

1. Text of the Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² MEMX LLC (“MEMX” or the “Exchange”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to amend the Exchange’s fee schedule applicable to Members³ (the “Fee Schedule”) pursuant to Exchange Rules 15.1(a) and (c). The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal on June 1, 2026.

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) reduce the base rebate for executions of orders subject to the Exchange's Display-Price Sliding⁴ that add liquidity to the Exchange and receive price improvement when executed (such orders, "Added Price Improved Volume"); (ii) reduce the base rebate for executions of orders that add non-displayed liquidity to the Exchange (such orders, "Added Non-Midpoint Non-Displayed Volume "); (iii) reduce the base rebate provided for executions of Midpoint Peg orders that add non-displayed liquidity to the Exchange (such orders, "Added Midpoint Non-Displayed Volume"); (iv) modify the Non-Display Add Tiers by adopting a new Non-Display Add Tier 2 and eliminating Added Price Improved Volume from the set of execution categories eligible to receive an enhanced rebate under the Non-Display Add Tiers; (v) eliminate the Display-Price Sliding Tier 1; (vi) reduce the additive rebate provided under the Tape A Quoting Tier; and (vii) reduce the additive rebate provided under the Tape C Quoting 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

⁴ See Exchange Rule 11.6(j)(1)(A).

single registered equities exchange currently has more than approximately 14% of the total market share of executed volume of equities trading.⁵ 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.⁶ 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.

Reduce Base Rebate for Added Price Improved Volume

The Exchange currently provides a base rebate of \$0.0025 per share for executions of Added Price Improved Volume⁷ in securities priced above at or above \$1.00 per share. The Exchange now proposes to reduce the base rebate for executions of Added Price Improved Volume to \$0.0010 per share. The purpose of reducing the base

⁵ Market share percentage calculated as of May 28, 2026. The Exchange receives and processes data made available through consolidated data feeds (i.e., CTS and UTDF).

⁶ Id.

⁷ The base rebate for executions of Added Price-Improved Volume is referred to by the Exchange on the Fee Schedule under the existing description “Added volume, order subject to Display-Price Sliding that received price improvement when executed” with a Fee Code of “P”, on execution reports.

rebate for executions of Added Price Improved is for business and competitive reasons, as the Exchange believes that reducing such rebate as proposed would decrease the Exchange's expenditures with respect to its transaction pricing in a manner that is still consistent with the Exchange's overall pricing philosophy of encouraging added liquidity to the Exchange. The Exchange is not proposing to change the base rebate for executions of Added Price Improved Volume in securities priced below \$1.00 per share.

Reduce Base Rebate for Added Non-Midpoint Non-Displayed Volume

The Exchange currently provides a base rebate of \$0.0025 per share for executions of Added Non-Midpoint Non-Displayed Volume in securities priced at or above \$1.00 per share.⁸ The Exchange now proposes to reduce the base rebate for executions of Added Non-Midpoint Non-Displayed Volume to \$0.0020 per share. The purpose of reducing the base rebate for executions of Added Non-Midpoint Non-Displayed Volume is for business and competitive reasons, as the Exchange believes that reducing such rebate as proposed would decrease the Exchange's expenditures with respect to its transaction pricing in a manner that is still consistent with the Exchange's overall pricing philosophy of encouraging added liquidity to the Exchange. The Exchange is not proposing to change the base rebate for executions of Added Non-Midpoint Non-Displayed Volume in securities priced below \$1.00 per share.

Reduce Base Rebate for Added Midpoint Non-Displayed Volume

Similarly, the Exchange currently provides a base rebate of \$0.0025 per share for executions of Added Midpoint Non-Displayed Volume in securities priced at or above

⁸ The base rebate for executions of Added Non-Midpoint Non-Displayed Volume is referred to by the Exchange on the Fee Schedule under the existing description "Added non-displayed volume" with a Fee Code of "H", on execution reports.

\$1.00 per share.⁹ The Exchange now proposes to reduce the base rebate for executions of Added Midpoint Non-Displayed Volume to \$0.0020 per share. The purpose of reducing the base rebate for executions of Added Midpoint Non-Displayed Volume is for business and competitive reasons, as the Exchange believes that reducing such rebate as proposed would decrease the Exchange's expenditures with respect to its transaction pricing in a manner that is still consistent with the Exchange's overall pricing philosophy of encouraging added liquidity to the Exchange. The Exchange is not proposing to change the base rebate for executions of Added Midpoint Non-Displayed Volume in securities priced below \$1.00 per share.

