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For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

Sherry R. Haywood,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-98396; File No. SR-CboeEDGX-2023-057]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule Related to Physical Port Fees

September 14, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 1, 2023, Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX”) filed with the Securities and Exchange Commission (“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

Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX Equities”) proposes to amend its Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange’s website (http://markets.cboe.com/us/options/regulation/rule_filings/edgx/), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

²² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 amend its fee schedule relating to physical connectivity fees.³

By way of background, a physical port is utilized by a Member or non-Member to connect to the Exchange at the data centers where the Exchange’s servers are located. The Exchange currently assesses the following physical connectivity fees for Members and non-Members on a monthly basis: \$2,500 per physical port for a 1 gigabit (“Gb”) circuit and \$7,500 per physical port for a 10 Gb circuit. The Exchange proposes to increase the monthly fee for 10 Gb physical ports from \$7,500 to \$8,500 per port. The Exchange notes the proposed fee change better enables it to continue to maintain and improve its market technology and services and also notes that the proposed fee amount, even as amended, continues to be in line with, or even lower than, amounts assessed by other exchanges for similar connections.⁴ The physical ports may also be used to access the Systems for the following affiliate exchanges and only one monthly fee currently (and will continue) to apply per port: the Exchange’s options platform (EDGX Options), Cboe BZX Exchange, Inc.

³ The Exchange initially filed the proposed fee changes on July 3, 2023 (SR-CboeEDGX-2023-044). On September 1, 2023, the Exchange withdrew that filing and submitted this proposal.

⁴ See e.g., The Nasdaq Stock Market LLC (“Nasdaq”), General 8, Connectivity to the Exchange. Nasdaq and its affiliated exchanges charge a monthly fee of \$15,000 for each 10Gb Ultra fiber connection to the respective exchange, which is analogous to the Exchange’s 10Gb physical port. See also New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago Inc., NYSE National, Inc. Connectivity Fee Schedule, which provides that 10 Gb LX LCN Circuits (which are analogous to the Exchange’s 10 Gb physical port) are assessed \$22,000 per month, per port.

(options and equities platforms), Cboe BYX Exchange, Inc., Cboe EDGA Exchange, Inc., and Cboe C2 Exchange, Inc. (“Affiliate Exchanges”).⁵

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.⁶ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁷ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁸ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4)⁹ of the Act, which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

The Exchange believes the proposed fee change is reasonable as it reflects a moderate increase in physical connectivity fees for 10 Gb physical ports. Further, the current 10 Gb physical port fee has remained unchanged since June 2018.¹⁰ Since its last increase 5 years ago however, there has been notable inflation. Particularly, the dollar has had an average inflation rate of 3.9% per year between 2018 and today, producing a cumulative price increase of approximately 21.1% inflation since the fee for the 10 Gb physical port was last modified.¹¹

⁵ The Affiliate Exchanges are also submitting contemporaneous identical rule filings.

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ *Id.*

⁹ 15 U.S.C. 78f(b)(4).

¹⁰ See Securities and Exchange Release No. 83450 (June 15, 2018), 83 FR 28884 (June 21, 2018) (SR-CboeEDGX-2018-016).

¹¹ See <https://www.officialdata.org/us/inflation/2010?amount=1>.

Accordingly, the Exchange believes the proposed fee is reasonable as it represents only an approximate 13% increase from the rates adopted five years ago, notwithstanding the cumulative rate of 21.1%.

The Exchange also believes the proposed fee is reasonable as it is still in line with, or even lower than, amounts assessed by other exchanges for similar connections.¹² As noted above, the proposed fee is also the same as is concurrently being proposed for its Affiliate Exchanges. Further, Members are able to utilize a single port to connect to any of the Affiliate Exchanges with no additional fee assessed for that same physical port. Particularly, the Exchange believes the proposed monthly per port fee is reasonable, equitable and not unfairly discriminatory as it is assessed only once, even if it connects with another affiliate exchange since only one port is being used and the Exchange does not wish to charge multiple fees for the same port. Indeed, the Exchange notes that several ports are in fact purchased and utilized across one or more of the Exchange's affiliated Exchanges (and charged only once).

