Required fields are shown with yellow backgrounds and asterisks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR - 2024 - * 07
Amendment No. (req. for Amendments *)

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) *
✔	☐	☐	☐	✔	☐

Pilot	Extension of Time Period for Commission Action *	Date Expires *
☐	☐	

Rule

☐ 19b-4(f)(1)	☐ 19b-4(f)(4)
✔ 19b-4(f)(2)	☐ 19b-4(f)(5)
☐ 19b-4(f)(3)	☐ 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) *	Section 806(e)(2) *
☐	☐

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 3C(b)(2) *
☐

Exhibit 2 Sent As Paper Document	Exhibit 3 Sent As Paper Document
☐	☐

Description

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

Proposal to amend the Exchange's fee schedule.

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 *	5513701003	Fax	

Signature

Pursuant to the requirements of the Securities Exchange of 1934, MEMX LLC has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date	02/29/2024	(Title *)
By	Lauren Strathman	Chief Compliance Officer
	(Name *)	

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

Digitally signed by Lauren Strathman
Date: 2024.02.29 11:57:29 -06'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information * Add Remove View March 2024 Pricing Rule Filing (Inform	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 * Add Remove View March 2024 Pricing Rule Filing (Exhibi	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 Advanced Notice by Clearing Agencies * Add Remove View	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 2- Notices, Written Comments, Transcripts, Other Communications Add Remove View	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 Sent As Paper Document
Exhibit 3 - Form, Report, or Questionnaire Add Remove View	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 Sent As Paper Document
Exhibit 4 - Marked Copies Add Remove View	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 Add Remove View March 2024 Pricing Filing (Exhibit 5).do	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 Add Remove View	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) 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 Members[3] (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 March 1, 2024.

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 adopt a new Cross Asset Tier, in which a qualifying Member will receive an enhanced rebate 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"), by achieving the corresponding required volume criteria for such tier on the Exchange's equity options platform, MEMX Options, as further described below.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly available information, no single registered equities exchange currently has more than approximately 15% of the total market share of executed volume of equities trading.[4] Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow, and the Exchange currently represents approximately 3% of the overall market share.[5] The Exchange in particular operates a "Maker-Taker" model whereby it provides rebates to Members that add

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4 Market share percentage calculated as of February 27, 2024. The Exchange receives and processes data made available through consolidated data feeds (i.e., CTS and UTDF).

5 Id.

liquidity to the Exchange and charges fees to Members that remove liquidity from the Exchange. The Fee Schedule sets forth the standard rebates and fees applied per share for orders that add and remove liquidity, respectively. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing, which provides Members with opportunities to qualify for higher rebates or lower fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

The Exchange proposes to adopt a new Cross Asset Tier which is designed to incentivize Members to increase their participation on both the Exchange's equities and options platforms. Currently, with respect to the Exchange's equities trading platform, the Exchange provides a base rebate of $0.0015 per share for executions of Added Displayed Volume. Under the proposed Cross Asset Tier 1, the Exchange will provide an enhanced rebate of $0.0026 for executions of Added Displayed Volume for Members that qualify by such tier by achieving an Options ADAV[6] in the Customer[7] and Professional[8] capacity on MEMX Options that is equal to or greater than 20,000 contracts. In connection with the adoption of this tier, the Exchange proposes to incorporate a definition of "Options ADAV" in the definitions section of the Fee Schedule, where Options ADAV will be

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[6] As further described below, a Member's "Options ADAV" for purposes of equities pricing means the average daily volume calculated as a number of contracts added on MEMX Options per day by the Member, which is calculated on a monthly basis.

[7] As set forth on the MEMX Options Fee Schedule, "Customer" applies to any order for the account of a Priority Customer. Priority Customer shall have the meaning set forth in Rule 16.1 of the MEMX Rulebook.

[8] As set forth on the MEMX Options Fee Schedule, "Professional" applies to any order for the account of a Professional.

defined as, for purposes of equities pricing, average daily added volume calculated as a number of contracts added on MEMX Options per day, calculated on a monthly basis. The Exchange will also indicate in a note under the Cross Asset Tier table on the Fee Schedule that the definitions of “Customer” and “Professional” capacity are those that are defined in the MEMX Options Fee Schedule.

