

1. Text of the Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² MEMX LLC (“MEMX” or the “Exchange”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to amend the Exchange’s fee schedule applicable to Members³ (the “Fee Schedule”) pursuant to Exchange Rules 15.1(a) and (c). The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal on December 1, 2023.

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

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

Molly Hartley
Counsel
MEMX LLC
(551) 370-1048

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Exchange Rule 1.5(p).

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

a. Purpose

The purpose of the proposed rule change is to amend the Fee Schedule to remove an expired criteria under Liquidity Provision Tier 5.

The Exchange currently provides a base rebate of \$0.0015 per share for executions of orders in securities priced at or above \$1.00 per share that add displayed liquidity to the Exchange (such orders, "Added Displayed Volume").⁴ The Exchange also currently offers Liquidity Provision Tiers 1-5 under which a Member may receive an enhanced rebate for executions of Added Displayed Volume by achieving the corresponding required volume criteria for each such tier. With respect to Liquidity Provision Tier 5, the Exchange currently provides an enhanced rebate of \$0.0025 per share for executions of Added Displayed Volume for Members that qualify for such tier by achieving: (1) an ADAV⁵ that is equal to or greater than 0.06% of the TCV⁶; or (2) a Displayed ADAV that is equal to or greater than 0.007% of the TCV and a Step-Up Displayed ADAV⁷ from May 2023 that is equal to or greater than 50% of the Member's

⁴ The base rebate for executions of Added Displayed Volume is referred to by the Exchange on the Fee Schedule under the existing description "Added displayed volume" with a Fee Code of "B", "D" or "J", as applicable, on execution reports.

⁵ As set forth on the Fee Schedule, "ADAV" means the average daily added volume calculated as the number of shares added per day, which is calculated on a monthly basis.

⁶ As set forth on the Fee Schedule, "TCV" means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

⁷ As set forth on the Fee Schedule, "Step Up Displayed ADAV" means Displayed ADAV in the relevant baseline month subtracted from current Displayed ADAV.

May 2023 Displayed ADAV of the TCV.⁸ Additionally, the Fee Schedule indicates that criteria (2) of Liquidity Provision Tier 5 will expire no later than November 30, 2023.

Now, given the expiration of criteria (2) of Liquidity Provision Tier 5, it is necessary to modify the Fee Schedule to delete this criteria (2) as well as the note under the Liquidity Provision Tiers pricing table that indicates its expiration, as both are no longer applicable and otherwise obsolete. The Exchange is not proposing to make any changes to this or any other Liquidity Provision Tier, and as such, Liquidity Provision Tier 5 will now consist solely of the previously existing criteria (1).

b. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁹ in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,¹⁰ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed change to modify Liquidity Provision Tier 5 to remove the expired criteria (2) criteria is reasonable because there was an expiration date associated with this criteria that has now passed. As such, this criteria is no longer available under this tier, and should not remain on the Fee Schedule. The Exchange believes that the enhanced rebate for executions of Added Displayed Volume

⁸ The proposed pricing for Liquidity Provision Tier 5 is referred to by the Exchange on the Fee Schedule under the existing description “Added displayed volume, Liquidity Provision Tier 5” with a Fee Code of “B5”, “D5” or “J5”, as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

⁹ 15 U.S.C. 78f.

¹⁰ 15 U.S.C. 78f(b)(4) and (5).

provided under Liquidity Provision Tier 5, which the Exchange is not proposing to change with this proposal, remains commensurate with the required criteria under such tier, as modified, and is reasonably related to the market quality benefits that such tier is designed to achieve. The Exchange also believes the enhanced rebate for executions of Added Displayed Volume provided under Liquidity Provision Tier 5 remains equitable and not unfairly discriminatory, as such enhanced rebate will continue to apply equally to all qualifying Members.

For the reasons discussed above, the Exchange submits that the proposal satisfies the requirements of Sections 6(b)(4) and 6(b)(5) of the Act¹¹ in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities and is not designed to unfairly discriminate between customers, issuers, brokers, or dealers.

