believes there should be no distinction with respect to this functionality for such orders. Thus, the language of the proposed change is based on and mirrors the relevant language applicable to Pegged Orders with a Midpoint Peg instruction set forth in Exchange Rule 11.6(h)(2) and, accordingly, provides that a User submitting a Pegged Order with a Primary Peg instruction may, but is not required to, include a limit price on such order.

The Exchange notes that by enabling a User to include a limit price on a Pegged Order with a Primary Peg instruction, the User is able to establish an additional risk

However, after receiving inquiries from Users as to whether a limit price may be included on such orders, prior to commencing operations the Exchange adopted a change to Exchange Rule 11.6(h)(1) to expressly state that a User submitting a Pegged Order with a Primary Peg instruction may not include a limit price on such order. The purpose of this change was therefore to make Exchange Rule 11.6(h)(1) more clearly reflect the intended and actual functionality. See Securities Exchange Act Release No. 89581 (August 17, 2020), 85 FR 51799 (August 21, 2020) (SR-MEMX-2020-04).

protection in the form of a specified price limitation, which the Exchange believes would help to minimize the risk of executions of such orders at unintended price levels, thereby promoting the operation of a fair and orderly market. Accordingly, as Users would have greater flexibility in establishing a price limitation with respect to such orders, the Exchange believes that the proposed change would result in Users sending additional Pegged Orders with a Primary Peg instruction to the Exchange, which would deepen the liquidity on the Exchange to the benefit of all Users. The Exchange also notes that the proposed change to enable Users to include a limit price on a Pegged Order with a Primary Peg instruction is consistent with the existing functionality of other exchanges.⁹

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹⁰ which requires, among other things, that the Exchange's rules must be designed to promote just and equitable principles of trade and 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 Section 6(b)(8) of the Act,¹¹ which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate.

⁹ See, e.g., Cboe EDGX Exchange, Inc. ("EDGX") Rule 11.8(b)(9), which provides that pegged functionality (including a primary peg instruction similar to the Exchange's Primary Peg instruction) is available for limit orders that are posted to the EDGX book; The Nasdaq Stock Market LLC ("Nasdaq") Rule 4703(d), which generally permits an order with pegging (including primary pegging similar to the Exchange's Primary Peg instruction) to specify a limit price beyond which the order may not be executed.

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ 15 U.S.C. 78f(b)(8).

As noted above, the proposed change is intended to align the functionality for Pegged Orders with a Primary Peg instruction with the functionality for Pegged Orders with a Midpoint Peg instruction with respect to enabling a User to include a limit price on such orders, as the Exchange believes there should be no distinction with respect to this functionality for such orders. The Exchange believes that the proposed change is appropriate and consistent with the Act as the Exchange believes that enabling Users to establish additional risk protection in the form of a specified price limitation for Pegged Orders with a Primary Peg instruction would help to minimize the risk of executions of such orders at unintended price levels, which the Exchange believes would promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. The Exchange further believes that enabling Users to include a limit price on a Pegged Order with a Primary Peg instruction is appropriate and consistent with the Act as the Exchange believes that its Users would want to utilize this functionality, thereby resulting in additional liquidity in the form of Pegged Orders with a Primary Peg instruction being sent to the Exchange, which would deepen the liquidity on the Exchange to the benefit of all Users.

Furthermore, the proposed change would make the Exchange's functionality consistent with the functionality of certain other exchanges with respect to a User's ability to include a limit price on Pegged Orders with a Primary Peg instruction,¹² which the Exchange believes would promote just and equitable principles of trade, remove

¹² See supra note 9.

impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, would protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange reiterates that the proposed rule change would make the functionality with respect to a User's ability to include a limit price on Pegged Orders with a Primary Peg instruction consistent with the functionality of other exchanges.¹³ The Exchange believes that the proposed rule change would not burden intramarket competition because the ability to include a limit price on Pegged Orders with a Primary Peg instruction would be applicable to all Users. The Exchange also believes that the proposed rule change would not burden, but rather increase, intermarket competition as the Exchange believes that enabling Users to include a limit price on Pegged Orders with a Primary Peg instruction would ultimately enable the Exchange to better compete with other exchanges that offer this same functionality. Thus, the Exchange believes that the proposed rule change would facilitate fair competition among national securities exchanges.

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

The Exchange neither solicited nor received comments on the proposed rule change.

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

¹³ See supra note 9.

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 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 Act¹⁴ and Rule 19b-4(f)(6)¹⁵ 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 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
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-MEMX-2021-03 on the subject line.

Paper comments:

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4.

- 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-MEMX-2021-03. 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, D.C. 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-MEMX-2021-03 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.¹⁶

¹⁶ 17 CFR 200.30-3(a)(12).

Exhibit 5

Proposed new language is underlined; Proposed deletions are in [brackets].

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CHAPTER 11. TRADING RULES

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Rule 11.6. Definitions

For purposes of this Chapter, the following definitions shall apply:

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(h) **Pegged Order.** An order that automatically re-prices in response to changes in the NBBO, as further described in Rule 11.8(c). A User entering a Pegged Order can specify that the order's price will peg to the NBB or NBO or a certain amount away from the NBB or NBO (offset) or the midpoint of the NBBO, as described below.

(1) **Primary Peg.** An order with instructions to peg to the NBB, for a buy order, or the NBO, for a sell order. A User may, but is not required to, select an offset equal to or greater than \$0.01 above or below the NBB or NBO that the order is pegged to ("Primary Offset Amount"). A User submitting a Pegged Order with a Primary Peg instruction may, but is not required to, include a limit price on such order.

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