The Exchange also proposes to specify in a note under the Cross Asset Tier table on the Fee Schedule that Members that qualify for Cross Asset Tier 1 based on activity in a given month will also receive that associated Cross Asset Tier 1 rebate during the following month. Effectively, this means that if a Member executes 20,000 or more Customer and/or Professional contracts on MEMX Options during a given month, that Member will receive that rebate for the total amount of Added Displayed Volume executed on the Exchange during that month and in the following month, even if such Member does not execute 20,000 or more Customer and Professional contracts on MEMX Options during that following month. This is different from the Exchange’s current practice with respect to the remaining of its pricing tiers, whereby the Exchange calculates Members’ applicable criteria such as ADAV on a monthly basis, and Members that qualify for enhanced rebates by achieving certain criteria receive the enhanced rebate per share for all applicable executions in that previous month. Accordingly, Members do not know whether they will receive the enhanced rebate at the time of execution, but rather, receive it at the end of the month based on their activity during that month.

To illustrate, the Exchange offers the following example: As proposed, at the end of March 2024, the Exchange will calculate a Member’s Options ADAV for March 2024 and if that Member executed over 20,000 contracts in the Customer and/or Professional capacity, the Member would receive the enhanced rebate of $0.0026 per share for the Added Displayed Volume it executed on the Exchange in March 2024, and it would also receive the enhanced rebate of $0.0026 per share for the Added Displayed Volume it executes on the Exchange in April 2024 (regardless of the Member's Options activity in April 2024). Accordingly, in this example, the Member will be aware of the rebate it will receive under Cross Asset Tier 1 during the month of April 2024, regardless of what their April 2024 Options ADAV is, because it is awarded based on its March 2024 Options ADAV. The Exchange notes that although the enhanced rebate of $0.0026 per share would be provided to the Member in April 2024, if the Member in the example above did not qualify for Cross Asset Tier 1 based on their April 2024 Options ADAV, the Member would no longer qualify for the enhanced rebate of $0.0026 per share for the Added Displayed Volume the Member executes in May 2024.

The tiered pricing structure for executions of Added Displayed Volume under the proposed Cross Asset Tier provides an incremental incentive for Members to strive for higher volume thresholds to receive higher enhanced rebates for such executions and, as such, is intended to encourage Members to maintain or increase their order flow, primarily in the form of liquidity-adding volume, to the Exchange, thereby contributing to a deeper and more liquid market to the benefit of all Members and market participants. The Exchange believes that the proposed Cross Asset Tier reflects a reasonable and competitive pricing structure that is right-sized and consistent with the Exchange's overall pricing philosophy of encouraging added and/or displayed liquidity. Additionally, the proposed process by which the enhanced rebate will be paid under the Cross Asset Tier allows Members to anticipate whether such rebate will apply at the time of execution based on whether the criteria was achieved in the prior month. The

Exchange believes this method will provide Members with additional certainty when trading on the Exchange, which in turn, will incentivize Members to increase their participation on both the Exchange and MEMX Options on an ongoing basis.

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.

As discussed above, the Exchange operates in a highly fragmented and competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient, and the Exchange represents only a small percentage of the overall market. The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and also recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."[11]

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9 15 U.S.C. 78f.

10 15 U.S.C. 78f(b)(4) and (5).

11 Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, including with respect to Added Displayed Volume, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. The Exchange believes the proposal reflects a reasonable and competitive pricing structure designed to incentivize market participants to direct additional order flow to MEMX Options, which the Exchange believes would promote price discovery and enhance liquidity and market quality to the benefit of all Members and market participants.

The Exchange notes that volume-based incentives have been widely adopted by exchanges, including the Exchange, and are reasonable, equitable and not unfairly discriminatory because they are open to all members on an equal basis and provide additional benefits that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and the introduction of higher volumes of orders into the price and volume discovery process. The Exchange believes that the proposed Cross Asset Tier is reasonable, equitable and not unfairly discriminatory for these same reasons, as such tier would provide Members with an incremental incentive to achieve certain volume thresholds on MEMX Options, is available to all Members on an equal basis, and, as described above, is designed to encourage Members to maintain or increase their order flow on the Exchange, including in the form of displayed, liquidity-adding orders, in part due to the enhanced rebate received for executions of Added Displayed Volume on the Exchange, as applicable, thereby contributing to a deeper, more liquid and well balanced market ecosystem on the Exchange to the benefit of all Members and market participants.

