

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100244; File No. SR–NYSEARCA–2024–42]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Connectivity Fee Schedule

May 29, 2024.

Pursuant to section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”)<sup>2</sup> and Rule 19b–4 thereunder,<sup>3</sup> notice is hereby given that on May 24, 2024, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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 proposes to amend the Connectivity Fee Schedule (“Fee Schedule”) to make clarifying changes with respect to the wireless connections to third party data in co-location. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

#### 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 self-regulatory organization 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 those 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 parts of such statements.

##### A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend the Fee Schedule to make clarifying changes

with respect to the wireless connections to third party data in co-location.

The Exchange currently provides Users<sup>4</sup> with wireless connections to ten market data feeds or combinations of feeds from third-party markets (the “Existing Third Party Data”).<sup>5</sup>

The Exchange recently filed to provide wireless connection to MEMX Memoir Depth market data feed (“MEMX Data”), noting that the wireless connection to MEMX Data would lead to the data center pole.<sup>6</sup> For all the Existing Third Party Data that leads to that pole,<sup>7</sup> the monthly charge for wireless connections is subject to a 30-day testing period, during which the monthly charge per connection would be waived. Consistent with that fact, the Exchange proposes to amend the Fee Schedule to clarify that this provision is applicable to wireless connections to MEMX Data.

In addition, the Exchange proposes to make the following non-substantive changes to the Fee Schedule:

- Move the existing service for a wireless connection of NASDAQ BX–Totalview–ITCH data to place the wireless connections in alphabetical order.
- To conform to the corporate branding of Nasdaq, amend “NASDAQ” to “Nasdaq” and delete “OMX” and “Ultra” throughout the Fee Schedule.<sup>8</sup>
- To conform to Nasdaq’s usage of the term, amend “Totalview” to “TotalView” in the Existing Third Party Services.<sup>9</sup>

These changes are typographical in nature and are not intended to change

<sup>4</sup> For purposes of the Exchange’s colocation services, a “User” means any market participant that requests to receive colocation services directly from the Exchange. See Securities Exchange Act Release No. 76010 (September 29, 2015), 80 FR 60197 (October 5, 2015) (SR–NYSEARCA–2015–82). As specified in the Fee Schedule, a User that incurs colocation fees for a particular colocation service pursuant thereto would not be subject to colocation fees for the same colocation service charged by the Exchange’s affiliates the New York Stock Exchange LLC, NYSE American LLC, NYSE Chicago, Inc., and NYSE National, Inc. (together, the “Affiliate SROs”). Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. See SR–NYSE–2024–31, SR–NYSEAMER–2024–33, SR–NYSECHX–2024–19, and SR–NYSENAT–2024–16.

<sup>5</sup> See Securities Exchange Act Release No. 99808 (March 20, 2024), 89 FR 21151 (March 26, 2024) (SR NYSEARCA–2024–26).

<sup>6</sup> See *id.*

<sup>7</sup> See Securities Exchange Act Release No. 76749 (December 23, 2015), 80 FR 81640 (December 30, 2015) (SR–NYSEARCA–2015–99).

<sup>8</sup> See Securities Exchange Act Release No. 801917 (October 23, 2017), 82 FR 49879 (October 27, 2017) (SR–NASDAQ–2017–111). See also <https://www.nasdaq.com/solutions/nasdaq-canada>, and <https://www.nasdaq.com/solutions/nasdaq-ise>.

<sup>9</sup> See <https://www.nasdaqtrader.com/Trader.aspx?id=DPUSdata>.

the substance or meaning of the Fee Schedule.

The proposed changes would not apply differently to distinct types or sizes of market participants. Rather, they would apply to all Users equally. As is currently the case, the purchase of any colocation service is completely voluntary and the Fee Schedule is applied uniformly to all Users.

The Exchange does not believe that it would obtain any new customers due to the proposed change.

The proposed change is not otherwise intended to address any other issues relating to colocation services or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

#### Timing and Implementation

The proposed change to the Fee Schedule to clarify the provisions regarding the MEMX Memoir Depth market feed would become operative when the wireless connection to MEMX Memoir Depth market data feed becomes operative. The Exchange expects that to be no later than the third quarter of 2024.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,<sup>10</sup> in general, and furthers the objectives of section 6(b)(5) of the Act,<sup>11</sup> in particular, because it is 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 and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange further believes that the proposed rule change is consistent with section 6(b)(4) of the Act,<sup>12</sup> because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed changes would remove impediments to and perfect the

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> 15 U.S.C. 78f(b)(4).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b–4.

mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. With respect to the wireless connection to MEMX Memoir Depth data, the proposed change simply would clarify that the terms on which it is offered are the same as those of the Existing Third Party Data feeds that also connect to the data center pole. With respect to the other changes, putting the existing services in alphabetical order and conforming the descriptions to Nasdaq's usage would make the Fee Schedule easier to read, understand, and administer, alleviating any possible market participant confusion.

The Exchange believes that its proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers, and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers. The proposed rule change would clarify that the terms under which the wireless connection to the MEMX Memoir Depth data is offered are the same as those of the Existing Third Party Data feeds that also connect to the data center pole. With respect to the other changes, putting the existing services in alphabetical order and conforming the descriptions to Nasdaq's usage would make the Fee Schedule easier to read, understand, and administer, alleviating any possible market participant confusion. The proposed changes would not alter any of the fees charged.

