

potential financial impact during the partial reopening of the Floor.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily favor one of the 16 competing option exchanges if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. Based on publicly-available information, and excluding index-based options, no single exchange currently has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.¹⁴ Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in June 2020, the Exchange had less than 10% market share of executed volume of multiply-listed equity & ETF options trades.¹⁵

The Exchange believes that the proposed rule change reflects this competitive environment because it waives fees for Qualifying Firms and is designed to reduce monthly costs for Floor participants whose operations continue to be disrupted despite the fact that the Trading Floor has partially reopened. In reducing this monthly financial burden, the proposed change would allow affected participants to reallocate funds to assist with the cost of shifting and maintaining their prior fully-staffed on-Floor operations to off-Floor. Absent this change, Qualifying Firms may experience an unintended increase in the cost of doing business on the Exchange, which would make the Exchange a less competitive venue on which to trade as compared to other options exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)¹⁶ of the Act and

subparagraph (f)(2) of Rule 19b-4¹⁷ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such 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)¹⁸ of the Act 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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSEAMER-2020-58 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-NYSEAMER-2020-58. 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 (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public

Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEAMER-2020-58, and should be submitted on or before September 1, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2020-17456 Filed 8-10-20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89485; File No. 4-764]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing of Proposed Minor Rule Violation Plan

August 5, 2020.

Pursuant to Section 19(d)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19d-1(c)(2) thereunder,² notice is hereby given that on August 5, 2020, MEMX LLC ("MEMX" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed minor rule violation plan ("MRVP") with sanctions not exceeding \$2,500 which would not be subject to the provisions of Rule 19d-1(c)(1) of the Act³ requiring that a self-regulatory organization ("SRO") promptly file notice with the Commission of any final disciplinary action taken with respect to any person or organization.⁴ In

¹⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(d)(1).

² 17 CFR 240.19d-1(c)(2).

³ 17 CFR 240.19d-1(c)(1).

⁴ The Commission adopted amendments to paragraph (c) of Rule 19d-1 to allow SROs to submit for Commission approval plans for the abbreviated reporting of minor disciplinary infractions. See Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984). Any disciplinary action taken by an SRO against any person for violation of a rule of the SRO which has been designated as a minor rule violation pursuant to such a plan filed with and declared effective by the Commission is not considered "final" for purposes of Section 19(d)(1) of the Act if the sanction

¹⁴ See *supra* note 11.

¹⁵ Based on OCC data, *supra* note 12, the Exchange's market share in equity-based options was 8.20% for the month of June 2019 and 8.32% for the month of June 2020.

¹⁶ 15 U.S.C. 78s(b)(3)(A).

¹⁷ 17 CFR 240.19b-4(f)(2).

¹⁸ 15 U.S.C. 78s(b)(2)(B).

accordance with Rule 19d–l(c)(2) under the Act, the Exchange proposes to designate certain specified rule violations as minor rule violations and requests that it be relieved of the prompt reporting requirements regarding such violations, provided it gives notice of such violations to the Commission on a quarterly basis.

The Exchange proposes to include in its MRVP the procedures included in Exchange Rule 8.15 (“Imposition of Fines for Minor Violation(s) of Rules”) and the violations included in Rule 8.15.01 (“List of Exchange Rule Violations and Recommended Fine Schedule Pursuant to Rule 8.15”).⁵ According to the Exchange’s MRVP, under Rule 8.15(a), the Exchange may impose a fine (not to exceed \$2,500) on any Member, associated person of a Member, or registered or non-registered employee of a Member, for any violation of a Rule of the Exchange which violation the Exchange shall have determined is minor in nature, as set forth in Rule 8.15.01. The Exchange may aggregate similar violations generally if the conduct was unintentional, there was no injury to public investors, or the violations resulted from a single systemic problem or cause that has been corrected. In any action taken by the Exchange pursuant to Rule 8.15, the person against whom a fine is imposed shall be served with a written statement, signed by an authorized officer of the Exchange, setting forth (i) the Rule or Rules alleged to have been violated; (ii) the act or omission constituting each such violation; (iii) the fine imposed for each such violation; and (iv) the date by which such determination becomes final and such fine becomes due and payable to the Exchange. Pursuant to paragraph (c) of Rule 8.15, if the person against whom a fine is imposed pursuant to Rule 8.15 pays such fine, that payment shall be deemed to be a waiver by of such person’s right to a disciplinary proceeding under Rules 8.1 through 8.13 and any review of the

imposed consists of a fine not exceeding \$2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies.

