

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 immediately.

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:

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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).

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: (i) modify the required criteria under Liquidity Provision Tier 4, and (ii) adopt a new Retail Sub-Dollar Liquidity Removal Tier, each 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 18 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 2% 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

⁴ Market share percentage calculated as of March 30, 2026. The Exchange receives and processes data made available through consolidated data feeds (i.e., CTS and UTDF).

⁵ Id.

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.

Liquidity Provision Tier 4

The Exchange currently provides a standard 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”).⁶ The Exchange also currently offers Liquidity Provision Tiers 1-5, among other volume-based tiers, 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. The Exchange now proposes to modify the required criteria under Liquidity Provision Tier 4, as further described below.

The Exchange currently provides an enhanced rebate of \$0.0028 per share for executions of Added Displayed Volume for Members that qualify for Liquidity Provision Tier 4 by achieving an ADAV⁷ (excluding Retail Orders)⁸ that is equal to or greater than

⁶ 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.

⁷ 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.

⁸ A “Retail Order” means an agency or riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a Retail Member Organization (“RMO”), provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. See Exchange Rule 11.21(a).

0.09% of the TCV.⁹ Now, the Exchange proposes to modify the required criteria such that a Member would qualify for Liquidity Provision Tier 4 by achieving an ADAV that is equal to or greater than 0.10% of the TCV. Thus, such proposed change would increase the ADAV % of TCV threshold but eliminate the Retail Order exclusion from the criteria, broadening the universe of executions which will be included in the Exchange's calculation of ADAV for purposes of qualifying for Liquidity Provision Tier 4.¹⁰ The Exchange is not proposing to change the rebate provided under such tier.

The proposed change to Liquidity Provision Tier 4 is designed to encourage Members to maintain or increase their order flow, including in the form of orders that add liquidity on the Exchange in order to qualify for the enhanced Liquidity Provision Tier 4 rebate, which may contribute to a more robust and well-balanced market ecosystem on the Exchange to the benefit of all Members.

Adoption of Retail Sub-Dollar Liquidity Removal Tier

The Exchange currently charges a standard fee of 0.28% of the total dollar value of the transaction for executions of orders in securities priced below \$1.00 per share that remove liquidity from the Exchange, (such orders, "Removed Sub-Dollar Volume"), including Retail Orders. This standard fee is applicable to all such executions of Removed Sub-Dollar Volume (including those that qualify for any of the Exchange's existing volume tiers). Now, the Exchange proposes to adopt a volume-based tier, known

⁹ 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.

¹⁰ The pricing for Liquidity Provision Tier 4 is referred to by the Exchange on the Fee Schedule under the existing description, "Added displayed volume, Liquidity Provision Tier 4" with a Fee Code of "B4", "D4", or "J4", as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

as the Retail Sub-Dollar Liquidity Removal Tier, under which the Exchange will charge a reduced fee for executions of Retail Orders in securities priced below \$1.00 per share that remove liquidity from the Exchange (such orders, "Removed Sub-Dollar Retail Volume") for Members that achieve the volume criteria under such tier. Under the proposed Retail Sub-Dollar Liquidity Removal Tier 1, the Exchange will charge a reduced fee of 0.125% of the total dollar value of the transaction for executions of Removed Sub-Dollar Retail Volume for Members that qualify for such tier by achieving an ADAV in securities priced below \$1.00 per share that is equal to or greater than 20,000,000 shares.¹¹

The proposed Retail Sub-Dollar Liquidity Removal Tier is designed to attract liquidity to the Exchange in Sub-Dollar securities, thereby promoting price discovery and market quality on the Exchange in this category of securities. The Exchange notes the proposed Retail Sub-Dollar Liquidity Removal Tier is comparable to other volume-based incentives and discounts, which have been widely adopted by exchanges, including the Exchange.¹²

b. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,¹³ in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,¹⁴ in particular, in that it provides for the equitable allocation of reasonable dues,

¹¹ The pricing for the proposed new Sub-Dollar Retail Liquidity Removal Tier is referred to by the Exchange on the Fee Schedule under the new description "Sub-Dollar Retail Liquidity Removal Tier 1" with a Fee Code of "Rr1B" on monthly invoices provided to Members.

¹² See, e.g., the NYSE Arca Equities Fees and Charges (available at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf), which shows a Sub-Dollar Retail Day Remove Tier, whereby members of NYSE Arca are charged a reduced fee of 0.20% of the total dollar value for executions of securities priced below \$1.00 per share for firms that qualify for such tier by achieving certain specified volume thresholds.

