

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 proposal to extend the current pilot program related to MEMX Rule 11.15, “Clearly Erroneous Executions,” to the close of business on October 20, 2022. The Exchange has designated this proposal as non-controversial pursuant to Section 19(b)(3)(A)(iii) of the Act³ and provided the Commission with the notice required by Rule 19b-4(f)(6)(iii) thereunder.⁴

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.

(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.

Questions and comments on the proposed rule change may be directed to Anders Franzon, General Counsel, (551) 370-1003.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6)(iii).

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

a. Purpose

The Exchange proposes to extend the effectiveness of the Exchange's current rule applicable to Clearly Erroneous Executions to the close of business on October 20, 2022. Portions of Rule 11.15, explained in further detail below, are currently operating as a pilot program which is set to expire on July 20, 2022.⁵

On May 4, 2020, the Commission approved MEMX's Form 1 Application to register as a national securities exchange with rules including, on a pilot basis, MEMX Rule 11.15.⁶ Rule 11.15, among other things (i) provides for uniform treatment of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (ii) reduces the ability of the Exchange to deviate from objective standards set forth in the rule. The rule further provides that: (i) a series of transactions in a particular security on one or more trading days may be viewed as one event if all such transactions were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information resulting in a severe valuation error for all such transactions; and (ii) in the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of the Exchange, another SRO, or responsible single plan processor in connection with the transmittal or receipt of a trading halt, an Officer of the Exchange or senior level employee designee, acting on his or her own motion, shall nullify any transaction that occurs after a trading halt has been declared by

⁵ See MEMX Rule 11.15.

⁶ See Securities Exchange Release No. 88806 (May 4, 2020), 85 FR 27451 (May 8, 2020).

the primary listing market for a security, and before such a trading halt has officially ended according to the primary listing market.⁷

Previously, the clearly erroneous pilot programs adopted by the national securities exchanges and the current Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the “Limit Up-Limit Down Plan” or the “LULD Plan”) were a single pilot program. On April 17, 2019, the Commission approved the Eighteenth Amendment to the LULD Plan, allowing the LULD Plan to operate on a permanent, rather than pilot, basis.⁸ Accordingly, national securities exchanges filed with the Commission amendments to exchange rules to untie the pilot program’s effectiveness from that of the LULD Plan in order to provide such exchanges additional time to consider further amendments, if any, to the clearly erroneous execution rules in light of the proposed Eighteenth Amendment to the LULD Plan.⁹

More recently, the Exchange amended MEMX Rule 11.15 to extend the pilot’s effectiveness to the close of business on October 20, 2021.¹⁰ The Exchange subsequently amended MEMX Rule 11.15 to extend the pilot’s effectiveness to the close of business on April 20, 2022¹¹ and again to extend the pilot’s effectiveness to the close of business

⁷ See MEMX Rule 11.15.

⁸ See Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019) (File No. 4-631).

⁹ See, e.g., Securities Exchange Act Release No. 85542 (April 8, 2019), 84 FR 15009 (April 12, 2019) (SR-CboeBYX-2019-003).

¹⁰ See Securities Exchange Act Release No. 91457 (April 1, 2021), 86 FR 18082 (April 7, 2021) (SR-MEMX-2021-05).

¹¹ See Securities Exchange Act Release No. 93358 (October 15, 2021), 86 FR 58319 (October 21, 2021) (SR-MEMX-2021-13).

on July 20, 2022.¹²

On July 8, 2022, Cboe BZX Exchange, Inc. proposed a rule change to make the pilot program permanent with certain amendments.¹³ The Exchange now proposes to amend MEMX Rule 11.15 to extend the pilot's effectiveness to the close of business on October 20, 2022, while the Commission considers whether the BZX proposal should be approved or disapproved. MEMX understands that certain other national securities exchanges and the Financial Industry Regulatory Authority ("FINRA") also intend to file similar proposals to extend their respective clearly erroneous execution pilot programs, the substance of which are identical to MEMX Rule 11.15.

The Exchange does not propose any additional changes to MEMX Rule 11.15. By proposing to extend the pilot, the Exchange will avoid any discrepancy between its clearly erroneous pilot program and the pilot programs of other exchanges and FINRA, as the language of such rules are identical to MEMX Rule 11.15 and, as noted above, other exchanges and FINRA also intend to file proposals to extend their respective clearly erroneous execution pilot programs. The Exchange believes the benefits to market participants from the more objective clearly erroneous executions rule should continue on a limited three month pilot basis. As the LULD Plan was approved by the Commission to operate on a permanent, rather than pilot, basis the Exchange intends to assess whether additional changes should also be made to the operation of the clearly erroneous execution rules. Extending the effectiveness of MEMX Rule 11.15 for an additional

¹² See Securities Exchange Act Release No. 94684 (April 12, 2022), 87 FR 23006 (April 18, 2022) (SR-MEMX-2022-09).

