





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”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> MEMX LLC (“MEMX” or the “Exchange”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to amend Exchange Rule 21.17(e) to modify the manner in which the Exchange’s System will handle Market Orders received in an option series after it is open for trading with a National Best Bid (“NBB”) of zero. The Exchange has designated this proposal as non-controversial pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and provided the Commission with the notice required by Rule 19b-4(f)(6)(iii) thereunder.<sup>4</sup>

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.

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

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

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

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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 Rule 21.17(e) regarding the description of how the System<sup>5</sup> handles a Market Order<sup>6</sup> when there is no bid against which the order may execute. Currently, Rule 21.17(e)(1)(A) states that if the System receives a sell Market Order in a series after it is open for trading with an NBB of zero, if the National Best Offer ("NBO") in the series is less than or equal to \$0.50, then the System converts the Market Order to a Limit Order with a limit price equal to the minimum *trading* (emphasis added) increment applicable to the series and enters the order into the MEMX Options Book with a timestamp based on the time it enters the book. The Exchange proposes to modify this provision of the rule to state that if the System receives a sell Market Order in a series after it is open for trading with an NBB of zero, if the NBO in the series is less than or equal to \$0.50, then the System converts the Market Order to a Limit Order with a limit price equal to the minimum *quoting* (emphasis added) increment applicable to the series and enters the order into the MEMX

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<sup>5</sup> The Exchange's Rule 16.1 defines the terms "Trading System" and "System" as the automated trading system used by MEMX Options for the trading of options contracts.

<sup>6</sup> A Market Order is an order to buy or sell at the best price available at the time of execution. See Rule 21.1(d)(2).

Options Book with a timestamp based on the time it enters the book. The Exchange is not proposing to change any other provisions of Rule 21.17(e).

The proposed rule change maintains the functionality of converting a Market Order to a Limit Order in an options series with an NBB of zero, (if the NBO is less than or equal to \$0.50), but in a manner consistent with the Exchange's minimum quoting increments for options on the Exchange, which are set forth under Rule 21.5(a). Specifically, under Rule 21.5(a), the minimum quoting increments for options contracts traded on MEMX Options are: (1) if the options series is trading at less than \$3.00, five (5) cents; (2) if the options series is trading at \$3.00 or higher, ten (10) cents; and (3) if the options series is trading pursuant to the Penny Interval Program one (1) cent if the options series is trading at less than \$3.00, five (5) cents if the options series is trading at \$3.00 or higher, unless for QQQ, SPY, or IWM where the minimum quoting increment will be one cent for all series regardless of price.

As previously stated, currently, if a Member enters a Market Order to sell in an options series with an NBB of zero, if the NBO is less than or equal to \$0.50, Rule 21.17(e) provides that the System will convert this Market Order to a Limit Order to sell with a limit price that is equal to the minimum trading increment for all options series, which per Rule 21.5(b), is \$0.01. While Rule 21.5(b) permits *trading* in all options series at \$0.01 intervals, Rule 21.5(a) above does not permit *quoting* at \$0.01 intervals in all options series, as any options series not trading pursuant to the Penny Interval Program have minimum quoting increments of either \$0.05 or \$0.10 depending on the price at which the option is trading. Given this inconsistency, the Exchange is proposing to modify Rule 21.17(e)(1)(A) so that the System will convert a Market Order to sell in an

options series with an NBB of zero and an NBO that is less than or equal to \$0.50 to a Limit Order to sell with a limit price that conforms with the minimum quoting increments under Rule 21.5(a) (i.e. the minimum quoting requirement applicable to the series). The Exchange notes that the System currently operates consistent with the modified Rule as described above, namely, by converting a Market Order to sell in an options series with an NBB of zero and an NBO that is less than or equal to \$0.50 to a Limit Order to sell with a limit price that conforms with the minimum quoting increments, rather than at a price that could contradict the quoting increments set forth in Rule 21.5.

b. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>8</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

In particular, the Exchange believes the proposed rule change regarding the handling of sell Market Orders in no-bid series assists with the maintenance of fair and orderly markets and protects investors and the public interest because it eliminates the potential conflict that exists within Rule 21.17(e) and the Exchange's minimum quoting

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<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

increments under Rule 21.5(a). The proposal considers the fact that there are certain instances in which an options series cannot quote at the minimum trading increment, and as such, modifies the rule such that the System will not convert a Market Order to a Limit Order with a limit price at which it cannot quote. The Exchange believes that its proposal is consistent with the Act because it is in the interest of market participants to have orders entered into the MEMX Options book with limit prices that conform with the minimum quoting increments defined under Rule 21.5(a), whether that price is equal to the minimum trading increment of \$0.01 or higher based on the specific options series.

