amendments would not otherwise affect the terms of the contracts. ICE Clear Europe does not believe the amendments would adversely affect competition among Clearing Members, materially affect the cost of clearing, adversely affect access to clearing in the new contracts for Clearing Members or their customers, or otherwise adversely affect competition in clearing services. Accordingly, ICE Clear Europe does not believe that the amendments would impose any impact or burden on competition that is not appropriate in furtherance of the purpose of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed amendments have not been solicited or received by ICE Clear Europe. ICE Clear Europe will notify the Commission of any comments 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 has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and paragraph (f) of Rule 19b–4 [12] 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.

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–ICEEU–2020–015 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.

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f).

All submissions should refer to File Number SR–ICEEU–2020–015. 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 such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at *https://www.theice.com/notices/Notices.shtml?regulatoryFilings.*

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–ICEEU–2020–015 and should be submitted on or before December 30, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–26988 Filed 12–8–20; 8:45 am]

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[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90555; File No. SR–MEMX–2020–14]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Fee Schedule

December 3, 2020.

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 November 30, 2020, 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 fee schedule applicable to Members [3] pursuant to Exchange Rules 15.1(a) and (c) in order to (i) provide pricing for Retail Orders [4] that add displayed liquidity and are executed on the Exchange; and (ii) provide pricing for transactions in securities priced below $1.00 per share that are executed on the Exchange. 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 Exchange proposes to modify its fee schedule to adopt the fees and rebates described herein applicable to Retail Orders that add displayed liquidity to the Exchange ("Added

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Rule 1.5(p).

[4] 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, 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).

Displayed Retail Volume'') and transactions in securities priced below $1.00 per share (''Sub-Dollar Securities'') that are executed on the Exchange, effective as of December 1, 2020.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly available information, no single registered equities exchange currently has more than approximately 16% 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 less than 1% of the overall market share.[6]

Rebate for Added Displayed Retail Volume

The Exchange recently adopted rules enabling Members to apply for status as Retail Member Organizations,[7] and once approved as such by the Exchange, to designate qualifying orders as Retail Orders to the Exchange.[8] Currently, there are no pricing incentives for Retail Orders, and Retail Orders are subject to the same standard fees and rebates applicable as if such orders were not designated as Retail Orders.

The Exchange proposes to modify its fee schedule to adopt pricing for executions of Added Displayed Retail Volume and to adopt a fee code applicable to executions of all Retail Orders. Specifically, the Exchange proposes to adopt a rebate of $0.0034 per share for executions of Added Displayed Retail Volume transactions in securities traded on the Exchange priced at or above $1.00 per share (the ''ADRV Rebate'').[9] The Exchange notes that the proposed ADRV Rebate would not apply, and that the proposed standard pricing with respect to transactions in Sub-Dollar Securities, as further described below, would apply, to executions of Added Displayed Retail Volume transactions in Sub-Dollar Securities. The Exchange also notes that the proposed ADVR Rebate would not apply to executions of Retail Orders in securities priced at or above $1.00 per share that add non-displayed liquidity to the Exchange or remove liquidity from the Exchange, and instead, the fees and rebates otherwise applicable to such transactions under the current fee schedule would continue to apply. Thus, under the proposal, an execution of a Retail Order in a security priced at or above $1.00 per share that adds non-displayed liquidity to the Exchange would receive a rebate of $0.0020 per share, which is the standard rebate for adding non-displayed liquidity to the Exchange, and an execution of a Retail Order in a security priced at or above $1.00 per share that removes liquidity from the Exchange would be charged a fee of $0.0025 per share, which is the standard fee for removing liquidity from the Exchange.

