SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98938; File No. SR–MEMX–2023–30]

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

November 14, 2023.

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 1, 2023, 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 Exchange's fee schedule applicable to Members[3] (the ''Fee Schedule'') pursuant to Exchange Rules 15.1(a) and (c). The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal on November 1, 2023. 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 purpose of the proposed rule change is to amend the Fee Schedule to (i) reduce the base rebate for executions of Retail Orders[4] in securities priced at or above $1.00 per share that add displayed liquidity to the Exchange (such orders, ''Added Displayed Retail Volume''); (ii) modify the Liquidity Provision Tiers by: modifying the required criteria under Liquidity Provision Tiers 1, 2, 3, 4, and 5; decreasing the rebate for executions of orders in securities priced at or above $1.00 per share that add displayed liquidity to the Exchange (such orders, ''Added Displayed Volume'') under Liquidity Provision Tiers 2, 3, and 5; modifying the method by which the Exchange provides the rebate under Liquidity Provision Tiers 4 and 5; and eliminating Liquidity Provision Tier 6; (iii) adopt a new Retail Tier that provides an enhanced rebate for executions of Added Displayed Retail Volume priced at or above $1.00 per share; (iv) modify the required criteria under Liquidity Removal Tier 1; (v) modify the required criteria under Non-Display Add Tier 1; (vi) modify the NBBO Setter/Joiner Tiers by reducing the additive rebate per share under NBBO Setter/Joiner Tier 1, renaming such tier to ''NBBO Setter Tier 1'' and eliminating NBBO Setter/Joiner Tier 2; (vii) adopt a new Tape B Volume Tier that provides an additive rebate for executions of Added Displayed Volume in Tape B securities priced at or above $1.00 per share and add a corresponding relevant defined term to the ''Definitions'' section of the Fee Schedule; and (viii) adopt a new additive rebate for executions of Added Displayed Volume applicable to Displayed Liquidity Incentive (''DLI'') Tier 1 and Liquidity Provision Tier 1 or Liquidity Provision Tier 2; as further described below.

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 15.5% 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 approximately 3% of the overall market share.[6] The Exchange in particular operates a ''Maker-Taker'' model whereby it provides rebates to Members that add liquidity to the Exchange and charges fees to Members that remove liquidity from the Exchange. The Fee Schedule sets forth the standard rebates and fees applied per share for orders that add and remove liquidity, respectively. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing, which provides Members with opportunities to qualify for higher rebates or lower fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

Reduce Base Rebate for Added Displayed Retail Volume

Currently, the Exchange provides a base rebate of $0.0034 per share for executions of Added Displayed Retail Volume. The Exchange now proposes to reduce the base rebate for executions of Added Displayed Retail Volume to $0.0032 per share.[7] The purpose of reducing the base rebate for executions of Added Displayed Retail Volume is for business and competitive reasons, as the Exchange believes that reducing such rebate as proposed would decrease the Exchange's expenditures with respect to its transaction pricing in a manner that is still consistent with the Exchange's overall pricing philosophy of

[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 (''RMO''), 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).

[5] Market share percentage calculated as of October 31, 2023. The Exchange receives and processes data made available through consolidated data feeds (*i.e.,* CTS and UTDF).

[6] *Id.*

[7] The proposed base rebate for executions of Added Displayed Retail Volume is referred to by the Exchange on the Fee Schedule under the existing description ''Added displayed volume, Retail Order'' with a Fee Code of ''Br'', ''Dr'' or ''Jr'', as applicable, on execution reports.

encouraging added displayed liquidity. The Exchange notes that despite the reduction proposed herein, the proposed base rebate for executions of Added Displayed Retail Volume remains competitive with the base rebates provided by other exchanges for executions of Retail Orders in securities priced at or above $1.00 per share that add displayed liquidity.[8]

Liquidity Provision Tiers

The Exchange currently provides a base rebate of $0.0015 per share for executions of Added Displayed Volume.[9] The Exchange also currently offers Liquidity Provision Tiers 1–6 under which a Member may receive an enhanced rebate for executions of Added Displayed Volume by achieving the corresponding required volume criteria for each such tier. The Exchange now proposes to modify the Liquidity Provision Tiers by modifying the required criteria under Liquidity Provision Tier 1 and Liquidity Provision Tier 4, reducing the rebate for executions of Added Displayed Volume and modifying the required criteria under Liquidity Provision Tier 2, Liquidity Provision Tier 3, and Liquidity Provision Tier 5, and eliminating Liquidity Provision Tier 6, as further described below.