¹³ See Securities Exchange Act Release No. 95259 (July 12, 2022), 87 FR 42760 (July 18, 2022) (SR-CboeBZX-2022-037).

three months should provide the Commission additional time to consider the recent proposal to make the pilot program permanent and any further amendments to the clearly erroneous execution rules.

b. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁴ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁵ in particular, in that it is designed to prevent fraudulent and manipulative 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 mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that extending the clearly erroneous execution pilot under MEMX Rule 11.15 for an additional three months would help assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed extension would also help assure consistent results in handling erroneous trades across the U.S. equities markets, thus furthering fair and orderly markets, the protection of investors and the public interest.

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(5).

Based on the foregoing, the Exchange believes the clearly erroneous executions rule should continue to be in effect on a pilot basis while the Commission considers the pending proposal to make permanent the rules related to clearly erroneous executions reviews.

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

The Exchange believes its proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange understands that FINRA and certain other national securities exchanges will also file similar proposals to extend their respective clearly erroneous execution pilot programs. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

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)¹⁶ of the Act and Rule 19b-4(f)(6) thereunder¹⁷ 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

¹⁶ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁷ 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.

The Exchange believes that the proposed extension of Rule 11.15 would not significantly affect the protection of investors and the public interest. As discussed above, the proposal is intended to extend those protections currently assured by the clearly erroneous executions pilot program, without any changes, while the Commission considers the pending proposal to make permanent the rules related to clearly erroneous executions reviews. This proposed rule change would therefore not impose any significant burden on competition because the Exchange understands that certain other national securities exchanges and FINRA will also file similar proposals with the Commission to extend their respective clearly erroneous execution pilot programs so that those rules may also continue uninterrupted. Accordingly, the Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act¹⁸ and paragraph (f)(6) of Rule 19b-4 thereunder.¹⁹

Furthermore, Rule 19b-4(f)(6)(iii)²⁰ 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.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become

¹⁸ 15 U.S.C. 78(s)(b)(3)(A).

¹⁹ 17 CFR 240.19b-4.

²⁰ 17 CFR 240.19b-4(f)(6)(iii).

operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange respectfully requests the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. Waiver of the 30-day operative delay would allow the Exchange to immediately extend the current clearly erroneous execution pilot program to the close of business on October 20, 2022. The Exchange believes the proposed change is appropriate for treatment as a non-controversial rule filing and that waiver of the operative delay is appropriate and in the best interest of investors because it seeks to extend the protections provided by the clearly erroneous executions pilot program, without any changes, while the Commission considers the pending proposal to make permanent the rules related to clearly erroneous executions reviews.

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.

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

Not applicable.

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-2022-18]
[Insert date]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Pilot Related to Clearly Erroneous Transactions Until October 20, 2022

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 extend the current pilot program related to MEMX Rule 11.15, “Clearly Erroneous Executions,” to the close of business on October 20, 2022. 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

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).

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 extend the effectiveness of the Exchange's current rule applicable to Clearly Erroneous Executions to the close of business on October 20, 2022. Portions of Rule 11.15, explained in further detail below, are currently operating as a pilot program which is set to expire on July 20, 2022.⁵

On May 4, 2020, the Commission approved MEMX's Form 1 Application to register as a national securities exchange with rules including, on a pilot basis, MEMX Rule 11.15.⁶ Rule 11.15, among other things (i) provides for uniform treatment of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (ii) reduces the ability of the Exchange to deviate from objective standards set forth in the rule. The rule further provides that: (i) a series of transactions in a particular security on one or more trading days may be viewed as one event if all such transactions were effected based on the same fundamentally incorrect or grossly misinterpreted

⁵ See MEMX Rule 11.15.

⁶ See Securities Exchange Release No. 88806 (May 4, 2020), 85 FR 27451 (May 8, 2020).

issuance information resulting in a severe valuation error for all such transactions; and (ii) in the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of the Exchange, another SRO, or responsible single plan processor in connection with the transmittal or receipt of a trading halt, an Officer of the Exchange or senior level employee designee, acting on his or her own motion, shall nullify any transaction that occurs after a trading halt has been declared by the primary listing market for a security, and before such a trading halt has officially ended according to the primary listing market.⁷

Previously, the clearly erroneous pilot programs adopted by the national securities exchanges and the current Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the “Limit Up-Limit Down Plan” or the “LULD Plan”) were a single pilot program. On April 17, 2019, the Commission approved the Eighteenth Amendment to the LULD Plan, allowing the LULD Plan to operate on a permanent, rather than pilot, basis.⁸ Accordingly, national securities exchanges filed with the Commission amendments to exchange rules to untie the pilot program’s effectiveness from that of the LULD Plan in order to provide such exchanges additional time to consider further amendments, if any, to the clearly erroneous execution rules in light of the proposed Eighteenth Amendment to the LULD Plan.⁹

More recently, the Exchange amended MEMX Rule 11.15 to extend the pilot’s

⁷ See MEMX Rule 11.15.