Pricing for Transactions in Sub-Dollar Securities

The Exchange currently does not charge any fees or provide any rebates for transactions in Sub-Dollar Securities that are executed on the Exchange. The Exchange now proposes to charge a standard fee of 0.30% of the total dollar value of any transaction (including a Retail Order) in Sub-Dollar Securities that removes liquidity from the Exchange (''Removed Sub-Dollar Volume'').[10] The Exchange also proposes to provide a standard rebate of 0.30% of the total dollar value of any transaction (including a Retail Order) in Sub-Dollar Securities that adds liquidity, displayed or non-displayed, to the Exchange (''Added Sub-Dollar Volume'').[11] The proposed pricing for Removed Sub-Dollar Volume and Added Sub-Dollar Volume would only apply to transactions that are executed on the Exchange, and as such there would continue to be no fee charged or rebate provided for transactions in Sub-Dollar Securities that are routed to and executed at another market center.

The proposed rebate for executions of Added Sub-Dollar Volume is intended to increase order flow in Sub-Dollar Securities to the Exchange by incentivizing Members to increase the liquidity-providing orders in Sub-Dollar Securities they submit to the Exchange, which would support price discovery on the Exchange and provide additional liquidity for incoming orders. The proposed fee for executions of Removed Sub-Dollar Volume is intended to be a direct offset of the rebate provided for Added Sub-Dollar Volume so that the Exchange may remain revenue neutral with respect to such transactions while attempting to compete with other venues to attract this order flow.

The proposed rule change does not include different fees or rebates for Retail Orders or transactions in Sub-Dollar Securities that depend on the amount of orders submitted to, and/or transactions executed on or through, the Exchange. Accordingly, all fees and rebates described above are applicable to all Members, regardless of the overall volume of a Member's trading activities on the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,[12] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[13] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities and is

[5] Market share percentage calculated as of November 24, 2020. The Exchange receives and processes data made available through consolidated data feeds (*i.e.,* CTS and UTDF).

[6] *Id.*

[7] A ''Retail Member Organization'' or ''RMO'' is a Member (or a division thereof) that has been approved by the Exchange under Exchange Rule 11.21 to submit Retail Orders. *See* Exchange Rule 11.21(a).

[8] *See* Securities Exchange Act Release No. 90278 (October 28, 2020), 85 FR 69667 (November 3, 2020) (SR–MEMX–2020–13). Retail Orders are only designated as such to the Exchange and are not identified as such on the Exchange's market data feeds or otherwise identifiable as such to other market participants. *See id.*

[9] This proposed pricing is referred to by the Exchange as ''Added displayed volume, Retail Order'' on the fee schedule. The Exchange is also proposing to adopt new fee code ''r'' to be appended as the second character after the applicable first fee code character for executions of all Retail Orders. The Exchange notes that, as indicated on the current fee schedule, the Exchange also appends as an additional character at the end of its fee codes either ''A'' or ''B'' to indicate whether an execution occurred: (A) In a security priced at or above $1.00 per share or (B) in a Sub-Dollar Security. Accordingly, under the proposal, an execution of an Added Displayed Retail Volume transaction in a security priced at or above $1.00 per share would be assigned a fee code of ''BrA'', ''DrA'' or ''JrA'', as applicable, by the Exchange. Similarly, under the proposal, an execution of an Added Displayed Retail Volume transaction in a Sub-Dollar Security would be assigned a fee code of ''BrB'', ''DrB'' or ''JrB'', as applicable, by the Exchange.

[10] This pricing is referred to by the Exchange on the fee schedule under the existing description ''Removed volume from MEMX Book'' with a fee code of ''RB'' or ''RrB'', as applicable, assigned by the Exchange.

[11] This pricing is referred to by the Exchange on the fee schedule under the existing description ''Added displayed volume'', the existing description ''Added non-displayed volume'' or the proposed new description ''Added displayed volume, Retail Order'', as applicable, with a fee code of ''BB'', ''BrB'', ''DB'', ''DrB'', ''JB'', ''JrB'', ''HB'', ''HrB'', ''MB'' or ''MrB'', as applicable, assigned by the Exchange.

[12] 15 U.S.C. 78f.