Non-Display Add Tiers

The Exchange currently offers Non-Display Add Tier 1 under which a Member may receive an enhanced rebate for executions of Added Non-Displayed Volume by achieving the corresponding required volume criteria for each such tier. Currently, the Added Non-Displayed Volume eligible to qualify for this rebate is comprised of the three following types of orders: (i) Added Midpoint Volume, which as noted above, is assigned the Fee Code "M"; (ii) orders which are not orders subject to Display-Price Sliding that receive price improvement when executed or Midpoint Peg Orders, that add non-displayed liquidity to the Exchange (i.e. Added Non-Midpoint Non-Displayed Volume), which are assigned the Fee Code "H"; and (iii) Added Price-Improved Volume, which is assigned the Fee Code "P". At this time, the Exchange is proposing to modify the Non-Display Add Tiers (i.e. the current Non-Display Add Tier 1 and the newly proposed Non-

⁹ The base rebate for executions of Added Midpoint Non-Displayed Volume is referred to by the Exchange on the Fee Schedule under the existing description "Added non-displayed volume, Midpoint Peg" with a Fee Code of "M", on execution reports.

Display Add Tier 2, as described further below), by removing Added Price Improved Volume from the group of order types eligible to receive the enhanced rebate under any Non-Display Add Tier. Accordingly, only executions of Added Midpoint Non-Displayed Volume and Added Non-Midpoint Non-Displayed Volume will be able to receive the applicable enhanced rebate.¹⁰ The Exchange, notes, however, that executions of Added Price Improved Volume will continue to be counted towards a Member's Non-Displayed ADAV¹¹ for purposes of meeting the applicable criteria under the Non-Display Add Tiers.

Additionally, the Exchange is proposing to add a new tier under the Non-Display Add Tiers, Non-Display Add Tier 2. Under this tier, the Exchange would provide an enhanced rebate of \$0.0025 per share for executions of Added Midpoint Non-Displayed Volume and Added Non-Midpoint Non-Displayed Volume for Members that qualify for such tier by achieving a Non-Displayed ADAV that is equal to or greater than 1,000,000 shares.¹² The proposed new Non-Display Add Tier 2 is designed to encourage Members to maintain or increase their order flow that adds liquidity, including in the form of non-displayed orders, to the Exchange in order to qualify for the proposed enhanced rebate for executions of Added Non-Displayed Volume, which, in turn, would encourage the

¹⁰ The Exchange will reflect this amendment on the Fee Schedule by deleting the Fee Code "P1" from the Transaction Fee table next to the description "Added non-displayed volume, Non-Display Add Tier 1", as well as by adding a note under the Non-Display Add Tiers pricing table that denotes which executions the rebate shall apply.

¹¹ As noted on the Fee Schedule, Non-Displayed ADAV is defined as ADAV with respect to non-displayed orders (*including orders subject to Display-Price Sliding that receive price improvement when executed and Midpoint Peg orders*) (emphasis added).

¹² The pricing for Non-Display Add Tier 2 would be referred to by the Exchange on the Fee Schedule under the description "Added non-displayed volume, Non-Display Add Tier 2" with a Fee Code of "H2" or "M2", as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

submission of additional orders, thereby promoting price discovery and contributing to a deeper and more robust and well-balanced market ecosystem on the Exchange to the benefit of all Members and market participants.

Eliminate Display-Price Sliding Tier 1

Currently, as noted above, the Exchange provides a base rebate of \$0.0025 per share for executions of Added Price Improved Volume, which the Exchange is proposing to reduce to \$0.0010 per share in connection with this filing. Additionally, the Exchange offers the Display-Price Sliding Tier 1, under which the Exchange provides an enhanced rebate for executions of Added Price Improved Volume if a Member achieves an ADAV¹³ with respect to Added Price Improved Volume (excluding Retail Orders)¹⁴ that is equal to or greater than 5,000,000 shares. The "enhanced rebate" is not a set amount, but rather, the highest Added Displayed Volume¹⁵ rebate for all of its Added Price Improved Volume transactions during that month, plus any otherwise achieved additive rebates. The Exchange is now proposing to eliminate this Display-Price Sliding Tier 1, as the Exchange no longer wishes to, nor is required to, maintain such tier.

Tape A Quoting Tier

¹³ 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, and "Displayed ADAV" means ADAV with respect to displayed orders.

¹⁴ 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).

¹⁵ Specifically, the possible rebates are those that the Exchange identifies in the Transaction Fees table on the Fee Schedule with the Fee Code "I" and include the base rebate for Added Displayed Volume, as well as the enhanced rebates under the Liquidity Provision Tiers, DLI Tiers, and Cross Asset Tiers.

