

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–10023; File No. SR–NYSEARCA–2024–06]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend Exchange Rule 5.3–O To Permit the Listing and Trading of Options on Commodity-Based Trust Shares

April 24, 2024.

I. Introduction

On January 16, 2024, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² a proposed rule change to amend NYSE Arca Rule 5.3–O(g) to permit the listing and trading of options on Commodity-Based Trust Shares.³ The proposed rule change was published for comment in the **Federal Register** on January 25, 2024.⁴ The Commission received comment letters regarding the proposed rule change.⁵ On March 6, 2024, pursuant to Section 19(b)(2) of the Act,⁶ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.⁷ This order institutes proceedings pursuant to Section 19(b)(2)(B) of the Act⁸ to determine whether to approve or disapprove the proposed rule change.

II. Description of the Proposed Rule Change

As described in greater detail in the Notice,⁹ Exchange Rule 5.3–O(g) deems appropriate for options trading certain Exchange-Traded Fund Shares (“ETFs”) that are traded on a national securities exchange and are defined as an “NMS

stock” in Rule 600 of Regulation NMS.¹⁰ The Exchange proposed to amend Exchange Rule 5.3–O(g) to expand the types of ETFs that may be approved for options trading to include Commodity-Based Trust Shares, as defined in Exchange Rule 8.201–E (“Commodity-Based Trust Shares”).¹¹ The Exchange

¹⁰ 17 CFR 242.600. See Notice, 89 FR at 5029. The Exchange’s rules use the term “exchange traded fund” to refer to several types of investment products. Exchange Rule 5.3–O(g) states that “Securities deemed appropriate for options trading shall include shares or other securities (“Exchange-Traded Fund Shares” or “Fund Shares”) that are traded on a national securities exchange and are defined as an “NMS stock” in Rule 600(b)(55) of Regulation NMS, and that (i) represent an interest in a registered investment company organized as an open-end management investment company, a unit investment trust or a similar entity which holds securities and/or financial instruments, options on securities and indices, equity caps, collars and floors, swap agreements, forward contracts, repurchase agreements and reverse repurchase agreements (the “Financial Instruments”), and money market instruments, including, but not limited to, U.S. government securities and repurchase agreements (the “Money Market Instruments”) constituting or otherwise based on or representing an investment in an index or portfolio of securities and/or Financial Instruments and Money Market Instruments, or (ii) represent interests in a trust or similar entity that holds a specified non-U.S. currency deposited with the trust or similar entity when aggregated in some specified minimum number may be surrendered to the trust by the beneficial owner to receive the specified non-U.S. currency and pays the beneficial owner interest and other distributions on the deposited non-U.S. currency, if any, declared and paid by the trust; or (iii) represent commodity pool interests principally engaged, directly or indirectly, in holding and/or managing portfolios or baskets of securities, commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and/or non-U.S. currency (“Commodity Pool Units”), or (iv) represent interests in the SPDR Gold Trust, or (v) represent interests in the iShares COMEX Gold Trust, or (vi) represent interests in the iShares Silver Trust, (vii) represents an interest in a registered investment company (“Investment Company”) organized as an open-end management investment company or similar entity, that invests in a portfolio of securities selected by the Investment Company’s investment adviser consistent with the Investment Company’s investment objectives and policies, which is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value (“NAV”), and when aggregated in the same specified minimum number, may be redeemed at a holder’s request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined NAV (“Managed Fund Share”), or, (viii) represents interests in the ETFs Silver Trust or ETFs Gold Trust, or, (ix) represents interests in the ETFs Palladium Trust or ETFs Platinum Trust, provided. . . .” In describing the proposal, for purposes of this Order, the terms “Exchange-Traded Fund” and “ETF” have the meaning set forth in the Exchange’s rules.

¹¹ See Notice, 89 FR at 5030. The Exchange stated that the term “Commodity-Based Trust Shares” means a security (a) that is issued by a trust (“Trust”) that holds (1) a specified commodity deposited with the Trust, or (2) a specified commodity and, in addition to such specified commodity, cash; (b) that is issued by such Trust

stated that it would consider listing and trading options on Commodity-Based Trust that (1) meet the criteria for underlying securities set forth in Exchange Rule 5.3–O(a)^{12–(b)},¹³ or (2) are available for creation and redemption each business day as set forth in Exchange Rule 5.3–O(g)(1)(B).¹⁴ The Exchange stated that the current continued listing standards for options on ETFs also will apply to options on Commodity-Based Trust Shares.¹⁵ In addition, the Exchange stated that options on Commodity-Based Trust Shares would be subject to the Exchange’s rules and procedures governing the trading of equity options, including margin requirements and position and exercise limits.¹⁶