¹³ 15 U.S.C. 78f.

¹⁴ 15 U.S.C. 78f(b)(4) and (5).

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.”¹⁵

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 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, 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, including displayed, liquidity-adding orders to the Exchange, both which the Exchange

¹⁵ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

believes would promote price discovery and enhance liquidity and market quality on the Exchange to the benefit of all Members and market participants.

The Exchange notes that volume and quoting-based incentives (such as tiers) 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 of 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 Liquidity Provision Tier 4, as modified by the proposed changes to the required criteria under such tier, is reasonable, equitable and not unfairly discriminatory, as such tier will continue to provide Members with an incremental incentive to achieve certain volume thresholds on the Exchange, 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, including in the form of displayed, liquidity-adding orders to the Exchange, thereby contributing to a deeper, more liquid and well balanced market ecosystem on the Exchange to the benefit of all Members and market participants.

The Exchange also believes that such tier reflects a reasonable and equitable allocation of fees and rebates, as the Exchange believes that, after giving effect to the changes proposed herein, the enhanced rebate for executions of Added Displayed Volume under such tier is commensurate with the corresponding required criteria under the tier and is reasonably related to the market quality benefits that the tier is designed to achieve, as described above. Additionally, the Exchange believes the proposed new

Retail Sub-Dollar Liquidity Removal Tier is reasonable, in that it is comparable to pricing incentives adopted by other exchanges that charge a reduced fee for executions of Removed Sub-Dollar Retail Volume for firms that achieve a specified volume threshold.¹⁶

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 Act¹⁷ 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 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 the Exchange, thereby enhancing liquidity and market quality on the Exchange to the benefit of all Members and market participants. 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

¹⁶ See supra note 12.

¹⁷ 15 U.S.C. 78f(b)(4) and (5).

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."¹⁸

Intramarket Competition

As discussed above, the Exchange believes that the proposal would incentivize Members to submit additional order flow, including displayed, liquidity-adding orders to the Exchange, in both Retail and non-Retail orders, in Sub-Dollar securities and securities priced at or above \$1.00 per share, thereby enhancing liquidity and market quality on the Exchange 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 opportunity to qualify for the proposed new criteria under the Liquidity Provision Tier 4 and the new Retail Sub-Dollar Liquidity Removal Tier 1, and thus receive the corresponding rebate for executions of Added Displayed Volume, and/or reduced fee for executions of Removed Retail Sub-Dollar Volume, as applicable, would be available to all Members that meet the associated volume requirements in any month. As described above, the Exchange believes that, after giving effect to the changes proposed herein, the required criteria under each of the tiers described above is commensurate with the corresponding enhanced rebate/reduced fee under each such tier

¹⁸ See supra note 15.

and is reasonably related to the enhanced liquidity and market quality that each such tier is designed to promote.

For the foregoing reasons, the Exchange believes the proposed changes would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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 17 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 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 Removed Sub-Dollar Retail 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 changes represent 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 and quoting-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.”¹⁹ 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

¹⁹ Id.

otherwise, in the execution of order flow from broker dealers'".²⁰ 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,²¹ 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)

²⁰ 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)).

²¹ 15 U.S.C. 78s(b)(3)(A)(ii).

of the Act to determine whether the proposed rule change should be approved or disapproved.²²

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.

²² 15 U.S.C. 78s(b)(2)(B).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34- ; File No. SR-MEMX-2026-09]

[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). As is further described below, the Exchange proposes to: (i) modify the required criteria under Liquidity Provision Tier 4, and (ii) adopt a new Retail Sub-Dollar Liquidity Removal Tier. The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal immediately. 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Exchange Rule 1.5(p).

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 the Fee Schedule to: (i) modify the required criteria under Liquidity Provision Tier 4, and (ii) adopt a new Retail Sub-Dollar Liquidity Removal Tier, each 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 18 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

⁴ Market share percentage calculated as of March 30, 2026. The Exchange receives and processes data made available through consolidated data feeds (i.e., CTS and UTDF).

represents approximately 2% 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.

Liquidity Provision Tier 4

The Exchange currently provides a standard 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”).⁶ The Exchange also currently offers Liquidity Provision Tiers 1-5, among other volume-based tiers, 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. The Exchange now proposes to modify the required criteria under Liquidity Provision Tier 4, as further described below.

The Exchange currently provides an enhanced rebate of \$0.0028 per share for

⁵ Id.