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. More specifically, the Exchange does not believe that the proposed rule change will impose any burden on intramarket competition because it will be applicable to all Members trading on the Exchange. In addition, the Exchange does not believe that the proposed change will impose any intermarket burden because the Exchange will provide the same type of functionality related to the conversion of sell side Market Orders in no-bid options as other exchanges, but will convert those Market Orders to Limit Orders with limit prices that conform with its Rules in all instances.

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)

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii)<sup>9</sup> of the Act and Rule 19b-4(f)(6) thereunder<sup>10</sup> 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 become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

Furthermore, Rule 19b-4(f)(6)(iii)<sup>11</sup> 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.

The Exchange believes the proposal does not significantly affect the protection of investors or the public interest, rather the proposal modifies the text of Rule 21.17(e)(1)(A) to avoid a potential conflict within its Rules. Specifically, to apply Rule 21.17(e)(1)(A) literally to all option series, the Exchange would be required to convert all Market Orders to sell in an options series with an NBB of zero where the NBO is less than or equal to \$0.50 to Limit Orders to sell with a price of \$0.01, even though Rule 21.5(a) provides that certain options series are required to be quoted in increments of \$0.05 and \$0.10. Accordingly, the proposal merely clarifies potential internal conflict

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> 17 CFR 240.19b-4(f)(6)(iii).



between the Rules described above. Therefore, this rule filing qualifies as a “non-controversial” rule change under Rule 19b-4(f)(6), which renders the proposed rule change effective upon filing with the Commission.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(ii), 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 that the Commission to waive the 30-day operative delay period after which a proposed rule change under Rule 19b-4(f)(6) becomes effective. Waiver of the 30-day operative delay will permit the Exchange to immediately ensure the clarification of its Rules and provision of functionality that does not otherwise conflict with its Rules.

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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. Form of Notice of the Proposed Rule Change for Publication in the  
Federal Register.

Exhibit 5. Text of proposed rule change.

EXHIBIT 1

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34- ; File No. SR-MEMX-2024-09]

[Insert date]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 21.17(e).

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> 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 Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to amend Exchange Rule 21.17(e) to modify the manner in which the Exchange’s System will handle Market Orders received in an option series after it is open for trading with a National Best Bid (“NBB”) of zero. 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

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

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

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 purpose of the proposed rule change is to amend Rule 21.17(e) regarding the description of how the System<sup>5</sup> handles a Market Order<sup>6</sup> when there is no bid against which the order may execute. Currently, Rule 21.17(e)(1)(A) states that if the System receives a sell Market Order in a series after it is open for trading with an NBB of zero, if the National Best Offer (“NBO”) in the series is less than or equal to \$0.50, then the System converts the Market Order to a Limit Order with a limit price equal to the minimum *trading* (emphasis added) increment applicable to the series and enters the order into the MEMX Options Book with a timestamp based on the time it enters the book. The Exchange proposes to modify this provision of the rule to state that if the System receives a sell Market Order in a series after it is open for trading with an NBB of zero, if the NBO in the series is less than or equal to \$0.50, then the System converts the Market Order to a Limit Order with a limit price equal to the minimum *quoting*

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<sup>5</sup> The Exchange's Rule 16.1 defines the terms “Trading System” and “System” as the automated trading system used by MEMX Options for the trading of options contracts.

<sup>6</sup> A Market Order is an order to buy or sell at the best price available at the time of execution. See Rule 21.1(d)(2).

(emphasis added) increment applicable to the series and enters the order into the MEMX Options Book with a timestamp based on the time it enters the book. The Exchange is not proposing to change any other provisions of Rule 21.17(e).

The proposed rule change maintains the functionality of converting a Market Order to a Limit Order in an options series with an NBB of zero, (if the NBO is less than or equal to \$0.50), but in a manner consistent with the Exchange's minimum quoting increments for options on the Exchange, which are set forth under Rule 21.5(a). Specifically, under Rule 21.5(a), the minimum quoting increments for options contracts traded on MEMX Options are: (1) if the options series is trading at less than \$3.00, five (5) cents; (2) if the options series is trading at \$3.00 or higher, ten (10) cents; and (3) if the options series is trading pursuant to the Penny Interval Program one (1) cent if the options series is trading at less than \$3.00, five (5) cents if the options series is trading at \$3.00 or higher, unless for QQQ, SPY, or IWM where the minimum quoting increment will be one cent for all series regardless of price.