First, with respect to Liquidity Provision Tier 1, the Exchange currently provides an enhanced rebate of $0.0033 per share for executions of Added Displayed Volume for Members that qualify for such tier by achieving an ADAV[10] (excluding Retail Orders) that is equal to or greater than 0.45% of the TCV.[11] Now, the Exchange proposes to modify the required criteria such that Member would now qualify for Liquidity Provision Tier 1 by achieving: (1) an ADAV (excluding Retail Orders) that is equal to or greater than 0.45% of the TCV; or (2) a Step-Up ADAV[12] (excluding Retail Orders) of the TCV from September 2023 that is equal to or greater than .05%, an ADV[13] that is equal to or greater than 0.50% of the TCV, and a Non-Displayed ADAV[14] that is equal to or greater than 5,000,000 shares; or (3) an ADAV that is equal to or greater than 0.30% of the TCV and a Non-Displayed ADAV that is equal to or greater than 7,000,000 shares. Thus, such proposed changes would keep the existing criteria intact as the first alternative, and add two additional alternative criteria, the first involving a combination of Step-Up ADAV, ADV, and Non-Displayed ADAV thresholds, and the second involving a combination of ADAV and Non-Displayed ADAV thresholds, all of which are designed to encourage the submission of additional liquidity-adding order flow to the Exchange.[15] Additionally, the Exchange is proposing that criteria (2) of Liquidity Provision Tier 1 will expire no later than March 31, 2024, and the Exchange will indicate this in a note under the Liquidity Provision Tiers pricing table on the Fee Schedule. The Exchange is not proposing to change the rebate provided under such tier.

With respect to Liquidity Provision Tier 2, the Exchange currently provides an enhanced rebate of $0.00325 per share for executions of Added Displayed Volume for Members that qualify for such tier by achieving: (1) an ADAV that is equal to or greater than 0.25% of the TCV; and (2) a Non-Displayed ADAV that is equal to or greater than 4,000,000 shares. The Exchange now proposes to reduce the rebate for executions of Added Displayed Volume under Liquidity Provision Tier 2 to $0.0032 per share and to modify the required criteria such that a Member would qualify for such tier by achieving: (1) an ADAV that is equal to or greater than 0.25% of the TCV and a Non-Displayed ADAV that is equal to or greater than 4,000,000 shares; or (2) a Step-Up Displayed ADAV of the TCV from September 2023 that is equal to or greater than 0.10% and a Displayed ADAV (excluding Retail Orders) that is equal to or greater than 0.20% of the TCV.[16] Thus, such proposed changes would keep the existing criteria intact and add an alternative criteria (2) that includes a Step-Up Displayed ADAV threshold and a Displayed ADAV (excluding Retail Orders) threshold, which is designed to encourage the submission of additional liquidity-adding order flow to the Exchange. Additionally, the Exchange is proposing that criteria (2) of Liquidity Provision Tier 2 will expire no later than March 31, 2024, and the Exchange will indicate this in a note under the Liquidity Provision Tiers pricing table on the Fee Schedule.

With respect to Liquidity Provision Tier 3, the Exchange currently provides an enhanced rebate of $0.0031 per share for executions of Added Displayed Volume for Members that qualify for such tier by achieving an ADAV that is equal to or greater than 0.20% of the TCV. The Exchange now proposes to reduce the rebate for executions of Added Displayed Volume under Liquidity Provision Tier 3 to $0.0030 per share and to modify the required criteria such that a Member would now qualify for such tier by achieving an ADAV that is equal to or greater than 0.175% of the TCV.[17] Thus, such proposed change reduces the TCV threshold as well as the applicable rebate.