The Exchange currently offers the Tape A Quoting Tier under which a Member may receive an additive rebate of \$0.0002 per share for a qualifying Member's executions of Added Displayed Volume (other than Retail Orders) in Tape A securities priced over \$1.00 per share by achieving an NBBO Time¹⁶ of at least 25% in an average of at least 500 Tape A securities per trading day during the month. Now, the Exchange proposes to reduce the additive rebate provided under the Tape A Quoting Tier to \$0.0001 per share.¹⁷ The Exchange is not proposing to change the criteria required to qualify for Tape A Quoting Tier.

The Exchange believes that the proposed reduction of the additive rebate under the Tape A Quoting Tier (i.e., by \$0.0001 per share) represents a modest reduction and that the proposed additive rebate under Tape A Quoting Tier remains commensurate with the required criteria under such tier and is reasonably related to the market quality benefits that the tier is designed to achieve.

Tape C Quoting Tier

Lastly, the Exchange currently offers the Tape C Quoting Tier under which a Member may receive an additive rebate of \$0.0002 per share for a qualifying Member's executions of Added Displayed Volume (other than Retail Orders) in Tape C securities priced over \$1.00 per share by achieving an NBBO Time of at least 50% in an average of at least 500 Tape C securities per trading day during the month. Now, the Exchange

¹⁶ As set forth on the Fee Schedule, the term "NBBO Time" means the aggregate of the percentage of time during regular trading hours during which one of a Member's market participant identifiers ("MPIDs") has a displayed order of at least one round lot at the national best bid or the national best offer.

¹⁷ The pricing for the Tape A Quoting Tier is referred to by the Exchange on the Fee Schedule under the existing description "Tape A Quoting" Tier with a Fee Code of "a" to be appended to the otherwise applicable Fee Code assigned by the Exchange on the monthly invoices for qualifying executions.

proposes to reduce the additive rebate provided under the Tape C Quoting Tier to \$0.0001 per share.¹⁸ The Exchange is not proposing to change the criteria required to qualify for Tape C Quoting Tier.

The Exchange believes that the proposed reduction of the additive rebate under the Tape C Quoting Tier (i.e., by \$0.0001 per share) represents a modest reduction and that the proposed additive rebate under Tape C Quoting Tier remains commensurate with the required criteria under such tier and is reasonably related to the market quality benefits that the tier is designed to achieve.

b. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,¹⁹ in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,²⁰ 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

¹⁸ The pricing for the Tape C Quoting Tier is referred to by the Exchange on the Fee Schedule under the existing description "Tape C Quoting" Tier with a Fee Code of "c" to be appended to the otherwise applicable Fee Code assigned by the Exchange on the monthly invoices for qualifying executions.

¹⁹ 15 U.S.C. 78f.

²⁰ 15 U.S.C. 78f(b)(4) and (5).

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.”²¹

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 and non-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 believes that the proposed changes to reduce the base rebates for executions of Added Price Improved Volume, Added Non-Midpoint Non-Displayed Volume, and Added Midpoint Non-Displayed Volume, are reasonable because the amended rebates remain in line with or are greater than the rebates provided by at least

²¹ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

one other exchange for executions of the same type.²² The Exchange also believes the reduced rebates are equitable and not unfairly discriminatory, as such rebates will apply equally to all Members of the Exchange.

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 the Tape A and Tape C Quoting Tiers, each as modified by the proposed changes herein, as well as the adoption of Non-Display Add Tier 2, are reasonable, equitable and not unfairly discriminatory, as such tiers will continue to provide Members with an incremental incentive to achieve certain volume thresholds on the Exchange, are available to all Members on an equal basis, and, as described above, are designed to encourage Members to maintain or increase their order flow, including in the form of displayed, and/or non-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.

²² See, e.g., the Cboe BZX equities fee schedule on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/) which reflects a standard rebate for Added Price Improved Volume of "Free" and a standard rebate for Added Non-Displayed Volume of \$0.0008 per share per share for executions of orders in Tape A securities priced at or above \$1.00 per share that remove liquidity.

The Exchange believes the proposed change to eliminate the Display-Price Sliding Tier 1 is reasonable because it would enable to the Exchange to redirect the associated resources and funding into other incentives and tiers, and the Exchange is not required to maintain such incentive or provide Members any opportunities to receive enhanced rebates. The Exchange believes the proposal to eliminate such incentive is also equitable and not unfairly discriminatory because it applies equally to all Members, in that the incentive would no longer be available for any Member.

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 Act²³ 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

²³ 15 U.S.C. 78f(b)(4) and (5).