⁵ The Exchange received its grant of registration on May 4, 2020, which included approving the rules that govern the Exchange. Exhibit A includes the entirety of Rules 8.15 and 8.15.01. Terms not otherwise defined herein are defined in the Exchange Rules. Contemporaneous with this filing, the Exchange filed with the Commission a rule filing that proposes a minor amendment to Rule 8.15(a) and a proposed change to Rule 8.15.01 to add Rules 4.5 through 4.16 (Consolidated Audit Trail Compliance Rules). This submission proposes the Exchange’s MRVP, including those proposed changes to Rules 8.15 and 8.15.01. See SR–MEMX–2020–03, filed July 31, 2020, available at: <https://info.memxtrading.com/category/rule-filings/>.

matter by the Appeals Committee or by the Board. Any person against whom a fine is imposed pursuant to Rule 8.15 may contest such a finding pursuant to paragraph (d) of Rule 8.15 by filing with the Exchange not later than the date by which such determination must be contested (such date to be not less than 15 business days after the date of service of the written statement by the Exchange) a written response meeting the requirements provided in Rule 8.5 at which point the matter shall become a disciplinary proceeding subject to the provisions of Rules 8.1 through 8.13.

The Exchange proposes that, as set forth in Exchange Rule 8.15.01, violations of the following rules would be appropriate for disposition under the MRVP: Rule 4.2 and Interpretations thereunder (requiring the submission of responses to Exchange requests for trading data within specified time period); Rule 11.10(a)(5) (requirement to identify short sale orders as such); Rule 11.10(f) (requirement to comply with locked and crossed market rules); Rule 3.5 (Advertising Practices); Rule 12.11 Interpretations and Policy .01 and Exchange Act Rule 604 (failure to properly display limit orders); Rule 4.2 and Interpretations thereunder (related to the requirement to furnish Exchange-related order, market and transaction data, as well as financial or regulatory records and information); Rule 11.20(a)(1) (requirement for Market Makers to maintain continuous two-sided quotations); and Rules 4.5 through 4.16 (Consolidated Audit Trail Compliance Rules).

Upon the Commission’s declaration of effectiveness of the MRVP, the Exchange will provide to the Commission a quarterly report for any actions taken on minor rule violations under the MRVP. The quarterly report will include: The Exchange’s internal file number for the case, the name of the individual and/or organization, the nature of the violation, the specific rule provision violated, the fine imposed, the number of times the rule violation occurred, and the date of the disposition.

Based on compliance with the above, the Exchange requests that the rule violations designated in Exchange Rule 8.15.01 be designated as minor rule violations subject to a minor rule violation reporting plan and that the Exchange be relieved of the current reporting requirements regarding such violations. In addition, going forward, to the extent that there are any changes to the rules applicable to the Exchange’s MRVP, the Exchange requests that the Commission deem such changes to be modifications to the Exchange’s MRVP.

I. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the Exchange’s proposed MRVP, including whether the proposed MRVP is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission’s internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number 4–764 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 4–764. 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 (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed MRVP that are filed with the Commission, and all written communications relating to the proposed MRVP between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the proposed MRVP also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number 4–764, and should be submitted on or before August 26, 2020.

II. Date of Effectiveness of the Proposed Minor Rule Violation Plan and Timing for Commission Action

Pursuant to Section 19(d)(l) of the Act and Rule 19d–l(c)(2) thereunder,⁶ after

⁶ 15 U.S.C. 78s(d)(1); 17 CFR 240.19d–1(c)(2).

August 26, 2020, the Commission may, by order, declare the Exchange proposed MRVP effective if the plan is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act. The Commission in its order may restrict the categories of violations to be designated as minor rule violations and may impose any other terms or conditions to the proposed MRVP, File No. 4–764, and to the period of its effectiveness, which the Commission deems necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89484; File No. SR–MSRB–2020–04]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of a Proposed Rule Change Consisting of Amendments to MSRB Rules A–3 and A–6 That Are Designed To Improve Board Governance

August 5, 2020.

I. Introduction

On June 5, 2020, the Municipal Securities Rulemaking Board (the “MSRB” or “Board”) filed with the Securities and Exchange Commission (the “SEC” or “Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”)¹ and Rule 19b–4 thereunder,² a proposed rule change consisting of amendments to MSRB Rules A–3 and A–6, regarding Board governance (the “proposed rule change”). The proposed rule change was published for comment in the **Federal Register** on June 24, 2020.³

The Commission received five comment letters on the proposed rule change.⁴ On July 29, 2020, the MSRB

responded to those comments.⁵ This order approves the proposed rule change.