Currently, the position limits for options on stocks and ETF shares are 25,000 contracts, 50,000 contracts, 75,000 contracts, 200,000 contracts, or 250,000 contracts on the same side of the market based on the six-month trading volume or the six-month trading volume and number of outstanding shares of the underlying security.¹⁷ A position limit of 25,000 contracts on the same side of the market applies to

in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity and/or cash; and (c) that, when aggregated in the same specified minimum number, may be redeemed at a holder’s request by such Trust which will deliver to the redeeming holder the quantity of the underlying commodity and/or cash. See Notice, 89 FR at 5029, n.4, and NYSE Arca Rule 8.201–E(c)(1).

¹² The Exchange stated that NYSE Arca Rule 5.3–O(a) sets forth minimum requirements for a security underlying an option, including that the underlying security have 7,000,000 shares, 2,000 shareholders, and trading volume of 2,400,000 shares over the preceding 12 months. The Exchange stated that the rule requires that the market price per share of the underlying security be at least \$7.50 for the majority of business days during the three calendar months preceding the date of selection of an option class. The Exchange stated that for underlying securities that are deemed Covered Securities, as defined under Section 18(b)(1)(A) of the Securities Act of 1933, the closing market price of the underlying security must be at least \$3.00 per share for the previous three consecutive business days prior to the date of selection of an option class. See Notice, 89 FR at 5030, n. 8.

¹³ The Exchange stated that NYSE Arca Rule 5.3–O(b) states that the underlying securities will be registered and be an “NMS Stock” as defined in Rule 600 of Regulation NMS under the Act. See Notice, 89 FR at 5030, n. 9.

¹⁴ See Notice, 89 FR at 5030.

¹⁵ See Notice, 89 FR at 5030.

¹⁶ See Notice, 89 FR at 5031. The Exchange stated that pursuant to NYSE Arca Rule 6.8–O, Commentary .05 and .06, Commodity-Based Trust Shares would be subject to the same position limits applicable to options on stocks and ETFs. In addition, the Exchange stated that NYSE Arca Rule 6.9–O provides that exercise limits for options on stocks and other securities, including Commodity-Based Trust Shares, will be the same as the position limits applicable under NYSE Arca Rule 6.8–O. See Notice, 89 FR at 5031, n. 14.

¹⁷ See NYSE Arca Rule 6.8–O.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See NYSE Arca Rule 8.201–E(c)(1).

⁴ See Securities Exchange Act Release No. 99398 (Jan. 19, 2024), 89 FR 5029 (“Notice”).

⁵ Comment letters can be accessed at <https://www.sec.gov/comments/sr-nysearca-2024-06/srnysearca202406.htm>.

⁶ 15 U.S.C. 78s(b)(2).

⁷ See Securities Exchange Act Release No. 99683 (Mar. 6, 2024), 89 FR 17888 (Mar. 12, 2024). The Commission designated April 24, 2024, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change.

⁸ 15 U.S.C. 78s(b)(2)(B).

⁹ See *supra* note 4.

options on securities that do not qualify for a higher limit.¹⁸ To be eligible for the 50,000-contract limit, the most recent six-month trading volume of the underlying security must have totaled at least 20,000,000 shares; or the most recent six-month trading volume of the underlying security must have totaled at least 15,000,000 shares and the underlying security must have at least 40,000,000 shares currently outstanding.¹⁹ To be eligible for the 75,000-contract limit, the most recent six-month trading volume of the underlying security must have totaled at least 40,000,000 shares; or the most recent six-month trading volume of the underlying security must have totaled at least 30,000,000 shares and the underlying security must have at least 120,000,000 shares currently outstanding.²⁰ To be eligible for the 200,000-contract limit, the most recent six-month trading volume of the underlying security must have totaled at least 80,000,000 shares; or the most recent six-month trading volume of the underlying security must have totaled at least 60,000,000 shares and the underlying security must have at least 240,000,000 shares currently outstanding.²¹ To be eligible for the 250,000-contract limit, the most recent six-month trading volume of the underlying security must have totaled at least 100,000,000 shares; or the most recent six-month trading volume of the underlying security must have totaled at least 75,000,000 shares and the underlying security must have at least 300,000,000 shares currently outstanding.²²

The Exchange stated that options on Commodity-Based Trust Shares would not be available for trading until The Options Clearing Corporation (“OCC”) represented to the Exchange that OCC was fully able to clear and settle such options.²³ The Exchange further stated that it had analyzed its capacity and it represented that both the Exchange and the Options Price Reporting Authority LLC (“OPRA”) have the necessary systems capacity to handle the additional traffic that would be associated with the listing of options on Commodity-Based Trust Shares.²⁴