The Exchange also believes that the proposed fee change is not unfairly discriminatory because it would be assessed uniformly across all market participants that purchase the physical ports. The Exchange believes increasing the fee for 10 Gb physical ports and charging a higher fee as compared to the 1 Gb physical port is equitable as the 1 Gb physical port is 1/10th the size of the 10 Gb physical port and therefore does not offer access to many of the products and services offered by the Exchange (e.g., ability to receive certain market data products). Thus, the value of the 1 Gb alternative is lower than the value of the 10 Gb alternative, when measured based on the type of Exchange access it offers. Moreover, market participants that purchase 10 Gb physical ports utilize the most bandwidth and therefore consume the most resources from the network. As such, the Exchange believes the proposed fee change for 10 Gb physical ports is reasonable and appropriately allocated.

¹² See e.g., The Nasdaq Stock Market LLC ("Nasdaq"), General 8, Connectivity to the Exchange. Nasdaq and its affiliated exchanges charge a monthly fee of \$15,000 for each 10Gb Ultra fiber connection to the respective exchange, which is analogous to the Exchange's 10Gb physical port. See also New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago Inc., NYSE National, Inc. Connectivity Fee Schedule, which provides that 10 Gb LX LCN Circuits (which are analogous to the Exchange's 10 Gb physical port) are assessed \$22,000 per month, per port.

The Exchange also notes Members and non-Members will continue to choose the method of connectivity based on their specific needs and no broker-dealer is required to become a Member of, let alone connect directly to, the Exchange. There is also no regulatory requirement that any market participant connect to any one particular exchange. Moreover, direct connectivity is not a requirement to participate on the Exchange. The Exchange also believes substitutable products and services are available to market participants, including, among other things, other equities exchanges that a market participant may connect to in lieu of the Exchange, indirect connectivity to the Exchange via a third-party reseller of connectivity, and/or trading of any equities product, such as within the Over-the-Counter (OTC) markets. Indeed, there are currently 16 registered equities exchanges that trade equities (12 of which are not affiliated with Cboe), some of which have similar or lower connectivity fees.¹³ Based on publicly available information, no single equities exchange has more than approximately 16% of the market share.¹⁴ Further, low barriers to entry mean that new exchanges may rapidly enter the market and offer additional substitute platforms to further compete with the Exchange and the products it offers. For example, in 2020 alone, three new exchanges entered the market: Long Term Stock Exchange (LTSE), Members Exchange (MEMX), and Miami International Holdings (MIAX Pearl).

As noted above, there is no regulatory requirement that any market participant connect to any one equities exchange, nor that any market participant connect at a particular connection speed or act in a particular capacity on the Exchange, or trade any particular product offered on an exchange. Moreover, membership is not a requirement to participate on the Exchange. Indeed, the Exchange is unaware of any one equities exchange whose membership includes every registered broker-dealer. By way of example, while the Exchange currently has 124 members that trade equities, Cboe BZX has 132 members that trade equities, Cboe EDGA has 103 members and Cboe BYX has 110 members. There is also no firm that is a Member of EDGX Equities only. Further, based on publicly available information regarding a sample of the Exchange's competitors,

¹³ *Id.*

¹⁴ See Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (June 29 2023), available at https://www.cboe.com/us/equities/market_statistics/.

NYSE has 143 members,¹⁵ IEX has 129 members,¹⁶ and MIAX Pearl has 51 members.¹⁷

A market participant may also submit orders to the Exchange via a Member broker or a third-party reseller of connectivity. The Exchange notes that third-party non-Members also resell exchange connectivity. This indirect connectivity is another viable alternative for market participants to trade on the Exchange without connecting directly to the Exchange (and thus not pay the Exchange's connectivity fees), which alternative is already being used by non-Members and further constrains the price that the Exchange is able to charge for connectivity to its Exchange. The Exchange notes that it could, but chooses not to, preclude market participants from reselling its connectivity. The Exchange also chooses not to adopt fees that would be assessed to third-party resellers on a per customer basis (*i.e.*, fee based on number of Members that connect to the Exchange indirectly via the third-party). Particularly, these third-party resellers may purchase the Exchange's physical ports and resell access to such ports either alone or as part of a package of services. The Exchange notes that multiple Members are able to share a single physical port (and corresponding bandwidth) with other non-affiliated Members if purchased through a third-party re-seller.¹⁸ This allows resellers to mutualize the costs of the ports for market participants and provide such ports at a price that may be lower than the Exchange charges due to this mutualized connectivity. These third-party sellers may also provide an additional value to market participants as they may also manage and monitor these connections, and clients of these third-parties may also be able connect from the same colocation facility either from their own racks or using the third-party's managed racks and infrastructure which may provide further cost-savings. Further, the Exchange does not receive any connectivity revenue when connectivity is resold by a third-party, which often is resold to multiple customers, some of whom are agency broker-dealers that