To the extent a Member participates on the Exchange but not on MEMX Options, the Exchange believes that the proposal is still reasonable, equitably allocated and non-discriminatory with respect to such Member based on the overall benefit to the Exchange resulting from the success of MEMX Options. Particularly, the Exchange believes such success allows the Exchange to continue to provide and potentially expand its existing incentive programs to the benefit of all participants on the Exchange, whether they participate on MEMX Options or not. The proposed pricing program is also fair and equitable in that membership on MEMX Options is available to all market participants which would provide them with access to the benefits on MEMX Options provided by the proposal, even where a member of MEMX Options is not necessarily eligible for the proposed enhanced rebate on the Exchange. Further, the proposed change will result in Members receiving either the same or an increased rebate than they would currently receive. The Exchange also notes that another Exchange has similar cross asset volume tiers.[12]

As it relates to the method by which the Exchange proposes to award the rebate under Cross Asset Tier 1, the Exchange believes it is reasonable, equitable and not unfairly discriminatory, as the tier will provide Members with incremental incentives to

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12 See the Cboe EDGX Options fee schedule available at: https://www.cboe.com/us/equities/membership/fee_schedule/edgx/

achieve certain volume thresholds on MEMX Options, is available to all Members on an equal basis, and, as described above, is reasonably designed to encourage Members to maintain or increase their order flow to the Exchange with an added layer of certainty in the rebate they will receive in the upcoming month, if applicable.

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 Act[13] 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. As described more fully below in the Exchange's statement regarding the burden on competition, the Exchange believes that its transaction pricing is subject to significant competitive forces, and that the proposed fees and rebates described herein are appropriate to address such forces.

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

The Exchange does not believe that the proposal will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the proposal is intended to incentivize market participants to direct additional order flow to MEMX Options, thereby enhancing liquidity and market quality to the benefit of all Members and market participants, as well as to generate additional revenue in a manner that is still consistent with the Exchange's overall pricing philosophy of encouraging added displayed liquidity. As a result, the Exchange believes the proposal would enhance its competitiveness as a market that attracts actionable orders, thereby making it a more desirable destination venue for its customers. For these

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[13] 15 U.S.C. 78f(b)(4) and (5).

reasons, the Exchange believes that the proposal furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."[14]

Intramarket Competition

As discussed above, the Exchange believes that the proposal would incentivize Members to submit additional order flow to MEMX Options, thereby enhancing liquidity and market quality to the benefit of all Members, as well as enhancing the attractiveness of the Exchange as a trading venue, which the Exchange believes, in turn, would continue to encourage market participants to direct additional order flow to the Exchange. Greater liquidity benefits all Members by providing more trading opportunities and encourages Members to send additional orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants.

The Exchange does not believe that the proposed change would impose any burden on intramarket competition because such change will apply to all Members uniformly, in that the proposed rebate for such executions would be the rebate applicable to all Members.

Intermarket Competition

As noted above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. Members have numerous alternative venues that they may participate on and direct their order flow to, including 15 other equities exchanges and numerous alternative trading systems and

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[14] See supra note 11.

other off-exchange venues. As noted above, no single registered equities exchange currently has more than approximately 15% of the total market share of executed volume of equities trading. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. Moreover, the Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, including with respect to Added Displayed Volume, and market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. As described above, the proposed change represents a competitive proposal through which the Exchange is seeking to generate additional revenue with respect to its transaction pricing and to encourage the submission of additional order flow to the Exchange through volume-based tiers, which have been widely adopted by exchanges, including the Exchange. Accordingly, the Exchange believes the proposal would not burden, but rather promote, intermarket competition by enabling it to better compete with other exchanges that offer similar pricing incentives to market participants.

Additionally, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."[15] The fact that this market is competitive has also long been recognized by the courts. In NetCoalition v. SEC, the D.C. Circuit stated as follows: "[n]o one disputes that competition for order flow is 'fierce.' … As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'….".[16] Accordingly, the Exchange does not believe its proposed pricing changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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,[17] the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-

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15 See supra note 11.