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."²⁴

Intramarket Competition

As discussed above, the Exchange believes that the proposal would incentivize Members to submit additional order flow, including displayed and non-displayed, liquidity-adding orders to the Exchange, 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 Exchange does not believe that the proposed changes to reduce the base rebates for executions of Added Price Improved Volume, Added Non-Midpoint Non-Displayed Volume, and Added Midpoint Non-Displayed Volume would impose any burden on intramarket competition because such changes will apply to all Members uniformly in that the proposed reduced rebates for such executions would be the rebates applicable to all Members, and the opportunity to qualify for enhanced rebates, as applicable, is available to all Members. Further, the opportunity to qualify for the newly

²⁴ See supra note 21.

proposed Non-Display add Tier 2, and thus receive the proposed enhanced rebate for executions of Added Non-Displayed Volume under such tier, and the opportunity to qualify for the reduced additive rebates under the Tape A and Tape C Quoting Tiers, respectively, would be available to all Members that meet the associated volume or quoting requirements in any month. Additionally, as noted above, the elimination of the Display-Price Sliding Tier will apply to all Members equally. 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 14% 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 Non-Displayed Volume and Added Displayed Tape A and Tape C 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."²⁵ 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

²⁵ Id.

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’....”²⁶ 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,²⁷ 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

²⁶ 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)).

²⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

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.²⁸

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.

²⁸ 15 U.S.C. 78s(b)(2)(B).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34- ; File No. SR-MEMX-2026-16]

[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) reduce the base rebate for executions of orders subject to the Exchange's Display-Price Sliding⁴ that add liquidity to the Exchange and receive price improvement when executed (such orders, "Added Price Improved Volume"); (ii) reduce the base rebate for executions of orders that add non-displayed liquidity to the Exchange (such orders, "Added Non-

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Exchange Rule 1.5(p).

⁴ See Exchange Rule 11.6(j)(1)(A).

Midpoint Non-Displayed Volume "); (iii) reduce the base rebate provided for executions of Midpoint Peg orders that add non-displayed liquidity to the Exchange (such orders, "Added Midpoint Non-Displayed Volume"); (iv) modify the Non-Display Add Tiers by adopting a new Non-Display Add Tier 2 and eliminating Added Price Improved Volume from the set of execution categories eligible to receive an enhanced rebate under the Non-Display Add Tiers; (v) eliminate the Display-Price Sliding Tier 1; (vi) reduce the additive rebate provided under the Tape A Quoting Tier; and (vii) reduce the additive rebate provided under the Tape C Quoting Tier. The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal on June 1, 2026. 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 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) reduce the base rebate for executions of orders subject to the Exchange's Display-Price Sliding⁵ that add liquidity to the Exchange and receive price improvement when executed

⁵ See Exchange Rule 11.6(j)(1)(A).

(such orders, "Added Price Improved Volume"); (ii) reduce the base rebate for executions of orders that add non-displayed liquidity to the Exchange (such orders, "Added Non-Midpoint Non-Displayed Volume "); (iii) reduce the base rebate provided for executions of Midpoint Peg orders that add non-displayed liquidity to the Exchange (such orders, "Added Midpoint Non-Displayed Volume"); (iv) modify the Non-Display Add Tiers by adopting a new Non-Display Add Tier 2 and eliminating Added Price Improved Volume from the set of execution categories eligible to receive an enhanced rebate under the Non-Display Add Tiers; (v) eliminate the Display-Price Sliding Tier 1; (vi) reduce the additive rebate provided under the Tape A Quoting Tier; and (vii) reduce the additive rebate provided under the Tape C Quoting 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 14% of the total market share of executed volume of equities trading.⁶ 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.⁷ The Exchange in particular

⁶ Market share percentage calculated as of May 28, 2026. The Exchange receives and processes data made available through consolidated data feeds (i.e., CTS and UTDF).

⁷ Id.

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.

Reduce Base Rebate for Added Price Improved Volume

The Exchange currently provides a base rebate of \$0.0025 per share for executions of Added Price Improved Volume⁸ in securities priced above at or above \$1.00 per share. The Exchange now proposes to reduce the base rebate for executions of Added Price Improved Volume to \$0.0010 per share. The purpose of reducing the base rebate for executions of Added Price Improved is for business and competitive reasons, as the Exchange believes that reducing such rebate as proposed would decrease the Exchange’s expenditures with respect to its transaction pricing in a manner that is still consistent with the Exchange’s overall pricing philosophy of encouraging added liquidity to the Exchange. The Exchange is not proposing to change the base rebate for executions of Added Price Improved Volume in securities priced below \$1.00 per share.

Reduce Base Rebate for Added Non-Midpoint Non-Displayed Volume

⁸ The base rebate for executions of Added Price-Improved Volume is referred to by the Exchange on the Fee Schedule under the existing description “Added volume, order subject to Display-Price Sliding that received price improvement when executed” with a Fee Code of “P”, on execution reports.