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

not designed to unfairly discriminate 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.'' [14]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, including with respect to Added Displayed Retail Volume and transactions in Sub-Dollar Securities, 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 proposed rule change reflects a reasonable and competitive pricing structure designed to incentivize market participants to direct order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members and investors. The Exchange notes that the proposal does not include different fees or rebates for Retail Orders or transactions in Sub-Dollar Securities depending on the amount of orders submitted to, and/or transactions executed on or through, the Exchange. Accordingly, the proposed pricing structure is applicable to all Members, regardless of the overall volume of a Member's trading activities on the Exchange.

Rebate for Added Displayed Retail Volume

The Exchange believes that the proposed ADRV Rebate is reasonable, equitable, and consistent with the Act because it would incentivize Members to submit additional displayed Retail Orders to the Exchange, which would enhance liquidity in Retail Orders on the Exchange and promote price discovery. The Exchange believes that this increased displayed liquidity would potentially stimulate further price competition for Retail Orders, thereby deepening the Exchange's liquidity pool, enhancing market quality to the benefit of all Members and investors by providing more trading opportunities, supporting price discovery, and subjecting such transactions to the Exchange's transparency, regulation, and oversight as a registered national securities exchange.

The Exchange notes that a significant percentage of the orders of individual (*i.e.,* retail) investors are executed over-the-counter.[15] In addition, other exchanges maintain special pricing to encourage entry of retail orders to their markets, in part, to compete against the over-the-counter market.[16] Without such pricing, the Exchange is not currently competitive with such other exchanges. The Exchange believes that it is thus appropriate to create a financial incentive to bring more Retail Order flow to the Exchange. The Exchange believes that investor protection and transparency is promoted by rewarding displayed liquidity on exchanges, including the Exchange. By offering a proposed ADRV Rebate of $0.0034, which is higher than the Exchange's standard rebate of $0.0029 for executions of added displayed volume, the Exchange believes it will encourage use of Retail Orders, while maintaining consistency with the Exchange's overall pricing philosophy of encouraging displayed liquidity. The Exchange places a higher value on displayed liquidity because the Exchange believes that displayed liquidity is a public good that benefits investors generally by providing greater price transparency and enhancing public price discovery, which ultimately lead to substantial reductions in transaction costs.

Furthermore, the Exchange believes that the proposed ADRV Rebate of $0.0034 per share is reasonable and equitable because it is comparable to, and competitive with, the rebates provided by other exchanges for added displayed retail liquidity in securities priced at or above $1.00 per share.[17] The Exchange also believes that providing a rebate to the liquidity adder, and charging a fee to the liquidity remover, with respect to the execution of a displayed Retail Order is reasonable, equitable and not unfairly discriminatory because it is designed, and the Exchange believes it is an appropriate effort, to incentivize displayable liquidity provision on the Exchange, thereby contributing to price discovery and price formation, consistent with the overall goal of enhancing market quality. Moreover, the Exchange notes that several other exchanges provide rebates to the liquidity adder, and charge fees to the liquidity remover, with respect to executions of retail orders, and that this aspect of the proposed ADRV Rebate does not raise any new or novel issues that have not previously been considered by the Commission in connection with the fees and rebates of other exchanges.[18]

The Exchange understands that Section 6(b)(5) of the Act [19] prohibits an exchange from establishing rules that are designed to permit unfair discrimination between market participants. However, Section 6(b)(5) of the Act does not prohibit exchange members or other broker-dealers from discriminating, so long as their activities are otherwise consistent with the federal securities laws. While the Exchange believes that markets and price discovery optimally function through the interactions of diverse flow types, it also believes that growth in internalization has required differentiation of Retail Order flow from

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

[15] *See, e.g.,* SEC Staff Report on Algorithmic Trading in U.S. Capital Markets (August 5, 2020), available at *https://www.sec.gov/files/Algo_Trading_Report_2020.pdf.*

[16] *See infra* note 17.