⁶ 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.

executions of Added Displayed Volume for Members that qualify for Liquidity Provision Tier 4 by achieving an ADAV⁷ (excluding Retail Orders)⁸ that is equal to or greater than 0.09% of the TCV.⁹ Now, the Exchange proposes to modify the required criteria such that a Member would qualify for Liquidity Provision Tier 4 by achieving an ADAV that is equal to or greater than 0.10% of the TCV. Thus, such proposed change would increase the ADAV % of TCV threshold but eliminate the Retail Order exclusion from the criteria, broadening the universe of executions which will be included in the Exchange's calculation of ADAV for purposes of qualifying for Liquidity Provision Tier 4.¹⁰ The Exchange is not proposing to change the rebate provided under such tier.

The proposed change to Liquidity Provision Tier 4 is designed to encourage Members to maintain or increase their order flow, including in the form of orders that add liquidity on the Exchange in order to qualify for the enhanced Liquidity Provision Tier 4 rebate, which may contribute to a more robust and well-balanced market ecosystem on the Exchange to the benefit of all Members.

Adoption of Retail Sub-Dollar Liquidity Removal Tier

The Exchange currently charges a standard fee of 0.28% of the total dollar value

⁷ 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.

⁸ A "Retail Order" means an agency or riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a Retail Member Organization ("RMO"), provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. See Exchange Rule 11.21(a).

⁹ 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.

¹⁰ The pricing for Liquidity Provision Tier 4 is referred to by the Exchange on the Fee Schedule under the existing description, "Added displayed volume, Liquidity Provision Tier 4" with a Fee Code of "B4", "D4", or "J4", as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

of the transaction for executions of orders in securities priced below \$1.00 per share that remove liquidity from the Exchange, (such orders, "Removed Sub-Dollar Volume"), including Retail Orders. This standard fee is applicable to all such executions of Removed Sub-Dollar Volume (including those that qualify for any of the Exchange's existing volume tiers). Now, the Exchange proposes to adopt a volume-based tier, known as the Retail Sub-Dollar Liquidity Removal Tier, under which the Exchange will charge a reduced fee for executions of Retail Orders in securities priced below \$1.00 per share that remove liquidity from the Exchange (such orders, "Removed Sub-Dollar Retail Volume") for Members that achieve the volume criteria under such tier. Under the proposed Retail Sub-Dollar Liquidity Removal Tier 1, the Exchange will charge a reduced fee of 0.125% of the total dollar value of the transaction for executions of Removed Sub-Dollar Retail Volume for Members that qualify for such tier by achieving an ADAV in securities priced below \$1.00 per share that is equal to or greater than 20,000,000 shares.¹¹

The proposed Retail Sub-Dollar Liquidity Removal Tier is designed to attract liquidity to the Exchange in Sub-Dollar securities, thereby promoting price discovery and market quality on the Exchange in this category of securities. The Exchange notes the proposed Retail Sub-Dollar Liquidity Removal Tier is comparable to other volume-based incentives and discounts, which have been widely adopted by exchanges, including the Exchange.¹²

¹¹ The pricing for the proposed new Sub-Dollar Retail Liquidity Removal Tier is referred to by the Exchange on the Fee Schedule under the new description "Sub-Dollar Retail Liquidity Removal Tier 1" with a Fee Code of "Rr1B" on monthly invoices provided to Members.

¹² See, e.g., the NYSE Arca Equities Fees and Charges (available at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf), which shows a Sub-Dollar Retail Day Remove Tier, whereby members of NYSE Arca are charged a reduced fee of 0.20% of the total dollar value for executions of securities priced below \$1.00 per share for firms that qualify for such tier by achieving certain specified volume thresholds.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,¹³ in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,¹⁴ 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.”¹⁵

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 use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain

¹³ 15 U.S.C. 78f.

¹⁴ 15 U.S.C. 78f(b)(4) and (5).

¹⁵ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

the Exchange's transaction fees and rebates, 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, including displayed, liquidity-adding orders to the Exchange, both which the Exchange believes would promote price discovery and enhance liquidity and market quality on the Exchange to the benefit of all Members and market participants.

The Exchange notes that volume and quoting-based incentives (such as tiers) 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 of 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 Liquidity Provision Tier 4, as modified by the proposed changes to the required criteria under such tier, is reasonable, equitable and not unfairly discriminatory, as such tier will continue to provide Members with an incremental incentive to achieve certain volume thresholds on the Exchange, 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, including in the form of displayed, liquidity-adding orders to the Exchange, thereby contributing to a deeper, more liquid and well balanced market ecosystem on the Exchange to the benefit of all Members and market participants.