The Exchange stated that it believes that its surveillance procedures are adequate to properly monitor the trading of options on Commodity-Based Trust Shares in all trading sessions and to deter and detect violations of the Exchange’s rules.²⁵ The Exchange stated that it would utilize its existing surveillance procedures applicable to options on ETFs (which the Exchange stated will include Commodity-Based Trust Shares) to monitor such trading.²⁶ In addition, the Exchange stated that it would implement any new surveillance procedures it deemed necessary to effectively monitor the trading of options on Commodity-Based Trust Shares, including adequate comprehensive surveillance sharing agreements (“CSSA”) with markets trading in non-U.S. components, as applicable.²⁷ The Exchange stated that it may obtain trading information via the Intermarket Surveillance Group (“ISG”) from other exchanges who are members or affiliates of the ISG.²⁸ The Exchange represented that these procedures would be adequate to properly monitor Exchange trading of options on Commodity-Based Trust Shares and to deter and detect violations of Exchange rules.²⁹

The Exchange stated that in approving Commodity-Based Trust Shares for equities exchange trading, the Commission thoroughly considered the structure of the Commodity-Based Trust Shares, their usefulness to investors and to the markets, and the exchange rules governing their trading.³⁰ The Exchange stated that amending Exchange Rule 5.3–O(g) to allow the listing of options on Commodity-Based Trust Shares would allow options on Commodity-Based Trust Shares that have satisfied the generic listing standards to commence trading without the need for a public comment period and Commission approval.³¹ The Exchange further stated that the proposal has the potential to significantly reduce the time frame and costs associated with bringing options on Commodity-Based Trust Shares to market, thereby reducing the burden on issuers and other market participants, while also promoting competition among options exchanges.³²

III. Summary of Comments Received

The Commission received comment letters regarding the proposal.³³ One commenter stated that “option trading should be automatic for any NMS security that otherwise meets an exchange’s quantitative listing standards.”³⁴ Another commenter stated that although NYSE Arca Rule 5.3–O(g) permits options trading for entire classes of investment products, such as open-end investment companies or unit investment trusts, the listing of options on spot commodity-based exchange-traded products is subject to review on a product-by-product basis.³⁵ According to this commenter, this “result[s] in a patchwork rule wherein additional individual commodity-based ETPs are tacked on to NYSE Arca Rule 5.3–O(g) and NYSE American Rule 915, rather than being approved as a class.”³⁶ This commenter characterized this product-by-product approach for commodity-based exchange-traded products (“ETPs”) as expensive and time-consuming³⁷ and urged the Commission to “update its outdated historical patchwork approach to approval of options on spot commodity-based ETPs that are structured identically to those spot commodity-ETPs for which the listing and trading on a national securities exchange has been approved . . . and permit national securities exchanges to update their rules to permit the deemed approval of the listing and trading of such options.”³⁸

One commenter stated that options are an efficient risk management tool that give investors the ability to take on or reduce risk.³⁹ The commenter further stated that because “the price trajectories of the spot- and futures-based bitcoin ETFs are virtually identical,” options on these securities should have the same regulatory treatment.⁴⁰ Another commenter stated that options on spot bitcoin ETPs would facilitate price discovery in the shares of the underlying ETP, improve market efficiency, and help investors achieve desired investment outcomes, such as

³³ See *supra* note 5.

³⁴ Letter from James J. Angel, Associate Professor of Finance, Georgetown University, to the Commission, dated March 10, 2024 (“Angel Letter”) at 6.

³⁵ See Letter from Michael Sonnenshein, on behalf of Grayscale Investments, LLC and GBTC investors, to Vanessa Countryman, Secretary, Commission, dated February 28, 2024 (“Grayscale Letter”) at 6.

³⁶ Grayscale Letter at 6.

³⁷ See Grayscale Letter at 5.

³⁸ Grayscale Letter at 2.

³⁹ See Angel Letter at 8.

⁴⁰ Angel Letter at 4.

¹⁸ See NYSE Arca Rule 6.8–O, Commentary .06(c).

¹⁹ See NYSE Arca Rule 6.8–O, Commentary .06(b).

²⁰ See NYSE Arca Rule 6.8–O, Commentary .06(a).

²¹ See NYSE Arca Rule 6.8–O, Commentary .06(d).

²² See NYSE Arca Rule 6.8–O, Commentary .06(e).

²³ See Notice, 89 FR at 5031.

²⁴ See Notice, 89 FR at 5031.