¹⁵ See <https://www.nyse.com/markets/nyse/membership>.

¹⁶ See <https://www.iexexchange.io/membership>.

¹⁷ See https://www.miaxglobal.com/sites/default/files/page-files/20230630_MIAX_Pearl_Equities_Exchange_Members_June_2023.pdf.

¹⁸ For example, a third-party reseller may purchase one 10 Gb physical port from the Exchange and resell that connectivity to three different market participants who may only need 3 Gb each and leverage the same single port.

have numerous customers of their own. Given the availability of third-party providers that also offer connectivity solutions, the Exchange believes participation on the Exchange remains affordable (notwithstanding the proposed fee change) for all market participants, including smaller trading firms that may be able to take advantage of lower costs that result from mutualized connectivity.

Accordingly, the vigorous competition among national securities exchanges provides many alternatives for firms to voluntarily decide whether direct connectivity to the Exchange is appropriate and worthwhile, and as noted above, no broker-dealer is required to become a Member of the Exchange, let alone connect directly to it. In the event that a market participant views the Exchange's proposed fee change as more or less attractive than the competition, that market participant can choose to connect to the Exchange indirectly or may choose not to connect to that exchange and connect instead to one or more of the other 12 non-Cboe affiliated equities markets. Moreover, if the Exchange charges excessive fees, it may stand to lose not only connectivity revenues but also revenues associated with the execution of orders routed to it, and, to the extent applicable, market data revenues. The Exchange believes that this competitive dynamic imposes powerful restraints on the ability of any exchange to charge unreasonable fees for connectivity. Notwithstanding the foregoing, the Exchange still believes that the proposed fee increase is reasonable, equitably allocated and not unfairly discriminatory, even for market participants that determine to connect directly to the Exchange for business purposes, as those business reasons should presumably result in revenue capable of covering the proposed fee.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed fee change will not impact intramarket competition because it will apply to all similarly situated Members equally (*i.e.*, all market participants that choose to purchase the 10 Gb physical port). Additionally, the Exchange does not believe its proposed pricing will impose a barrier to entry to smaller participants and notes that its proposed connectivity pricing is associated with relative usage of the various market participants. For example, market participants with modest capacity needs

can continue to buy the less expensive 1 Gb physical port (which cost is not changing) or may choose to obtain access via a third-party re-seller. While pricing may be increased for the larger capacity physical ports, such options provide far more capacity and are purchased by those that consume more resources from the network. Accordingly, the proposed connectivity fees do not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the allocation reflects the network resources consumed by the various size of market participants—lowest bandwidth consuming members pay the least, and highest bandwidth consuming members pays the most.

The Exchange's proposed fee is also still lower than some fees for similar connectivity on other exchanges and therefore may stimulate intermarket competition by attracting additional firms to connect to the Exchange or at least should not deter interested participants from connecting directly to the Exchange. Further, if the changes proposed herein are unattractive to market participants, the Exchange can, and likely will, see a decline in connectivity via 10 Gb physical ports as a result. The Exchange operates in a highly competitive market in which market participants can determine whether or not to connect directly to the Exchange based on the value received compared to the cost of doing so.

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) of the Act¹⁹ and paragraph (f) of Rule 19b-4²⁰ 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 will 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-CboeEDGX-2023-057 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-CboeEDGX-2023-057. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CboeEDGX-2023-057 and should be submitted on or before October 11, 2023.

¹⁹ 15 U.S.C. 78s(b)(3)(A).