The Exchange currently provides a base rebate of \$0.0025 per share for executions of Added Non-Midpoint Non-Displayed Volume in securities priced at or above \$1.00 per share.⁹ The Exchange now proposes to reduce the base rebate for executions of Added Non-Midpoint Non-Displayed Volume to \$0.0020 per share. The purpose of reducing the base rebate for executions of Added Non-Midpoint Non-Displayed Volume is for business and competitive reasons, as the Exchange believes that reducing such rebate as proposed would decrease the Exchange's expenditures with respect to its transaction pricing in a manner that is still consistent with the Exchange's overall pricing philosophy of encouraging added liquidity to the Exchange. The Exchange is not proposing to change the base rebate for executions of Added Non-Midpoint Non-Displayed Volume in securities priced below \$1.00 per share.

Reduce Base Rebate for Added Midpoint Non-Displayed Volume

Similarly, the Exchange currently provides a base rebate of \$0.0025 per share for executions of Added Midpoint Non-Displayed Volume in securities priced at or above \$1.00 per share.¹⁰ The Exchange now proposes to reduce the base rebate for executions of Added Midpoint Non-Displayed Volume to \$0.0020 per share. The purpose of reducing the base rebate for executions of Added Midpoint Non-Displayed Volume is for business and competitive reasons, as the Exchange believes that reducing such rebate as proposed would decrease the Exchange's expenditures with respect to its transaction pricing in a manner that is still consistent with the Exchange's overall pricing philosophy

⁹ The base rebate for executions of Added Non-Midpoint Non-Displayed Volume is referred to by the Exchange on the Fee Schedule under the existing description "Added non-displayed volume" with a Fee Code of "H", on execution reports.

¹⁰ The base rebate for executions of Added Midpoint Non-Displayed Volume is referred to by the Exchange on the Fee Schedule under the existing description "Added non-displayed volume, Midpoint Peg" with a Fee Code of "M", on execution reports.

of encouraging added liquidity to the Exchange. The Exchange is not proposing to change the base rebate for executions of Added Midpoint Non-Displayed Volume in securities priced below \$1.00 per share.

Non-Display Add Tiers

The Exchange currently offers Non-Display Add Tier 1 under which a Member may receive an enhanced rebate for executions of Added Non-Displayed Volume by achieving the corresponding required volume criteria for each such tier. Currently, the Added Non-Displayed Volume eligible to qualify for this rebate is comprised of the three following types of orders: (i) Added Midpoint Volume, which as noted above, is assigned the Fee Code "M"; (ii) orders which are not orders subject to Display-Price Sliding that receive price improvement when executed or Midpoint Peg Orders, that add non-displayed liquidity to the Exchange (i.e. Added Non-Midpoint Non-Displayed Volume), which are assigned the Fee Code "H"; and (iii) Added Price-Improved Volume, which is assigned the Fee Code "P". At this time, the Exchange is proposing to modify the Non-Display Add Tiers (i.e. the current Non-Display Add Tier 1 and the newly proposed Non-Display Add Tier 2, as described further below), by removing Added Price Improved Volume from the group of order types eligible to receive the enhanced rebate under any Non-Display Add Tier. Accordingly, only executions of Added Midpoint Non-Displayed Volume and Added Non-Midpoint Non-Displayed Volume will be able to receive the applicable enhanced rebate.¹¹ The Exchange, notes, however, that executions of Added Price Improved Volume will continue to be counted towards a Member's Non-Displayed

¹¹ The Exchange will reflect this amendment on the Fee Schedule by deleting the Fee Code "P1" from the Transaction Fee table next to the description "Added non-displayed volume, Non-Display Add Tier 1", as well as by adding a note under the Non-Display Add Tiers pricing table that denotes which executions the rebate shall apply.

ADAV¹² for purposes of meeting the applicable criteria under the Non-Display Add Tiers.

Additionally, the Exchange is proposing to add a new tier under the Non-Display Add Tiers, Non-Display Add Tier 2. Under this tier, the Exchange would provide an enhanced rebate of \$0.0025 per share for executions of Added Midpoint Non-Displayed Volume and Added Non-Midpoint Non-Displayed Volume for Members that qualify for such tier by achieving a Non-Displayed ADAV that is equal to or greater than 1,000,000 shares.¹³ The proposed new Non-Display Add Tier 2 is designed to encourage Members to maintain or increase their order flow that adds liquidity, including in the form of non-displayed orders, to the Exchange in order to qualify for the proposed enhanced rebate for executions of Added Non-Displayed Volume, which, in turn, would encourage the submission of additional orders, thereby promoting price discovery and contributing to a deeper and more robust and well-balanced market ecosystem on the Exchange to the benefit of all Members and market participants.