The Exchange also believes that such tier reflects a reasonable and equitable

allocation of fees and rebates, as the Exchange believes that, after giving effect to the changes proposed herein, the enhanced rebate for executions of Added Displayed Volume under such tier is commensurate with the corresponding required criteria under the tier and is reasonably related to the market quality benefits that the tier is designed to achieve, as described above. Additionally, the Exchange believes the proposed new Retail Sub-Dollar Liquidity Removal Tier is reasonable, in that it is comparable to pricing incentives adopted by other exchanges that charge a reduced fee for executions of Removed Sub-Dollar Retail Volume for firms that achieve a specified volume threshold.¹⁶

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 Act¹⁷ 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 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

¹⁶ See supra note 12.

¹⁷ 15 U.S.C. 78f(b)(4) and (5).

direct additional order flow to the Exchange, thereby enhancing liquidity and market quality on the Exchange to the benefit of all Members and market participants. 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."¹⁸

Intramarket Competition

As discussed above, the Exchange believes that the proposal would incentivize Members to submit additional order flow, including displayed, liquidity-adding orders to the Exchange, in both Retail and non-Retail orders, in Sub-Dollar securities and securities priced at or above \$1.00 per share, thereby enhancing liquidity and market quality on the Exchange 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 opportunity to qualify for the proposed new criteria under the Liquidity Provision Tier 4 and the new Retail Sub-Dollar Liquidity Removal Tier 1, and thus receive the corresponding rebate for executions of Added Displayed Volume, and/or

¹⁸ See supra note 15.

reduced fee for executions of Removed Retail Sub-Dollar Volume, as applicable, would be available to all Members that meet the associated volume requirements in any month. As described above, the Exchange believes that, after giving effect to the changes proposed herein, the required criteria under each of the tiers described above is commensurate with the corresponding enhanced rebate/reduced fee under each such tier and is reasonably related to the enhanced liquidity and market quality that each such tier is designed to promote.

For the foregoing reasons, the Exchange believes the proposed changes would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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 17 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 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 Removed Sub-Dollar Retail 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 changes represent 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 and quoting-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."¹⁹ 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-

¹⁹ Id.

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’”²⁰ 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 19(b)(3)(A)(ii) of the Act²¹ and Rule 19b-4(f)(2)²² 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

²⁰ 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)).

²¹ 15 U.S.C. 78s(b)(3)(A)(ii).

²² 17 CFR 240.19b-4(f)(2).

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-2026-09 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-2026-09. 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 filing 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-2026-09 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.²³

Sherry R. Haywood,

Assistant Secretary.

²³ 17 CFR 200.30-3(a)(12).

Exhibit 5

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

**MEMX Equities Fee Schedule
(EFFECTIVE [MARCH 2]APRIL 1, 2026)**

Transaction Fees

* * * * *

Liquidity Provision Tiers

Tier	Rebate Per Share	Required Criteria
Tier 1	\$(0.0033)	(1) Member has an ADAV (excluding Retail Orders) \geq 0.40% of the TCV
Tier 2	\$(0.0031)	(1) Member has an ADAV \geq 0.20% of the TCV and an ADV \geq 0.50% of the TCV; or (2) Member has an ADAV \geq 0.20% of the TCV in securities priced at or above \$1.00 per share and a Non-Displayed ADAV \geq 6,000,000 shares; or (3) Member has an ADAV \geq 0.10% of the TCV and a Step-Up Add TCV from December 2025 \geq 0.05%*
Tier 3	\$(0.0029)	(1) Member has an ADAV \geq 0.20% of the TCV in securities priced at or above \$1.00 per share; or (2) Member has an ADAV \geq 0.175% of the TCV
Tier 4	\$(0.0028)	Member has an ADAV [(excluding Retail Orders)] \geq 0.[09]10% of the TCV
Tier 5	\$(0.0024)	Member has an ADAV \geq 0.06% of the TCV

* Criteria (3) of Liquidity Provision Tier 2 will expire no later than June 30, 2026.

Retail Sub-Dollar Liquidity Removal Tier

<u>Tier</u>	<u>Fee Per Share</u>	<u>Required Criteria</u>
<u>Tier 1</u>	<u>0.125% of total dollar value</u>	<u>Member has a Retail Order ADAV in securities priced below \$1.00 per share \geq 20,000,000 shares</u>

* * * * *