²⁵ See Notice, 89 FR at 5031.

²⁶ See Notice, 89 FR at 5031.

²⁷ See Notice, 89 FR at 5031. The Exchange stated that NYSE Arca Rule 5.3–O(g)(2) provides the applicable CSSA requirements for options on ETFs. See Notice, 89 FR at 5031, n. 17.

²⁸ See Notice, 89 FR at 5031.

²⁹ See Notice, 89 FR at 5031.

³⁰ See Notice, 89 FR at 5031.

³¹ See Notice, 89 FR at 5031.

³² See Notice, 89 FR at 5031.

generating income, hedging, or reducing volatility.⁴¹ In addition, the commenter stated that approving the listing and trading of options on spot Bitcoin ETPs “would further bring Bitcoin into the regulatory perimeter by allowing additional regulated market participants such as CFTC-regulated designated contract merchants and SEC-regulated broker-dealers to trade the products.”⁴²

IV. Proceedings To Determine Whether To Approve or Disapprove SR–NYSEARCA–2024–06 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act⁴³ to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change, as discussed below. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,⁴⁴ the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change’s consistency with Section 6(b)(5) of the Act,⁴⁵ which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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.

Under the Commission’s Rules of Practice, the “burden to demonstrate that a proposed rule change is consistent with the [Act] and the rules and regulations issued thereunder . . . is on the self-regulatory organization that proposed the rule change.”⁴⁶ The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to

support an affirmative Commission finding,⁴⁷ and any failure of a self-regulatory organization to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Act and the applicable rules and regulations.⁴⁸

To date, the Commission has only approved listing rules for options on shares of spot commodity-based ETPs for specific ETPs, not classes of ETPs.⁴⁹ For example, Exchange Rule 5.3–O(g) currently permits the listing of options on securities that represent interests in the SPDR Gold Trust, the iShares COMEX Gold Trust, the iShares Silver Trust, the ETFS Silver Trust, the ETFS Palladium Trust, or ETFS Platinum Trust. The Exchange proposes to replace this product-by-product approach and amend Exchange Rule 5.3–O(g) to permit the listing of options on securities that represent interests in Commodity-Based Trust Shares, as defined in Exchange Rule 8.201–E. The proposal would allow the Exchange to list options on any Commodity-Based Trust Share without filing a proposed rule change with the Commission.⁵⁰ The Exchange stated that the Commission previously has approved generic listing standards pursuant to Rule 19b–4(e) under the Act⁵¹ that permit the listing of options on ETFs based on indexes that consist of stocks listed on U.S. exchanges.⁵² The Exchange stated that the Commission also previously has

approved generic listing standards that permit the listing of options on ETFs based on international or global indexes.⁵³ In addition, in contrast to the product-by-product approval of options on spot-commodity-based ETPs, Exchange Rule 5.3–O(g) provides for the listing and trading of options on general groups of investment products, including, among others, open-end investment companies or unit investment trusts that may hold securities, certain financial instruments, and money market instruments.

Options on Commodity-Based Trusts could result in additional demand for creations and redemptions of shares of the underlying Commodity-Based Trust from options market makers seeking to hedge their positions. These additional creations and redemptions could increase demand for the underlying commodity. In addition, options market makers could seek to hedge their positions by transacting in the underlying commodity or using commodity derivatives. These additional demands for the underlying commodity have the potential to result in limited availability of the underlying commodity during times of market volatility which, in turn, could affect the creation and redemption process for Commodity-Based Shares. The spot markets for the underlying commodities that Commodity-Based Trusts may hold could vary significantly in terms of trading volumes, market concentration, market participants, commercial realities, and delivery practices, among other things. These dynamics raise questions as to whether, given the potentially significant differences in the spot markets for the underlying commodities, it is appropriate for the Commission to allow the Exchange to list options on any Commodity-Based Trust Share without filing a proposed rule change with the Commission, rather than continuing to review such proposals on a product-by-product basis. A product-specific approach would allow the Exchange to provide the Commission with information regarding the market for the underlying commodity that a trust holds and help to demonstrate that listing options on Commodity-Based Trust Shares representing interests in that trust would not result in adverse market impacts, such as a shortage in the supply of the underlying commodity, which, among other things, could affect the creation and redemption process for