Eliminate Display-Price Sliding Tier 1

Currently, as noted above, the Exchange provides a base rebate of \$0.0025 per share for executions of Added Price Improved Volume, which the Exchange is proposing to reduce to \$0.0010 per share in connection with this filing. Additionally, the Exchange offers the Display-Price Sliding Tier 1, under which the Exchange provides an enhanced

¹² As noted on the Fee Schedule, Non-Displayed ADAV is defined as ADAV with respect to non-displayed orders (*including orders subject to Display-Price Sliding that receive price improvement when executed and Midpoint Peg orders*) (emphasis added).

¹³ The pricing for Non-Display Add Tier 2 would be referred to by the Exchange on the Fee Schedule under the description “Added non-displayed volume, Non-Display Add Tier 2” with a Fee Code of “H2” or “M2”, as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

rebate for executions of Added Price Improved Volume if a Member achieves an ADAV¹⁴ with respect to Added Price Improved Volume (excluding Retail Orders)¹⁵ that is equal to or greater than 5,000,000 shares. The "enhanced rebate" is not a set amount, but rather, the highest Added Displayed Volume¹⁶ rebate for all of its Added Price Improved Volume transactions during that month, plus any otherwise achieved additive rebates. The Exchange is now proposing to eliminate this Display-Price Sliding Tier 1, as the Exchange no longer wishes to, nor is required to, maintain such tier.

Tape A Quoting Tier

The Exchange currently offers the Tape A Quoting Tier under which a Member may receive an additive rebate of \$0.0002 per share for a qualifying Member's executions of Added Displayed Volume (other than Retail Orders) in Tape A securities priced over \$1.00 per share by achieving an NBBO Time¹⁷ of at least 25% in an average of at least 500 Tape A securities per trading day during the month. Now, the Exchange proposes to reduce the additive rebate provided under the Tape A Quoting Tier to \$0.0001 per

¹⁴ 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, and "Displayed ADAV" means ADAV with respect to displayed orders.

¹⁵ 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).

¹⁶ Specifically, the possible rebates are those that the Exchange identifies in the Transaction Fees table on the Fee Schedule with the Fee Code "I" and include the base rebate for Added Displayed Volume, as well as the enhanced rebates under the Liquidity Provision Tiers, DLI Tiers, and Cross Asset Tiers.

¹⁷ As set forth on the Fee Schedule, the term "NBBO Time" means the aggregate of the percentage of time during regular trading hours during which one of a Member's market participant identifiers ("MPIDs") has a displayed order of at least one round lot at the national best bid or the national best offer.

share.¹⁸ The Exchange is not proposing to change the criteria required to qualify for Tape A Quoting Tier.

The Exchange believes that the proposed reduction of the additive rebate under the Tape A Quoting Tier (i.e., by \$0.0001 per share) represents a modest reduction and that the proposed additive rebate under Tape A Quoting Tier remains commensurate with the required criteria under such tier and is reasonably related to the market quality benefits that the tier is designed to achieve.

Tape C Quoting Tier

Lastly, the Exchange currently offers the Tape C Quoting Tier under which a Member may receive an additive rebate of \$0.0002 per share for a qualifying Member's executions of Added Displayed Volume (other than Retail Orders) in Tape C securities priced over \$1.00 per share by achieving an NBBO Time of at least 50% in an average of at least 500 Tape C securities per trading day during the month. Now, the Exchange proposes to reduce the additive rebate provided under the Tape C Quoting Tier to \$0.0001 per share.¹⁹ The Exchange is not proposing to change the criteria required to qualify for Tape C Quoting Tier.

The Exchange believes that the proposed reduction of the additive rebate under the Tape C Quoting Tier (i.e., by \$0.0001 per share) represents a modest reduction and that the proposed additive rebate under Tape C Quoting Tier remains commensurate with

¹⁸ The pricing for the Tape A Quoting Tier is referred to by the Exchange on the Fee Schedule under the existing description "Tape A Quoting" Tier with a Fee Code of "a" to be appended to the otherwise applicable Fee Code assigned by the Exchange on the monthly invoices for qualifying executions.

¹⁹ The pricing for the Tape C Quoting Tier is referred to by the Exchange on the Fee Schedule under the existing description "Tape C Quoting" Tier with a Fee Code of "c" to be appended to the otherwise applicable Fee Code assigned by the Exchange on the monthly invoices for qualifying executions.

the required criteria under such tier and is reasonably related to the market quality benefits that the tier is designed to achieve.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,²⁰ in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,²¹ 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.”²²

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

²⁰ 15 U.S.C. 78f.