²⁰ 17 CFR 240.19b-4(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

Sherry R. Haywood,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98388; File No. 4–443]

Joint Industry Plan; Notice of Filing and Immediate Effectiveness of Amendment to the Plan for the Purpose of Developing and Implementing Procedures Designed To Facilitate the Listing and Trading of Standardized Options To Add MEMX LLC as a Plan Sponsor

September 14, 2023.

Pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 608 thereunder,² notice is hereby given that on August 29, 2023, MEMX LLC (“MEMX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) an amendment to the Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options (“OLPP” or “Plan”).³ The Commission approved the

application of MEMX to register as a national securities exchange on May 4, 2020.⁴ The Commission subsequently approved MEMX’s proposal to adopt rules to govern the trading of options on the Exchange for a new facility called MEMX Options.⁵ One of the conditions of the Commission’s approval of MEMX Options was the requirement for MEMX to join the OLPP.⁶ The amendment adds MEMX as a Plan Sponsor⁷ of the OLPP.⁸ The Commission is publishing this notice to solicit comments on the amendment from interested persons.

I. Description and Purpose of the Amendment

The OLPP establishes procedures designed to facilitate the listing and trading of standardized options contracts on the options exchanges. The amendment to the OLPP adds MEMX as a Sponsor. The other OLPP Sponsors are BOX, Cboe, Cboe BZX, Cboe C2, Cboe EDGX, Nasdaq BX, MIAx, MIAx Emerald, MIAx PEARL, Nasdaq, Nasdaq GEMX, Nasdaq ISE, Nasdaq MRX, Nasdaq Phlx, NYSE American, NYSE Arca, and OCC. MEMX has submitted an executed copy of the OLPP to the Commission in accordance with the procedures set forth in the OLPP regarding new Plan Sponsors. Section 7 of the OLPP provides for the entry of new Plan Sponsors to the OLPP. Specifically, Section 7 of the OLPP provides that an Eligible Exchange⁹

may become a Plan Sponsor of the OLPP by: (i) executing a copy of the OLPP, as then in effect; (ii) providing each then-current Plan Sponsor with a copy of such executed OLPP; and (iii) effecting an amendment to the OLPP, as specified in Section 7(ii) of the OLPP.¹⁰

Section 7(ii) of the OLPP sets forth the process by which an Eligible Exchange may effect an amendment to the OLPP to become a Plan Sponsor. Specifically, an Eligible Exchange must: (a) execute a copy of the OLPP as then in effect with the only change being the addition of the new Plan Sponsor’s name in Section 9 of the OLPP;¹¹ and (b) submit the executed OLPP to the Commission. The OLPP then provides that such an amendment will be effective when the amendment is approved by the Commission or otherwise becomes effective pursuant to Section 11A of the Act and Rule 608 thereunder.

II. Effectiveness of the OLPP Amendment

The foregoing OLPP amendment has become effective pursuant to Rule 608(b)(3)(iii)¹² because it has been designated by the sponsors as involving solely technical or ministerial matters. At any time within sixty days of the filing of the amendment, the Commission may summarily abrogate the amendment and require that it be refiled pursuant to paragraph (a)(1) of Rule 608,¹³ if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the amendment is consistent with the Act and the rules thereunder. Comments may be submitted by any of the following methods:

and Quotation Information (the “OPRA Plan”). MEMX has represented that it has met both the requirements for being considered an Eligible Exchange. See Amendment, *supra* note 8 (Section 7(i) of the OLPP).

¹⁰ MEMX has represented that it has executed a copy of the current Plan, amended to include MEMX as a Plan Sponsor in Section 9 of the Plan, and has provided each current Plan Sponsor with a copy of the executed and amended Plan. See Amendment, *supra* note 8.

¹¹ The list of Plan Sponsors is set forth in Section 9 of the OLPP.

¹² 17 CFR 242.608(b)(3)(iii).

¹³ 17 CFR 242.608(a)(1).

²¹ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78k–1(a)(3).

² 17 CFR 242.608.