16 NetCoalition v. SEC, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSE-2006-21)).

17 15 U.S.C. 78s(b)(3)(A)(ii).

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.[18]

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

Exhibit 5. Text of Proposed Fee Schedule.

[18] 15 U.S.C. 78s(b)(2)(B).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34- ; File No. SR-MEMX-2024-07]
[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 Members[3] (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 March 1, 2024. 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

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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 adopt a new Cross Asset Tier, in which a qualifying Member will receive an enhanced rebate 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"), by achieving the corresponding required volume criteria for such tier on the Exchange's equity options platform, MEMX Options, as further described below.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly available information, no single registered equities exchange currently has more than approximately 15% of the total market share of executed volume of equities trading.[4] Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow, and the Exchange currently

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4 Market share percentage calculated as of February 27, 2024. The Exchange receives and processes data made available through consolidated data feeds (i.e., CTS and UTDF).

represents approximately 3% of the overall market share.[5] The Exchange in particular operates a "Maker-Taker" model whereby it provides rebates to Members that add liquidity to the Exchange and charges fees to Members that remove liquidity from the Exchange. The Fee Schedule sets forth the standard rebates and fees applied per share for orders that add and remove liquidity, respectively. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing, which provides Members with opportunities to qualify for higher rebates or lower fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

The Exchange proposes to adopt a new Cross Asset Tier which is designed to incentivize Members to increase their participation on both the Exchange's equities and options platforms. Currently, with respect to the Exchange's equities trading platform, the Exchange provides a base rebate of $0.0015 per share for executions of Added Displayed Volume. Under the proposed Cross Asset Tier 1, the Exchange will provide an enhanced rebate of $0.0026 for executions of Added Displayed Volume for Members that qualify by such tier by achieving an Options ADAV[6] in the Customer[7] and Professional[8] capacity on MEMX Options that is equal to or greater than 20,000 contracts. In connection with

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5 Id.

6 As further described below, a Member's "Options ADAV" for purposes of equities pricing means the average daily volume calculated as a number of contracts added on MEMX Options per day by the Member, which is calculated on a monthly basis.

7 As set forth on the MEMX Options Fee Schedule, "Customer" applies to any order for the account of a Priority Customer. Priority Customer shall have the meaning set forth in Rule 16.1 of the MEMX Rulebook.

8 As set forth on the MEMX Options Fee Schedule, "Professional" applies to any order for the account of a Professional.

the adoption of this tier, the Exchange proposes to incorporate a definition of "Options ADAV" in the definitions section of the Fee Schedule, where Options ADAV will be defined as, for purposes of equities pricing, average daily added volume calculated as a number of contracts added on MEMX Options per day, calculated on a monthly basis. The Exchange will also indicate in a note under the Cross Asset Tier table on the Fee Schedule that the definitions of "Customer" and "Professional" capacity are those that are defined in the MEMX Options Fee Schedule.

The Exchange also proposes to specify in a note under the Cross Asset Tier table on the Fee Schedule that Members that qualify for Cross Asset Tier 1 based on activity in a given month will also receive that associated Cross Asset Tier 1 rebate during the following month. Effectively, this means that if a Member executes 20,000 or more Customer and/or Professional contracts on MEMX Options during a given month, that Member will receive that rebate for the total amount of Added Displayed Volume executed on the Exchange during that month and in the following month, even if such Member does not execute 20,000 or more Customer and Professional contracts on MEMX Options during that following month. This is different from the Exchange's current practice with respect to the remaining of its pricing tiers, whereby the Exchange calculates Members' applicable criteria such as ADAV on a monthly basis, and Members that qualify for enhanced rebates by achieving certain criteria receive the enhanced rebate per share for all applicable executions in that previous month. Accordingly, Members do not know whether they will receive the enhanced rebate at the time of execution, but rather, receive it at the end of the month based on their activity during that month.