⁴⁷ See *id.*

⁴⁸ See *id.*

⁴⁹ See, e.g., Securities Exchange Act Release Nos. 94928 (May 17, 2022), 87 FR 31287 (May 23, 2022) (File No. SR–CBOE–2022–09) (order approving a proposed rule change to list and trade options on shares of the Goldman Sachs Physical Gold ETF); 61983 (Apr. 26, 2010), 75 FR 23314 (May 3, 2010) (File No. SR–ISE–2010–19) (order approving a proposed rule change to list and trade options on shares of the ETFS Palladium Trust and the ETFS Platinum Trust); 61483 (Feb. 3, 2010), 75 FR 6753 (Feb. 10, 2010) (File Nos. SR–SR–CBOE–2010–007; SR–ISE–2009–106; SR–NYSEAmex–2009–86; and SR–NYSEArca–2009–110) (approving proposals to list and trade options on shares of the ETFS Gold Trust and the ETFS Silver Trust); 59055 (December 4, 2008), 73 FR 75148 (December 10, 2008) (File Nos. SR–Amex–2008–68; SR–BSE–2008–51; SR–CBOE–2008–72; SR–ISE–2008–58; SR–NYSEArca–2008–66; and SR–Phlx–2008–58) (order approving the listing and trading of options on shares of the iShares COMEX Gold Trust and the iShares Silver Trust); 57894 (May 30, 2008), 73 FR 32061 (June 5, 2008) (File Nos. SR–Amex–2008–15; SR–CBOE–2005–11; SR–ISE–2008–12; SR–NYSEArca–2008–52; and SR–Phlx–2008–17) (order approving the listing and trading of options on shares of the SPDR Gold Trust).

⁵⁰ See Notice, 89 FR at 5030, 5032.

⁵¹ 17 CFR 240.19b–4(e).

⁵² See Notice, 89 FR at 5031, and Securities Exchange Act Release No. 42787, 65 FR 33598 (May 24, 2000) (order approving File No. SR–Amex–00–14).

⁵³ See Securities Exchange Act Release No. 54379 (November 9, 2006), 71 FR 66993 (November 17, 2006) (order approving File No. SR–AMEX–2006–78).

⁴¹ See Grayscale Letter at 3.

⁴² Grayscale Letter at 3.

⁴³ 15 U.S.C. 78s(b)(2)(B).

⁴⁴ 15 U.S.C. 78s(b)(2)(B).

⁴⁵ 15 U.S.C. 78f(b)(5).

⁴⁶ Rule 700(b)(3), Commission Rules of Practice, 17 CFR 201.700(b)(3).

the Commodity-Based Trust Shares. In addition, the proposal states that options on Commodity-Based Trust Shares would be subject to the same position limits applicable to options on stocks and ETFs.⁵⁴ Instituting proceedings allows for comment on whether those position limits are appropriate for options on Commodity-Based Trust Shares in light of the significant differences between the underlying stock and ETF markets versus the markets for physical commodities.

V. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their data, views, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is consistent with Section 6(b)(5), or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of data, views, and arguments, the Commission will consider, pursuant to Rule 19b-4 under the Act,⁵⁵ any request for an opportunity to make an oral presentation.⁵⁶

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved by May 21, 2024. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by June 4, 2024. The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice,⁵⁷ in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks comment on the following questions and asks commenters to submit data

where appropriate to support their views:

1. Whether, given the potentially significant differences in the markets for the underlying commodities, the Exchange has provided sufficient data and analysis to support a conclusion that it is not necessary for the Commission to review and approve the listing and trading of options on ETPs, including Commodity-Based Trust Shares, on a product-by-product basis;

2. Whether options on Commodity-Based Trust Shares should be subject to the same position and exercise limits as options on stock, and whether the available supply in the markets for the commodity on which the Commodity-Based Trust Shares are based is relevant in determining the position and exercise limits for options on Commodity-Based Trust Shares; and

3. Whether the listing of options on Commodity-Based Trust Shares for certain commodities should be subject to scrutiny on a product-by-product basis because of the potential differences in the underlying spot markets, such as deliverable supply, trading volumes, and the involvement of commercial or financial participants.

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 No. SR-NYSEARCA-2024-06 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-2024-06. 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-NYSEARCA-2024-06 and should be submitted by May 21, 2024. Rebuttal comments should be submitted by June 4, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵⁸

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024-09217 Filed 4-29-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100021; File No. SR-MEMX-2024-13]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Fee Schedule To Adopt Connectivity and Application Session Fees for MEMX Options

April 24, 2024.

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 April 12, 2024, 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 a proposal to amend the Fee Schedule to: (i) apply the Exchange's current Connectivity and

⁵⁴ See Notice, 89 FR at 5031, n. 14.

⁵⁵ 17 CFR 240.19b-4.

⁵⁶ Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94-29 (June 4, 1975), grants to the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

⁵⁷ See *supra* note 4.

⁵⁸ 17 CFR 200.30-3(a)(57).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.