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

In accordance with Section 6(b)(8) of the Act,¹² the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the proposed rule change would not place 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 address any competitive issues but rather is designed to enhance the clarity of the Fee Schedule and alleviate possible Member confusion that may arise from the inclusion of obsolete language.

¹¹ 15 U.S.C. 78f(b)(4) and (5).

¹² 15 U.S.C. 78f(b)(8).

5. 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.

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)

Pursuant to Section 19(b)(3)(A)(ii) of the Act,¹³ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing. 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 under Section 19(b)(2)(B) of the Act to determine whether the proposed rule change should be approved or disapproved.¹⁴

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

¹³ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁴ 15 U.S.C. 78s(b)(2)(B).

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. Form of Notice of the Proposed Rule Change for Publication in the Federal Register.

Exhibit 5. Text of Proposed Fee Schedule.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34- ; File No. SR-MEMX-2023-32]

[Insert date]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Exchange's Fee Schedule

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 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 the Exchange's fee schedule applicable to Members³ (the "Fee Schedule") pursuant to Exchange Rules 15.1(a) and (c). The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal on December 1, 2023. 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Exchange Rule 1.5(p).

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 purpose of the proposed rule change is to amend the Fee Schedule to remove an expired criteria under Liquidity Provision Tier 5.

The Exchange currently provides a base rebate of \$0.0015 per share for executions of orders in securities priced at or above \$1.00 per share that add displayed liquidity to the Exchange (such orders, "Added Displayed Volume").⁴ The Exchange also currently offers Liquidity Provision Tiers 1-5 under which a Member may receive an enhanced rebate for executions of Added Displayed Volume by achieving the corresponding required volume criteria for each such tier. With respect to Liquidity Provision Tier 5, the Exchange currently provides an enhanced rebate of \$0.0025 per share for executions of Added Displayed Volume for Members that qualify for such tier by achieving: (1) an ADAV⁵ that is equal to or greater than 0.06% of the TCV⁶; or (2) a Displayed ADAV that is equal to or greater than 0.007% of the TCV and a Step-Up

⁴ The base rebate for executions of Added Displayed Volume is referred to by the Exchange on the Fee Schedule under the existing description "Added displayed volume" with a Fee Code of "B", "D" or "J", as applicable, on execution reports.

⁵ As set forth on the Fee Schedule, "ADAV" means the average daily added volume calculated as the number of shares added per day, which is calculated on a monthly basis.

⁶ As set forth on the Fee Schedule, "TCV" means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

Displayed ADAV⁷ from May 2023 that is equal to or greater than 50% of the Member's May 2023 Displayed ADAV of the TCV.⁸ Additionally, the Fee Schedule indicates that criteria (2) of Liquidity Provision Tier 5 will expire no later than November 30, 2023.

Now, given the expiration of criteria (2) of Liquidity Provision Tier 5, it is necessary to modify the Fee Schedule to delete this criteria (2) as well as the note under the Liquidity Provision Tiers pricing table that indicates its expiration, as both are no longer applicable and otherwise obsolete. The Exchange is not proposing to make any changes to this or any other Liquidity Provision Tier, and as such, Liquidity Provision Tier 5 will now consist solely of the previously existing criteria (1).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁹ in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,¹⁰ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed change to modify Liquidity Provision Tier 5 to remove the expired criteria (2) criteria is reasonable because there was an expiration date associated with this criteria that has now passed. As such, this criteria is

⁷ As set forth on the Fee Schedule, "Step Up Displayed ADAV" means Displayed ADAV in the relevant baseline month subtracted from current Displayed ADAV.

⁸ The proposed pricing for Liquidity Provision Tier 5 is referred to by the Exchange on the Fee Schedule under the existing description "Added displayed volume, Liquidity Provision Tier 5" with a Fee Code of "B5", "D5" or "J5", as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

⁹ 15 U.S.C. 78f.