As previously stated, currently, if a Member enters a Market Order to sell in an options series with an NBB of zero, if the NBO is less than or equal to \$0.50, Rule 21.17(e) provides that the System will convert this Market Order to a Limit Order to sell with a limit price that is equal to the minimum trading increment for all options series, which per Rule 21.5(b), is \$0.01. While Rule 21.5(b) permits *trading* in all options series at \$0.01 intervals, Rule 21.5(a) above does not permit *quoting* at \$0.01 intervals in all options series, as any options series not trading pursuant to the Penny Interval Program have minimum quoting increments of either \$0.05 or \$0.10 depending on the price at which the option is trading. Given this inconsistency, the Exchange is proposing to

modify Rule 21.17(e)(1)(A) so that the System will convert a Market Order to sell in an options series with an NBB of zero and an NBO that is less than or equal to \$0.50 to a Limit Order to sell with a limit price that conforms with the minimum quoting increments under Rule 21.5(a) (i.e. the minimum quoting requirement applicable to the series). The Exchange notes that the System currently operates consistent with the modified Rule as described above, namely, by converting a Market Order to sell in an options series with an NBB of zero and an NBO that is less than or equal to \$0.50 to a Limit Order to sell with a limit price that conforms with the minimum quoting increments, rather than at a price that could contradict the quoting increments set forth in Rule 21.15.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>8</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

In particular, the Exchange believes the proposed rule change regarding the handling of sell Market Orders in no-bid series assists with the maintenance of fair and orderly markets and protects investors and the public interest because it eliminates the

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<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

potential conflict that exists within Rule 21.17(e) and the Exchange's minimum quoting increments under Rule 21.5(a). The proposal considers the fact that there are certain instances in which an options series cannot quote at the minimum trading increment, and as such, modifies the rule such that the System will not convert a Market Order to a Limit Order with a limit price at which it cannot quote. The Exchange believes that its proposal is consistent with the Act because it is in the interest of market participants to have orders entered into the MEMX Options book with limit prices that conform with the minimum quoting increments defined under Rule 21.5(a), whether that price is equal to the minimum trading increment of \$0.01 or higher based on the specific options series.

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. More specifically, the Exchange does not believe that the proposed rule change will impose any burden on intramarket competition because it will be applicable to all Members trading on the Exchange. In addition, the Exchange does not believe that the proposed change will impose any intermarket burden because the Exchange will provide the same type of functionality related to the conversion of sell side Market Orders in no-bid options as other exchanges, but will convert those Market Orders to Limit Orders with limit prices that conform with its Rules in all instances.

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)(iii)<sup>9</sup> of the Act and Rule 19b-4(f)(6) thereunder<sup>10</sup> 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 become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

Furthermore, Rule 19b-4(f)(6)(iii)<sup>11</sup> 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.

The Exchange believes the proposal does not significantly affect the protection of investors or the public interest, rather the proposal modifies the text of Rule 21.17(e)(1)(A) to avoid a potential conflict within its Rules. Specifically, to apply Rule 21.17(e)(1)(A) literally to all option series, the Exchange would be required to convert all Market Orders to sell in an options series with an NBB of zero where the NBO is less than or equal to \$0.50 to Limit Orders to sell with a price of \$0.01, even though Rule 21.5(a) provides that certain options series are required to be quoted in increments of \$0.05 and \$0.10. Accordingly, the proposal merely clarifies potential internal conflict between the Rules described above. Therefore, this rule filing qualifies as a “non-controversial” rule change under Rule 19b-4(f)(6), which renders the proposed rule

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> 17 CFR 240.19b-4(f)(6)(iii).



change effective upon filing with the Commission.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(ii), 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 that the Commission to waive the 30-day operative delay period after which a proposed rule change under Rule 19b-4(f)(6) becomes effective. Waiver of the 30-day operative delay will permit the Exchange to immediately ensure the clarification of its Rules and provision of functionality that does not otherwise conflict with its Rules.

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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.

#### 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](mailto:rule-comments@sec.gov). Please include file number

SR-MEMX-2024-09 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-2024-09. 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-2024-09 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.<sup>12</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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

**Exhibit 5**

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

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**CHAPTER 21. TRADING SYSTEMS**

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**Rule 21.17. Additional Price Protection Mechanisms and Risk Controls**

The System's acceptance and execution of orders, quotes, and bulk messages, as applicable, are subject to the price protection mechanisms and risk controls in Rule 21.16, this Rule and as otherwise set forth in the Rules. All numeric values established by the Exchange pursuant to this Rule will be maintained by the Exchange in publicly available specifications and/or published in a Regulatory Circular. Unless otherwise specified the price protections set forth in this Rule, including the numeric values established by the Exchange, may not be disabled or adjusted. The Exchange may share any of a User's risk settings with the Clearing Member that clears transactions on behalf of the User.

(a) – (d) No change.

(e) *Market Orders in No-Bid (Offer) Series*

(1) If the System receives a sell Market Order in a series after it is open for trading with an NBB of zero:

(A) if the NBO in the series is less than or equal to \$0.50, then the System converts the Market Order to a Limit Order with a limit price equal to the minimum quoting[trading] increment applicable to the series and enters the order into the MEMX Options Book with a timestamp based on the time it enters the Book.

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