²¹ 15 U.S.C. 78f(b)(4) and (5).

²² Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

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 and non-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 believes that the proposed changes to reduce the base rebates for executions of Added Price Improved Volume, Added Non-Midpoint Non-Displayed Volume, and Added Midpoint Non-Displayed Volume, are reasonable because the amended rebates remain in line with or are greater than the rebates provided by at least one other exchange for executions of the same type.²³ The Exchange also believes the reduced rebates are equitable and not unfairly discriminatory, as such rebates will apply equally to all Members of the Exchange.

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

²³ See, e.g., the Cboe BZX equities fee schedule on its public website (available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/) which reflects a standard rebate for Added Price Improved Volume of "Free" and a standard rebate for Added Non-Displayed Volume of \$0.0008 per share per share for executions of orders in Tape A securities priced at or above \$1.00 per share that remove liquidity.

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 Tape A and Tape C Quoting Tiers, each as modified by the proposed changes herein, as well as the adoption of Non-Display Add Tier 2, are reasonable, equitable and not unfairly discriminatory, as such tiers will continue to provide Members with an incremental incentive to achieve certain volume thresholds on the Exchange, are available to all Members on an equal basis, and, as described above, are designed to encourage Members to maintain or increase their order flow, including in the form of displayed, and/or non-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 believes the proposed change to eliminate the Display-Price Sliding Tier 1 is reasonable because it would enable to the Exchange to redirect the associated resources and funding into other incentives and tiers, and the Exchange is not required to maintain such incentive or provide Members any opportunities to receive enhanced rebates. The Exchange believes the proposal to eliminate such incentive is also equitable and not unfairly discriminatory because it applies equally to all Members, in that the incentive would no longer be available for any Member.

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 Act²⁴ in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and

²⁴ 15 U.S.C. 78f(b)(4) and (5).

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 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."²⁵

Intramarket Competition

As discussed above, the Exchange believes that the proposal would incentivize Members to submit additional order flow, including displayed and non-displayed, liquidity-adding orders to the Exchange, thereby enhancing liquidity and market quality on the Exchange to the benefit of all Members, as well as enhancing the attractiveness of

²⁵ See supra note 21.

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 changes to reduce the base rebates for executions of Added Price Improved Volume, Added Non-Midpoint Non-Displayed Volume, and Added Midpoint Non-Displayed Volume would impose any burden on intramarket competition because such changes will apply to all Members uniformly in that the proposed reduced rebates for such executions would be the rebates applicable to all Members, and the opportunity to qualify for enhanced rebates, as applicable, is available to all Members. Further, the opportunity to qualify for the newly proposed Non-Display add Tier 2, and thus receive the proposed enhanced rebate for executions of Added Non-Displayed Volume under such tier, and the opportunity to qualify for the reduced additive rebates under the Tape A and Tape C Quoting Tiers, respectively, would be available to all Members that meet the associated volume or quoting requirements in any month. Additionally, as noted above, the elimination of the Display-Price Sliding Tier will apply to all Members equally. 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 14% 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 Non-Displayed Volume and Added Displayed Tape A and Tape C 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.”²⁶ 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’”²⁷ 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

²⁶ Id.

²⁷ 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)).

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act²⁸ and Rule 19b-4(f)(2)²⁹ 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-2026-16 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-2026-16. This file

²⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

²⁹ 17 CFR 240.19b-4(f)(2).

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-2026-16 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.³⁰

Sherry R. Haywood,

Assistant Secretary.

³⁰ 17 CFR 200.30-3(a)(12).