[17] *See, e.g.,* The Nasdaq Stock Market LLC equities trading fee schedule on its public website (available at *http://www.nasdaqtrader.com/trader.aspx?id=pricelisttrading2*), which reflects rebates to add displayed designated retail liquidity ranging from $0.00325–$0.0033 per share depending on the percentage add to total volume ratio, and a standard fee that generally applies to retail orders that remove liquidity of $0.0030 per share; the NYSE Arca, Inc. (''NYSE Arca'') equities trading fee schedule on its public website (available at *https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf*), which reflects rebates for retail orders that provide displayed liquidity ranging from $0.0033–$0.0038 per share depending on the applicable tier; the Cboe EDGX Exchange, Inc. (''Cboe EDGX'') equities trading fee schedule on its public website (available at *https://markets.cboe.com/us/equities/membership/fee_schedule/edgx/*), which reflects rebates for retail orders that add liquidity ranging from $0.0032–$0.0037 per share depending on the applicable tier, and a standard fee that generally applies to retail orders that remove liquidity of $0.0027 per share.

[18] *Id.*

[19] 15 U.S.C. 78f(b)(5).

other order flow types. The differentiation proposed herein by the Exchange is not designed to permit unfair discrimination, but instead to promote a competitive process around Retail Order executions such that retail investors would receive better rebates on the Exchange than they do currently in order to encourage entry of retail orders to the Exchange. Accordingly, the Exchange believes the proposed ADRV Rebate is not unfairly discriminatory.

Pricing for Transactions in Sub-Dollar Securities

The Exchange believes that the proposed changes with respect to pricing for executions of transactions in Sub-Dollar Securities would incentivize submission of additional liquidity in Sub-Dollar Securities to the Exchange through the proposed rebate of 0.30% of the total dollar value of any Added Sub-Dollar Volume transactions, thereby promoting price discovery and transparency, and enhancing order execution opportunities for all Members. The Exchange believes that the proposed rebate for Added Sub-Dollar Volume is reasonable because it would incentivize Members to direct more order flow in Sub-Dollar Securities to the Exchange. The Exchange notes that other exchanges provide rebates for liquidity-adding transactions in Sub-Dollar Securities, but that these are denominated in dollar amounts per share rather than a percentage of the total dollar amount of the transaction.[20] The Exchange expects that the proposed rebate for Added Sub-Dollar Volume transactions would typically result in a higher overall credit for a given transaction than the rebates offered by other exchanges, although the Exchange notes that it may also result in a lower overall credit for such transaction depending on the number of shares traded and the total dollar value of the transaction.

The Exchange also believes that the proposed fee for Removed Sub-Dollar Volume is reasonable because it is in line with the fees charged by other exchanges for liquidity-removing transactions in Sub-Dollar Securities.[21] The Exchange believes that, given the competitive environment in which the Exchange currently operates, the proposed pricing structure, with an offsetting fee and rebate, with respect to executions of transactions in Sub-Dollar Securities, is a reasonable attempt to increase liquidity in Sub-Dollar Securities on the Exchange and improve the Exchange's market share relative to its competitors while remaining revenue neutral with respect to such transactions.

The Exchange also believes that the proposed fee and rebate structure applicable to executions of transactions in Sub-Dollar Securities is equitably allocated and not unfairly discriminatory because it applies equally to all Members and is reasonably related to the value of the Exchange's market quality associated with higher volume. A number of Members currently transact in Sub-Dollar Securities and they, along with additional Members that choose to direct order flow in Sub-Dollar Securities to the Exchange, would all qualify for the proposed fee and rebate. The Exchange believes that maintaining or increasing the proportion of transactions in Sub-Dollar Securities that are executed on the Exchange would benefit all investors by deepening the Exchange's liquidity pool, which would support price discovery, promote market transparency and improve investor protection, further rendering the proposed changes reasonable and equitable.