To illustrate, the Exchange offers the following example: As proposed, at the end of March 2024, the Exchange will calculate a Member's Options ADAV for March 2024 and if that Member executed over 20,000 contracts in the Customer and/or Professional capacity, the Member would receive the enhanced rebate of $0.0026 per share for the Added Displayed Volume it executed on the Exchange in March 2024, and it would also receive the enhanced rebate of $0.0026 per share for the Added Displayed Volume it executes on the Exchange in April 2024 (regardless of the Member's Options activity in April 2024). Accordingly, in this example, the Member will be aware of the rebate it will receive under Cross Asset Tier 1 during the month of April 2024, regardless of what their April 2024 Options ADAV is, because it is awarded based on its March 2024 Options ADAV. The Exchange notes that although the enhanced rebate of $0.0026 per share would be provided to the Member in April 2024, if the Member in the example above did not qualify for Cross Asset Tier 1 based on their April 2024 Options ADAV, the Member would no longer qualify for the enhanced rebate of $0.0026 per share for the Added Displayed Volume the Member executes in May 2024.

The tiered pricing structure for executions of Added Displayed Volume under the proposed Cross Asset Tier provides an incremental incentive for Members to strive for higher volume thresholds to receive higher enhanced rebates for such executions and, as such, is intended to encourage Members to maintain or increase their order flow, primarily in the form of liquidity-adding volume, to the Exchange, thereby contributing to a deeper and more liquid market to the benefit of all Members and market participants. The Exchange believes that the proposed Cross Asset Tier reflects a reasonable and competitive pricing structure that is right-sized and consistent with the Exchange's overall pricing philosophy of encouraging added and/or displayed liquidity.

Additionally, the proposed process by which the enhanced rebate will be paid under the Cross Asset Tier allows Members to anticipate whether such rebate will apply at the time of execution based on whether the criteria was achieved in the prior month. The Exchange believes this method will provide Members with additional certainty when trading on the Exchange, which in turn, will incentivize Members to increase their participation on both the Exchange and MEMX Options on an ongoing basis.

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.

As discussed above, the Exchange operates in a highly fragmented and competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient, and the Exchange represents only a small percentage of the overall market. The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and also recognized that current regulation of the market system "has been remarkably successful

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(4) and (5).

in promoting market competition in its broader forms that are most important to investors and listed companies."[11]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, including with respect to Added Displayed Volume, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. The Exchange believes the proposal reflects a reasonable and competitive pricing structure designed to incentivize market participants to direct additional order flow to MEMX Options, which the Exchange believes would promote price discovery and enhance liquidity and market quality to the benefit of all Members and market participants.

The Exchange notes that volume-based incentives have been widely adopted by exchanges, including the Exchange, and are reasonable, equitable and not unfairly discriminatory because they are open to all members on an equal basis and provide additional benefits that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and the introduction of higher volumes of orders into the price and volume discovery process. The Exchange believes that the proposed Cross Asset Tier is reasonable, equitable and not unfairly discriminatory for these same reasons, as such tier would provide Members with an incremental incentive to achieve certain

11 Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

volume thresholds on MEMX Options, is available to all Members on an equal basis, and, as described above, is designed to encourage Members to maintain or increase their order flow on the Exchange, including in the form of displayed, liquidity-adding orders, in part due to the enhanced rebate received for executions of Added Displayed Volume on the Exchange, as applicable, thereby contributing to a deeper, more liquid and well balanced market ecosystem on the Exchange to the benefit of all Members and market participants.

To the extent a Member participates on the Exchange but not on MEMX Options, the Exchange believes that the proposal is still reasonable, equitably allocated and non-discriminatory with respect to such Member based on the overall benefit to the Exchange resulting from the success of MEMX Options. Particularly, the Exchange believes such success allows the Exchange to continue to provide and potentially expand its existing incentive programs to the benefit of all participants on the Exchange, whether they participate on MEMX Options or not. The proposed pricing program is also fair and equitable in that membership on MEMX Options is available to all market participants which would provide them with access to the benefits on MEMX Options provided by the proposal, even where a member of MEMX Options is not necessarily eligible for the proposed enhanced rebate on the Exchange. Further, the proposed change will result in Members receiving either the same or an increased rebate than they would currently receive. The Exchange also notes that another Exchange has similar cross asset volume tiers.[12]

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12 See the Cboe EDGX Options fee schedule available at: https://www.cboe.com/us/equities/membership/fee_schedule/edgx/

As it relates to the method by which the Exchange proposes to award the rebate under Cross Asset Tier 1, the Exchange believes it is reasonable, equitable and not unfairly discriminatory, as the tier will provide Members with incremental incentives to achieve certain volume thresholds on MEMX Options, is available to all Members on an equal basis, and, as described above, is reasonably designed to encourage Members to maintain or increase their order flow to the Exchange with an added layer of certainty in the rebate they will receive in the upcoming month, if applicable.