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

The Exchange believes that the proposal will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of section 6(b)(8) of the Act.<sup>13</sup>

The proposed change would not affect competition among national securities exchanges or among members of the Exchange. The proposed rule change is not designed to address any competitive issues but rather to enhance the clarity and transparency of the Fee Schedule and alleviate possible customer confusion that may arise. The proposed rule change would have no impact on pricing or existing services. Rather, the changes would clarify the Fee Schedule, making it easier to understand and alleviating any possible market participant confusion.

#### *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 Exchange has filed the proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act<sup>14</sup> and Rule 19b-4(f)(6) thereunder.<sup>15</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.<sup>16</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>17</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>18</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission agrees with the Exchange that waiver of the 30-day operative delay would be consistent with the protection of investors and the public interest because it would allow the Exchange to implement this proposed change immediately, ensuring that Users could benefit from the 30-day testing period for the existing service for a wireless connection of MEMX Memoir Depth data. Investors and the public interest would also benefit from the increased clarity and transparency the other amendments would provide to the Fee Schedule. The Commission

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

<sup>16</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>17</sup> 17 CFR 240.19b-4(f)(6).

<sup>18</sup> 17 CFR 240.19b-4(f)(6)(iii).

therefore believes that waiver of the 30-day operative delay is appropriate.

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)<sup>19</sup> 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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include file number SR-NYSEARCA-2024-42 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-NYSEARCA-2024-42. 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

<sup>13</sup> 15 U.S.C. 78f(b)(8).

<sup>19</sup> 15 U.S.C. 78s(b)(2)(B).

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-NYSEARCA-2024-42 and should be submitted on or before June 25, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100239; File No. SR-MEMX-2024-19]

### Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Short Term Options Series Program in Rule 19.5, Interpretation and Policy .05

May 29, 2024.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 16, 2024, MEMX, LLC (“MEMX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 Short Term Options Series Program in Rule 19.5, Interpretation and

Policy .05. 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 amend the Short Term Option Series Program in Rule 19.5, Interpretation and Policy .05 (Series of Options Contracts Open for Trading). Specifically, the Exchange proposes to expand the Short Term Option Series Program to permit the listing and trading of options series with Tuesday and Thursday expirations for options on iShares Russell 2000 ETF (“IWM”), specifically permitting two expiration dates for the proposed Tuesday and Thursday expirations in IWM. This is a competitive filing that is based on a proposal submitted from Nasdaq ISE, LLC (“Nasdaq ISE”) and recently approved by the Commission.<sup>5</sup>

Currently, Table 1 in Rule 19.5, Interpretation and Policy .05(h), specifies each symbol that qualifies as a Short Term Option Daily Expiration.<sup>6</sup> Today, Table 1 permits the listing and trading of Monday Short Term Option Daily Expirations and Wednesday Short

<sup>5</sup> See Securities Exchange Act Release No. 99946 (April 11, 2024) 89 FR 27471 (April 17, 2024) (Order Approving SR-ISE-2024-06).

<sup>6</sup> The Exchange may open for trading on any Thursday or Friday that is a business day series of options on that class that expire at the close of business on each of the next five Fridays that are business days and are not Fridays in which standard expiration options series, Monthly Options Series, or Quarterly Options Series. Of these series of options, the Exchange may have no more than a total of five Short Term Option Expiration Dates. In addition, the Exchange may open for trading series of options on certain symbols that expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days beyond the current week and are not business days in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire (“Short Term Option Daily Expirations”). See Rule 19.5, Interpretation and Policy .05.

Term Option Daily Expirations for IWM. At this time, the Exchange proposes to expand the Short Term Option Series Program to permit the listing and trading of no more than a total of two IWM Short Term Option Daily Expirations beyond the current week for each of Monday, Tuesday, Wednesday, and Thursday expirations at one time.<sup>7</sup> The listing and trading of Tuesday and Thursday Short Term Option Daily Expirations would be subject to Rule 19.5, Interpretation and Policy .05.

Today, Tuesday Short Term Option Daily Expirations in SPDR S&P 500 ETF Trust (“SPY”) and the INVESCO QQQ Trust, Series 1 (“QQQ”) may open for trading on any Monday or Tuesday that is a business day series of options on the symbols provided in Table 1 that expire at the close of business on each of the next two Tuesdays that are business days and are not business days in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire (“Tuesday Short Term Option Expiration Date”).<sup>8</sup> Also, today, Thursday Short Term Option Daily Expirations in SPY and QQQ may open for trading on any Tuesday or Wednesday that is a business day series of options on the symbols provided in Table 1 that expire at the close of business on each of the next two Wednesdays that are business days and are not business days in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire (“Wednesday Short Term Option Expiration Date”).<sup>9</sup>

In the event that options on IWM expire on a Tuesday or Thursday and that Tuesday or Thursday is a business day in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire, the Exchange would skip that week’s listing and instead list the following week; the two weeks would therefore not be consecutive. With this proposal, the Exchange would be able to open for trading series of options on IWM that expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days beyond the current week and are not business days in which standard expiration options series, Monthly

<sup>7</sup> The Exchange would amend the Tuesday and Thursday expirations for IWM in Table 1 Rule 19.5, Interpretation and Policy .05(h) from “0” to “2” to permit Tuesday and Thursday expirations for options on IWM listed pursuant to the Short Term Option Series.

<sup>8</sup> See Rule 19.5, Interpretation and Policy .05(h).

<sup>9</sup> *Id.*

<sup>20</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4.