³ On July 6, 2001, the Commission approved the OLPP, which was proposed by the American Stock Exchange LLC (“Amex”) (n/k/a NYSE American, LLC (“NYSE American”)), Chicago Board Options Exchange, Incorporated (“Cboe”), International Securities Exchange LLC (“ISE”) (n/k/a Nasdaq ISE, LLC (“Nasdaq ISE”)), Options Clearing Corporation (“OCC”), Philadelphia Stock Exchange, Inc. (“Phlx”) (n/k/a Nasdaq Phlx LLC (Nasdaq Phlx)), and Pacific Exchange, Inc. (“PCX”) (n/k/a NYSE Arca, Inc. (“NYSE Arca”)). See Securities Exchange Act Release No. 44521, 66 FR 36809 (July 13, 2001). See also Securities Exchange Act Release Nos. 49199 (February 5, 2004), 69 FR 7030 (February 12, 2004) (adding Boston Stock Exchange, Inc. as a Sponsor to the OLPP); 57546 (March 21, 2008), 73 FR 16393 (March 27, 2008) (adding Nasdaq Stock Market, LLC (“Nasdaq”) as a Sponsor to the OLPP); 61528 (February 17, 2010), 75 FR 8415 (February 24, 2010) (adding BATS Exchange, Inc. (“BATS”) (n/k/a Cboe BZX Exchange, Inc. (“Cboe BZX”)) as a Sponsor to the OLPP); 63162 (October 22, 2010), 75 FR 66401 (October 28, 2010) (adding C2 Options Exchange Incorporated (“C2”) (n/k/a Cboe C2 Exchange, Inc. (“Cboe C2”)) as a sponsor to the OLPP); 66952 (May 9, 2012), 77 FR 28641 (May 15, 2012) (adding BOX Options Exchange LLC (“BOX”) as a Sponsor to the OLPP); 67327 (June 29, 2012), 77 FR 40125 (July 6, 2012) (adding Nasdaq OMX BX, Inc. (“BX”) (n/k/a Nasdaq BX, Inc. (“Nasdaq BX”)) as a Sponsor to the OLPP); 70765 (October 28, 2013), 78 FR 65739 (November 1, 2013) (adding Topaz Exchange, LLC as a Sponsor to the OLPP (“Topaz”) (n/k/a Nasdaq GEMX, LLC (“Nasdaq GEMX”)); 70764 (October 28, 2013), 78 FR 65733 (November 1, 2013) (adding Miami International

Securities Exchange, LLC (“MIAx”) as a Sponsor to the OLPP); 76822 (January 1, 2016), 81 FR 1251 (January 11, 2016) (adding EDGX Exchange, Inc. (“EDGX”) (n/k/a Cboe EDGX Exchange, Inc. (“Cboe EDGX”)) as a Sponsor to the OLPP); 77323 (March 8, 2016), 81 FR 13433 (March 14, 2016) (adding ISE Mercury, LLC (“ISE Mercury”) (n/k/a Nasdaq MRX, LLC (“Nasdaq MRX”)) as a Sponsor to the OLPP); 79897 (January 30, 2017), 82 FR 9263 (February 3, 2017) (adding MIAx PEARL, LLC (“MIAx PEARL”) as a Sponsor to the OLPP) and 85228 (March 1, 2019), 84 FR 8355 (March 7, 2019) (adding MIAx Emerald, LLC (“MIAx Emerald”) as a Sponsor to the OLPP).

⁴ See Securities and Exchange Act Release No. 88806 (May 4, 2020), 85 FR 27451 (May 8, 2020) (File No. 10–237).

⁵ See Securities and Exchange Act Release No. 95445 (August 8, 2022), 87 FR 49894 (August 12, 2022) (File No. SR–MEMX–2022–10).

⁶ See *id.* at 49907.

⁷ A “Plan Sponsor” is an Eligible Exchange whose participation in the OLPP has become effective pursuant to Section 7 of the OLPP.

⁸ See Letter from Anders Franzon, General Counsel, MEMX, to Vanessa Countryman, Secretary, Commission, dated August 29, 2023 (“Amendment”).

⁹ The OLPP defines an “Eligible Exchange” as a national securities exchange registered with the Commission pursuant to Section 6(a) of the Act, 15 U.S.C. 78f(a), that (1) has effective rules for the trading of options contracts issued and cleared by the OCC approved in accordance with the provisions of the Act and the rules and regulations thereunder and (2) is a party to the Plan for Reporting Consolidated Options Last Sale Reports