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 Act[13] 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. As described more fully below in the Exchange's statement regarding the burden on competition, the Exchange believes that its transaction pricing is subject to significant competitive forces, and that the proposed fees and rebates described herein are appropriate to address such forces.

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

The Exchange does not believe that the proposal will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the proposal is intended to incentivize market participants to direct additional order flow to MEMX Options, thereby enhancing liquidity and market quality to the benefit of all Members and market participants, as well as to generate additional revenue in a manner that is still consistent with the Exchange's overall pricing

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13 15 U.S.C. 78f(b)(4) and (5).

philosophy of encouraging added displayed liquidity. As a result, the Exchange believes the proposal would enhance its competitiveness as a market that attracts actionable orders, thereby making it a more desirable destination venue for its customers. For these reasons, the Exchange believes that the proposal furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."[14]

Intramarket Competition

As discussed above, the Exchange believes that the proposal would incentivize Members to submit additional order flow to MEMX Options, thereby enhancing liquidity and market quality to the benefit of all Members, as well as enhancing the attractiveness of the Exchange as a trading venue, which the Exchange believes, in turn, would continue to encourage market participants to direct additional order flow to the Exchange. Greater liquidity benefits all Members by providing more trading opportunities and encourages Members to send additional orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants.

The Exchange does not believe that the proposed change would impose any burden on intramarket competition because such change will apply to all Members uniformly, in that the proposed rebate for such executions would be the rebate applicable to all Members.

Intermarket Competition

As noted above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee

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[14] See supra note 11.

levels at a particular venue to be excessive or incentives to be insufficient. Members have numerous alternative venues that they may participate on and direct their order flow to, including 15 other equities exchanges and numerous alternative trading systems and other off-exchange venues. As noted above, no single registered equities exchange currently has more than approximately 15% of the total market share of executed volume of equities trading. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. Moreover, the Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, including with respect to Added Displayed Volume, and market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. As described above, the proposed change represents a competitive proposal through which the Exchange is seeking to generate additional revenue with respect to its transaction pricing and to encourage the submission of additional order flow to the Exchange through volume-based tiers, which have been widely adopted by exchanges, including the Exchange. Accordingly, the Exchange believes the proposal would not burden, but rather promote, intermarket competition by enabling it to better compete with other exchanges that offer similar pricing incentives to market participants.

Additionally, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."[15] The fact that this market is competitive has also long been recognized by the courts. In NetCoalition v. SEC, the D.C. Circuit stated as follows: "[n]o one disputes that competition for order flow is 'fierce.' … As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'….".[16] Accordingly, the Exchange does not believe its proposed pricing changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

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15 See supra note 11.

16 NetCoalition v. SEC, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSE-2006-21)).

19(b)(3)(A)(ii) of the Act[17] and Rule 19b-4(f)(2)[18] 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 SR-MEMX-2024-07 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-2024-07. This file number should be included on the subject line if email is used. To help the Commission

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17 15 U.S.C. 78s(b)(3)(A)(ii).

18 17 CFR 240.19b-4(f)(2).

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-2024-07 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.[19]

Sherry R. Haywood,

Assistant Secretary.

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[19] 17 CFR 200.30-3(a)(12).

Exhibit 5

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

MEMX Equities Fee Schedule
(EFFECTIVE [FEBRUARY 15]MARCH 1, 2024)

Transaction Fees

MEMX Members are charged per share fees or provided per share rebates based on shares executed within each of the fee code categories below.