II. Description of Proposed Rule Change

As described further below and in the Notice of Filing, the MSRB proposed amendments designed to improve Board governance that would: (i) Extend to five years the length of time that an individual must have been separated from employment or other association with any regulated entity to serve as a public representative to the Board; (ii) reduce the Board’s size from 21 to 15 members through a transition plan that includes an interim year in which the Board will have 17 members; (iii) replace the requirement that at least one and not less than 30% of regulated members on the 21-member Board be municipal advisors with a requirement that the 15-member Board include at least two municipal advisors; (iv) impose a six-year limit on Board service; (v) remove overly prescriptive detail from the description of the Board’s nominations process while preserving in the rule the key substantive requirements; (vi) require that any Board committee with responsibilities for nominations, governance, or audit be chaired by a public representative; and (vii) make certain other reorganizational and technical changes.⁶

The MSRB requested that the proposed rule change become effective on October 1, 2020.⁷

Board members (collectively, “Former MSRB Board Members”), dated July 15, 2020 (the “Former MSRB Board Members Letter”); Letter to Secretary, Commission, from Emily Swenson Brock, Director, Federal Liaison Center, Government Finance Officers Association (“GFOA”), dated July 15, 2020 (the “GFOA Letter”); Letter to Secretary, Commission, from Emily Brock, GFOA, John Godfrey, American Public Power Association, Charles Thompson, International Municipal Lawyers Association, Eryn Hurley, National Association of Counties, Chuck Samuels, National Assn. of Health and Educational Facilities Finance Authorities, Cornelia Chebinou, National Association of State Auditors, Comptrollers and Treasurers, Brian Egan, National Association of State Treasurers, Michael Gleeson, National League of Cities, and Emery Real Bird, Native American Finance Officers Association (collectively, the “Issuer Organizations”), dated July 15, 2020 (the “Issuer Organizations Letter”); Letter to Secretary, Commission, from Susan Gaffney, Executive Director, National Association of Municipal Advisors (“NAMA”), dated July 15, 2020 (the “NAMA Letter”); and Letter to Secretary, Commission, from Mike Nicholas, Chief Executive Officer, Bond Dealers of America (“BDA”), dated July 15, 2020 (the “BDA Letter”).

⁵ See Letter to Secretary, Commission, from Jacob N. Lesser, Associate General Counsel, Municipal Securities Rulemaking Board (“MSRB”), dated July 29, 2020 (the “MSRB Response Letter”).

⁶ See Notice of Filing, 85 FR at 37974.

⁷ *Id.*

Background

The Exchange Act establishes basic requirements for the Board’s size and composition and requires the Board to adopt rules that establish “fair procedures for the nomination and election of members of the Board and assure fair representation in such nominations and elections.”⁸ As amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the “Dodd-Frank Act”), the Exchange Act categorizes Board members in two broad groups: Individuals who must be independent of any dealer⁹ or municipal advisor (“public representatives”) and individuals who must be associated with a dealer or municipal advisor (“regulated representatives”).¹⁰ The Exchange Act requires the Board to establish by rule requirements regarding the independence of public representatives and provides that all Board members—whether public or regulated representatives—must be “knowledgeable of matters related to the municipal securities markets.”¹¹

Within the public representative category, at least one Board member must be representative of institutional or retail investors in municipal securities, at least one must be representative of municipal entities, and at least one must be a member of the public with knowledge of or experience in the municipal industry.¹² Within the regulated representative category, at least one Board member must be associated with a dealer that is a bank, at least one must be associated with a dealer that is not a bank, and at least one must be associated with a municipal advisor.¹³

The MSRB states that the Exchange Act, as amended by the Dodd-Frank Act, recognizes the benefits that a Board composed of both public and regulated representatives brings to regulation of the municipal securities market in the public interest and the protection of investors, municipal entities, and obligated persons.¹⁴ The MSRB further states that, although regulated representatives may bring specialized expertise to the regulation of a market with features and functions that are markedly different from those of other financial markets, public representatives

⁸ 15 U.S.C. 78o–4(b)(2)(B).

⁹ As used herein, the term “dealer” refers to a broker, dealer, or municipal securities dealer.

¹⁰ 15 U.S.C. 78o–4(b)(1).

¹¹ 15 U.S.C. 78o–4(b)(1); 15 U.S.C. 78o–4(b)(2)(B)(iv).

¹² 15 U.S.C. 78o–4(b)(1).

¹³ *Id.*

¹⁴ See Notice of Filing, 85 FR at 37975.

⁷ 17 CFR 200.30–3(a)(44).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ Securities Exchange Act Release No. 89092 (June 18, 2020) (the “Notice of Filing”), 85 FR 37974 (June 24, 2020).

⁴ See Letter to Secretary, Commission, from Steve Apfelbacher, Renee Boicourt, Marianne Edmonds, Robert Lamb and Noreen White, former MSRB