¹⁰ 15 U.S.C. 78f(b)(4) and (5).

no longer available under this tier, and should not remain on the Fee Schedule. The Exchange believes that the enhanced rebate for executions of Added Displayed Volume provided under Liquidity Provision Tier 5, which the Exchange is not proposing to change with this proposal, remains commensurate with the required criteria under such tier, as modified, and is reasonably related to the market quality benefits that such tier is designed to achieve. The Exchange also believes the enhanced rebate for executions of Added Displayed Volume provided under Liquidity Provision Tier 5 remains equitable and not unfairly discriminatory, as such enhanced rebate will continue to apply equally to all qualifying Members.

For the reasons discussed above, the Exchange submits that the proposal satisfies the requirements of Sections 6(b)(4) and 6(b)(5) of the Act¹¹ in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities and is not designed to unfairly discriminate between customers, issuers, brokers, or dealers.

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

In accordance with Section 6(b)(8) of the Act,¹² the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the proposed rule change would not place 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 address any competitive issues but rather is designed to enhance the clarity of the Fee Schedule and alleviate possible

¹¹ 15 U.S.C. 78f(b)(4) and (5).

¹² 15 U.S.C. 78f(b)(8).

Member confusion that may arise from the inclusion of obsolete language.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act¹³ and Rule 19b-4(f)(2)¹⁴ 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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number

¹³ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁴ 17 CFR 240.19b-4(f)(2).

SR-MEMX-2023-32 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-2023-32. 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 (<https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-MEMX-2023-32 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to

delegated authority.¹⁵

Sherry R. Haywood,

Assistant Secretary.

¹⁵ 17 CFR 200.30-3(a)(12).

Exhibit 5

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

MEMX Equities Fee Schedule
(EFFECTIVE DECEMBER[NOVEMBER] 1, 2023)

* * * * *

Liquidity Provision Tiers

Tier	Rebate Per Share	Required Criteria
Tier 1	\$(0.0033)	(1) Member has an ADAV (excluding Retail Orders) \geq 0.45% of the TCV; or (2) Member has a Step-Up ADAV (excluding Retail Orders) from September 2023 \geq .05% of the TCV, an ADV \geq 0.50% of the TCV, and a Non-Displayed ADAV \geq 5,000,000 shares*; or (3) Member has an ADAV \geq 0.30% of the TCV and a Non-Displayed ADAV \geq 7,000,000 shares
Tier 2	\$(0.0032)	(1) Member has an ADAV \geq 0.25% of the TCV and a Non-Displayed ADAV \geq 4,000,000 shares; or (2) Member has a Step-Up Displayed ADAV of the TCV from September 2023 \geq 0.10% and a Displayed ADAV (excluding Retail Orders) \geq 0.20% of the TCV**
Tier 3	\$(0.0030)	Member has an ADAV \geq 0.175% of the TCV
Tier 4	\$(0.0029)	(1) Member has an ADAV (excluding Retail Orders) \geq 0.09% of the TCV; or (2) Member has an ADAV \geq 0.06% of the TCV and a Step-Up ADAV from June 2023 \geq 40% of the Member's June 2023 ADAV***
Tier 5	\$(0.0025)	[(1)] Member has an ADAV \geq 0.06% of the TCV[; or

		(2) Member has a Displayed ADAV $\geq 0.007\%$ of the TCV and a Step-Up Displayed ADAV of the TCV from May 2023 $\geq 50\%$ of the Member's May 2023 Displayed ADAV of the TCV****]
--	--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

* Criteria (2) of Liquidity Provision Tier 1 will expire no later than March 31, 2024.

** Criteria (2) of Liquidity Provision Tier 2 will expire no later than March 31, 2024.

*** Criteria (2) of Liquidity Provision Tier 4 will expire no later than December 31, 2023.

[**** Criteria (2) of Liquidity Provision Tier 5 will expire no later than November 30, 2023.]

* * * * *