Fee Code	Description	Fee/(Rebate) - Securities at or above $1.00 ("A")	Fee/(Rebate) - Securities below $1.00 ("B")
B, D or J	Added displayed volume	$(0.0015)	(0.075% of total dollar value)
B1, D1 or J1	Added displayed volume, Liquidity Provision Tier 1	$(0.0033)	(0.075% of total dollar value)
B2, D2 or J2	Added displayed volume, Liquidity Provision Tier 2	$(0.0032)	(0.075% of total dollar value)
B3, D3 or J3	Added displayed volume, Liquidity Provision Tier 3	$(0.0030)	(0.075% of total dollar value)
B4, D4 or J4	Added displayed volume, Liquidity Provision Tier 4	$(0.0029)	(0.075% of total dollar value)
B5, D5 or J5	Added displayed volume, Liquidity Provision Tier 5	$(0.0025)	(0.075% of total dollar value)
Bq1, Dq1 or Jq1	Added displayed volume, DLI Tier 1	$(0.0031)	(0.075% of total dollar value)
Bq2, Dq2 or Jq2	Added displayed volume, DLI Tier 2	$(0.0026)	(0.075% of total dollar value)
Br, Dr or Jr	Added displayed volume, Retail Order	$(0.0032)	(0.15% of total dollar value)

Br1, Dr1 or Jr1	Added displayed volume, Retail Tier 1	$(0.0034)	(0.15% of total dollar value)
BO, DO, or JO	Added displayed volume, Cross Asset Tier 1	$(0.0026)	(0.075% of total dollar value)
P	Added volume, order subject to Display-Price Sliding that receives price improvement when executed	$(0.0008)	(0.075% of total dollar value)
H	Added non-displayed volume	$(0.0008)	(0.075% of total dollar value)
M	Added non-displayed volume, Midpoint Peg	$(0.0008)	(0.075% of total dollar value)
H1, M1, P1	Added non-displayed volume, Non-Display Add Tier 1	$(0.0028)	(0.075% of total dollar value)
H2, M2, P2	Added non-displayed volume, Non-Display Add Tier 2	$(0.0027)	(0.075% of total dollar value)
H3, M3, P3	Added non-displayed volume, Non-Display Add Tier 3	$(0.0024)	(0.075% of total dollar value)
H4, M4, P4	Added non-displayed volume, Non-Display Add Tier 4	$(0.0018)	(0.075% of total dollar value)
R	Removed volume from MEMX Book	$0.0030	0.28% of total dollar value
R1	Removed volume from MEMX Book, Liquidity Removal Tier 1	$0.00295	0.28% of total dollar value
Rr0	Removed volume from MEMX Book upon entry, Retail Order (Day/GTT/RHO)	Free	Free
Z	Routed to another market, removed liquidity	$0.0030	0.30% of total dollar value

Definitions:

- "ADAV" means average daily added volume calculated as the number of shares added per day. ADAV is calculated on a monthly basis.
- "ADV" means average daily volume calculated as the number of shares added or removed, combined, per day. ADV is calculated on a monthly basis.
- "Displayed ADAV" means ADAV with respect to displayed orders (including orders subject to Display-Price Sliding that receive price improvement when executed).
- "Midpoint ADAV" means ADAV with respect to Midpoint Peg orders.
- "Non-Displayed ADAV" means ADAV with respect to non-displayed orders (including orders subject to Display-Price Sliding that receive price improvement when executed and Midpoint Peg orders).
- "Options ADAV" means, for purposes of equities pricing, average daily added volume calculated as a number of contracts added on MEMX Options per day, calculated on a monthly basis.
- "Remove ADV" means ADV with respect to orders that remove liquidity.
- "Step-Up ADAV" means ADAV in the relevant baseline month subtracted from current ADAV.
- "Step-Up Displayed ADAV" means Displayed ADAV in the relevant baseline month subtracted from current Displayed ADAV.
- "Step-Up Non-Displayed ADAV" means Non-Displayed ADAV in the relevant baseline month subtracted from current Non-Displayed ADAV.
- "Step-Up Tape B ADAV" means ADAV in Tape B securities in the relevant baseline month subtracted from current ADAV in Tape B securities.
- "Sub-Dollar ADAV" means ADAV with respect to orders in securities priced below $1.00 per share.
- "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.

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Cross Asset Tier

Tier	**Rebate Per Share**	**Required Criteria**
Tier 1	$(0.0026)	Member has an Options ADAV in Customer/Professional orders* ≥ 20,000 contracts**

* The definitions of Customer and Professional are set forth in the MEMX Options fee schedule.
** Members that qualify for Cross Asset Tier 1 based on activity in a given month will also receive that associated Cross Asset Tier 1 rebate during the following month.

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