⁸ See Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019) (File No. 4-631).

⁹ See, e.g., Securities Exchange Act Release No. 85542 (April 8, 2019), 84 FR 15009 (April 12, 2019) (SR-CboeBYX-2019-003).

effectiveness to the close of business on October 20, 2021.¹⁰ The Exchange subsequently amended MEMX Rule 11.15 to extend the pilot's effectiveness to the close of business on April 20, 2022¹¹ and again to extend the pilot's effectiveness to the close of business on July 20, 2022.¹²

On July 8, 2022, Cboe BZX Exchange, Inc. proposed a rule change to make the pilot program permanent with certain amendments.¹³ The Exchange now proposes to amend MEMX Rule 11.15 to extend the pilot's effectiveness to the close of business on October 20, 2022, while the Commission considers whether the BZX proposal should be approved or disapproved. MEMX understands that certain other national securities exchanges and the Financial Industry Regulatory Authority ("FINRA") also intend to file similar proposals to extend their respective clearly erroneous execution pilot programs, the substance of which are identical to MEMX Rule 11.15.

The Exchange does not propose any additional changes to MEMX Rule 11.15. By proposing to extend the pilot, the Exchange will avoid any discrepancy between its clearly erroneous pilot program and the pilot programs of other exchanges and FINRA, as the language of such rules are identical to MEMX Rule 11.15 and, as noted above, other exchanges and FINRA also intend to file proposals to extend their respective clearly erroneous execution pilot programs. The Exchange believes the benefits to market

¹⁰ See Securities Exchange Act Release No. 91457 (April 1, 2021), 86 FR 18082 (April 7, 2021) (SR-MEMX-2021-05).

¹¹ See Securities Exchange Act Release No. 93358 (October 15, 2021), 86 FR 58319 (October 21, 2021) (SR-MEMX-2021-13).

¹² See Securities Exchange Act Release No. 94684 (April 12, 2022), 87 FR 23006 (April 18, 2022) (SR-MEMX-2022-09).

¹³ See Securities Exchange Act Release No. 95259 (July 12, 2022), 87 FR 42760 (July 18, 2022) (SR-CboeBZX-2022-037).

participants from the more objective clearly erroneous executions rule should continue on a limited three month pilot basis. As the LULD Plan was approved by the Commission to operate on a permanent, rather than pilot, basis the Exchange intends to assess whether additional changes should also be made to the operation of the clearly erroneous execution rules. Extending the effectiveness of MEMX Rule 11.15 for an additional three months should provide the Commission additional time to consider the recent proposal to make the pilot program permanent and any further amendments to the clearly erroneous execution rules.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁴ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁵ in particular, in that it is designed to prevent fraudulent and manipulative 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 mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that extending the clearly erroneous execution pilot under MEMX Rule 11.15 for an additional three months would help

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(5).

assure that the determination of whether a clearly erroneous trade has occurred will be based on clear and objective criteria, and that the resolution of the incident will occur promptly through a transparent process. The proposed extension would also help assure consistent results in handling erroneous trades across the U.S. equities markets, thus furthering fair and orderly markets, the protection of investors and the public interest. Based on the foregoing, the Exchange believes the clearly erroneous executions rule should continue to be in effect on a pilot basis while the Commission considers the pending proposal to make permanent the rules related to clearly erroneous executions reviews.

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

The Exchange believes its proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange understands that FINRA and certain other national securities exchanges will also file similar proposals to extend their respective clearly erroneous execution pilot programs. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

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

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 Act¹⁶ and Rule 19b-4(f)(6)¹⁷ 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-2022-18 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-MEMX-2022-18. This file number

¹⁶ 15 U.S.C. 78s(b)(3)(A).

¹⁷ 17 CFR 240.19b-4.

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-2022-18 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.¹⁸

¹⁸ 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

* * * * *

Rule 11.15 Clearly Erroneous Executions

The provisions of paragraphs (c), (e)(2), (f), (g) and (i) through (k) of this Rule, shall be in effect during a pilot period that expires at the close of business on [July] October 20, 2022.

(a)-(k) No change.

* * * * *