Exhibit 5

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

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

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, <u>or</u> J [or I]*	Added displayed volume	\$(0.0015)	(0.15% of total dollar value)
B1, D1, <u>or</u> J1 [or I1]	Added displayed volume, Liquidity Provision Tier 1	\$(0.0033)	(0.15% of total dollar value)
B2, D2, <u>or</u> J2 [or I2]	Added displayed volume, Liquidity Provision Tier 2	\$(0.0031)	(0.15% of total dollar value)
B3, D3, <u>or</u> J3 [or I3]	Added displayed volume, Liquidity Provision Tier 3	\$(0.0029)	(0.15% of total dollar value)
B4, D4, <u>or</u> J4 [or I4]	Added displayed volume, Liquidity Provision Tier 4	\$(0.0028)	(0.15% of total dollar value)
B5, D5, <u>or</u> J5 [or I5]	Added displayed volume, Liquidity Provision Tier 5	\$(0.0024)	(0.15% of total dollar value)
Bq1, Dq1, <u>or</u> Jq1 [or Iq1]	Added displayed volume, DLI Tier 1	\$(0.0032)	(0.15% of total dollar value)
Bq2, Dq2, <u>or</u> Jq2 [or Iq2]	Added displayed volume, DLI Tier 2	\$(0.0026)	(0.15% of total dollar value)
Br, Dr or Jr	Added displayed volume, Retail Order	\$(0.0034)	(0.15% of total dollar value)
Br1, Dr1 or Jr1	Added displayed volume, Retail Tier 1	\$(0.0037)	(0.15% of total dollar value)
BO1, DO1, <u>or</u> JO1 [or IO1]	Added displayed volume, Cross Asset Tier 1	\$(0.0026)	(0.15% of total dollar value)
P	Added volume, order subject to Display-Price Sliding that receives price improvement when executed	\$(0.0010[25])	(0.15% of total dollar value)
H	Added non-displayed volume	\$(0.0020[5])	(0.15% of total dollar value)
M	Added non-displayed volume, Midpoint Peg	\$(0.0020[5])	(0.15% of total dollar value)
H1, M1[, P1]	Added non-displayed volume, Non-Display Add Tier 1	\$(0.0028)	(0.15% of total dollar value)

<u>H2, M2</u>	<u>Added non-displayed volume, Non-Display Add Tier 2</u>	<u>\$(0.0025)</u>	<u>(0.15% of total dollar value)</u>
Ra	Removed volume from MEMX Book, Tape A	\$0.0030	0.28% of total dollar value
Ra1	Removed volume from MEMX Book, Tape A Liquidity Removal Tier 1	\$0.0029	0.28% of total dollar value
Rb	Removed volume from MEMX Book, Tape B	\$0.0030	0.28% of total dollar value
Rc	Removed volume from MEMX Book, Tape C	\$0.0030	0.28% of total dollar value
RrA	Removed volume from MEMX Book, Retail Order	\$0.0029	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

*Fee Code B includes orders, other than Retail Orders, that establish the NBBO. Fee Code D includes orders, other than Retail Orders, that add displayed liquidity to the Exchange but do not establish or join the NBBO. Fee Code J includes orders, other than Retail Orders, that establish a new BBO on the Exchange that matches the NBBO first established on an away market. [Fee Code I is assigned to a Member's "P" orders if that Member meets the criteria under Display-Price Sliding Tier 1.]

* * * * *

Non-Display Add Tiers*

Tier	Rebate Per Share	Required Criteria
Tier 1	\$(0.0028)	Member has a Non-Displayed ADAV \geq 6,000,000 shares
<u>Tier 2</u>	<u>\$(0.0025)</u>	<u>Member has a Non-Displayed ADAV \geq 1,000,000 shares</u>

*Rebate applicable to executions of added non-displayed volume (Fee Code "H") and executions of added non-displayed volume, midpoint-peg (Fee Code "M").

[Display-Price Sliding Tier]

[Tier]	[Rebate Per Share*]	[Required Criteria]
[Tier 1]	[Highest rebate otherwise achieved for Member's Added Displayed Volume]	[Member has an ADAV with respect to orders subject to Display-Price Sliding that receive price improvement when executed (excluding Retail Orders) \geq 5,000,000 shares]

[*Applicable executions will be assigned the Fee Code “I” for Members that meet the required criteria under Display-Price Sliding Tier 1. The highest rebate achieved by the Member for Added Displayed Volume will be awarded instead of the otherwise applicable rebate for executions with a Fee Code “P”. The appropriate achieved Added Displayed Volume Fee Code(s) will be appended to Fee Code “I” in order to identify the rebate provided.]

* * * * *

Additive Rebates

Tier	Additive Rebate Per Share	Required Criteria	Fee Code*
NBBO Setter	\$(0.0003) for Fee Code B**	Member has an ADAV with respect to orders with Fee Code B \geq 0.05% of the TCV	S1
Tape A Quoting	\$(0.0001[2])***	Member has an NBBO Time of at least 25% in an average of at least 500 Tape A securities per trading day during the month	a
Tape B Volume Tier 1	\$(0.0004)***	Member has (1) a Tape B ADAV \geq 0.40% of the Tape B TCV (excluding Retail Orders); and (2) a Non-Display ADAV \geq 8,000,000 shares	b1
Tape B Volume Tier 2	\$(0.0002)***	Member has a Tape B ADAV \geq 0.25% of the Tape B TCV (excluding Retail Orders)	b2
Tape C Quoting	\$(0.0001[2])***	Member has an NBBO Time of at least 50% in an average of at least 500 Tape C securities per trading day during the month****	c

* * * * *