In conclusion, the Exchange also submits that its proposed fee structure satisfies the requirements of Sections 6(b)(4) and 6(b)(5) of the Act for the reasons discussed above 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, including with respect to Retail Orders and transactions in Sub-Dollar Securities, is subject to significant competitive forces, and that the proposed fees and rebates described herein are appropriate to address such forces.

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

The Exchange does not believe that the proposed rule change 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 Exchange believes that the proposed change would encourage the submission of additional order flow, including Retail Orders and orders in Sub-Dollar Securities, to the Exchange, thereby promoting market depth, enhanced execution opportunities, as well as price discovery and transparency for all Members. Furthermore, the Exchange believes that the proposed changes would allow the Exchange to compete more ably with other execution venues by providing more competitive pricing for Added Displayed Retail Volume and transactions in Sub-Dollar Securities, thereby making it a more desirable destination venue for its customers. As a result, the Exchange believes that the proposed change 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." [22]

Intramarket Competition

The Exchange believes that the proposed changes would incentivize market participants to direct more order flow to the Exchange. Greater liquidity benefits all Members by providing more trading opportunities and encourages Members to send orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all Members. The proposed fees and rebates for Added Displayed Retail Volume and transactions in Sub-Dollar Securities would be available to all similarly-situated market participants, and, as such, the proposed change would not impose a disparate burden on competition among market participants on the Exchange. As such, the Exchange believes the proposed changes would not impose any burden on intramarket competition that is not necessary or

[20] *See, e.g.,* the Cboe EDGX equities trading fee schedule on its public website (available at *https://markets.cboe.com/us/equities/membership/fee_schedule/edgx/*), which reflects a rebate of $0.00009 per share for liquidity-adding transactions in securities priced below $1.00 per share; the NYSE Arca equities trading fee schedule on its public website (available at *https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf*), which reflects a rebate of $0.00004 per share for liquidity-adding transactions in securities priced below $1.00 per share.

[21] *See, e.g.,* the Cboe EDGX equities trading fee schedule on its public website (available at *https://markets.cboe.com/us/equities/membership/fee_schedule/edgx/*), which reflects a fee of 0.30% of the total dollar value of the transaction for liquidity-removing transactions in securities priced below $1.00 per share; the Cboe BZX Exchange, Inc. equities trading fee schedule on its public website (available at *https://markets.cboe.com/us/equities/membership/fee_schedule/bzx/*), which reflects a fee of 0.30% of the total dollar value of the transaction for liquidity-removing transactions in securities priced below $1.00 per share; the NYSE Arca equities trading fee schedule on its public website (available at *https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf*), which reflects a fee of 0.295% of the total dollar value for liquidity-taking transactions in securities priced below $1.00 per share.

[22] *See supra* note 14.

appropriate in furtherance of the purposes of the Act.

Intermarket Competition

The Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow to, including 15 other equities exchanges and numerous alternative trading systems and other off-exchange venues. As noted above, no single registered equities exchange currently has more than approximately 16% of the total market share of executed volume of equities trading, and the Exchange currently represents less than 1% of the overall market share. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. Moreover, the Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, including with respect to Added Displayed Retail Volume and transactions in Sub-Dollar Securities, 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 are competitive proposals through which the Exchange is seeking to encourage certain order flow to be sent to the Exchange.

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.'' [23] 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'. . . .''.[24] Accordingly, the Exchange does not believe its proposed fee change imposes 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 Act [25] and Rule 19b–4(f)(2) [26] 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 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–MEMX–2020–14 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–2020–14. 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–MEMX–2020–14, and should be submitted on or before December 30, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–26989 Filed 12–8–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–317, OMB Control No. 3235–0360]

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services,

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[23] *See supra* note 14.

[24] *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)).

[25] 15 U.S.C. 78s(b)(3)(A)(ii).

[26] 17 CFR 240.19b–4(f)(2).

[27] 17 CFR 200.30–3(a)(12).