With respect to Liquidity Provision Tier 4, the Exchange currently provides an enhanced rebate of $0.0029 per share for executions of Added Displayed Volume for Members that qualify for such tier by achieving: (1) an ADAV that is equal to or greater than 0.15% of the TCV; or (2) a Displayed ADAV that is equal to or greater than 0.02% of the TCV and a Step-Up Displayed ADAV of the TCV from April 2023 that is equal

[8] *See, e.g.,* the Cboe BZX equities trading fee schedule on its public website (available at *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/*), which reflects a base rebate of $0.0032 per share for executions of attested retail orders in securities priced at or above $1.00 per share that add displayed liquidity, and the Cboe EDGX Exchange, Inc. (''Cboe EDGX'') equities trading fee schedule on its public website (available at *https://www.cboe.com/us/equities/membership/fee_schedule/edgx/*), which reflects a base rebate of $0.0032 per share for executions of attested retail orders in securities priced at or above $1.00 per share that add displayed liquidity.

[9] The base rebate for executions of Added Displayed Volume is referred to by the Exchange on the Fee Schedule under the existing description ''Added displayed volume'' with a Fee Code of ''B'', ''D'' or ''J'', as applicable, on execution reports.

[10] As set forth on the Fee Schedule, ''ADAV'' means the average daily added volume calculated as the number of shares added per day, which is calculated on a monthly basis, and ''Displayed ADAV'' means ADAV with respect to displayed orders.

[11] As set forth on the Fee Schedule, ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

[12] As set forth on the Fee Schedule, ''Step-Up ADAV'' means ADAV in the relevant baseline month subtracted from current ADAV.

[13] As set forth on the Fee Schedule, ''ADV'' means average daily volume calculated as the number of shares added or removed, combined, per day. ADV is calculated on a monthly basis.

[14] As set forth on the Fee Schedule, ''Non-Displayed ADAV'' means ADAV with respect to non-displayed orders (including orders subject to Display-Price Sliding that receive price improvement when executed and Midpoint Peg orders).

[15] The pricing for Liquidity Provision Tier 1 is referred to by the Exchange on the Fee Schedule under the existing description ''Added displayed volume, Liquidity Provision Tier 1'' with a Fee Code of ''B1'', ''D1'' or ''J1'', as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

[16] The proposed pricing for Liquidity Provision Tier 2 is referred to by the Exchange on the Fee Schedule under the existing description ''Added displayed volume, Liquidity Provision Tier 2'' with a Fee Code of ''B2'', ''D2'' or ''J2'', as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

[17] The proposed pricing for Liquidity Provision Tier 3 is referred to by the Exchange on the Fee Schedule under the existing description ''Added displayed volume, Liquidity Provision Tier 3'' with a Fee Code of ''B3'', ''D3'' or ''J3'', as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

to or greater than 50% of the Member's April 2023 Displayed ADAV of the TCV. The Exchange now proposes modify the required criteria such that a Member would now qualify for such tier by achieving (1) an ADAV (excluding Retail Orders) that is equal to or greater than 0.09% of the TCV; or (2) an ADAV that is equal to or greater than 0.06% of the TCV and a Step-Up ADAV from June 2023 that is equal to or greater than 40% of the Member's June 2023 Displayed ADAV.[18] Thus, such proposed change would lower the ADAV threshold in the first alternative criteria (and exclude Retail Orders), and modify the alternative ADAV and Step-Up ADAV thresholds in criteria (2). Additionally, the Exchange is proposing that criteria (2) of Liquidity Provision Tier 4 will expire no later than December 31, 2023. The Exchange is not proposing to change the rebate provided under such tier.

With respect to Liquidity Provision Tier 5, the Exchange currently provides an enhanced rebate of $0.0027 per share for executions of Added Displayed Volume for Members that qualify for such tier by achieving an ADAV that is equal to or greater than 0.075% of the TCV. The Exchange now proposes to reduce the rebate for executions of Added Displayed Volume under Liquidity Provision Tier 5 to $0.0025 per share and to modify the required criteria such that a Member would now qualify for such tier by achieving: (1) an ADAV that is equal to or greater than 0.06% of the TCV; or (2) a Displayed ADAV that is equal to or greater than 0.007% of the TCV and a Step-Up Displayed ADAV from May 2023 that is equal to or greater than 50% of the Member's May 2023 Displayed ADAV of the TCV.[19] Thus, such proposed change would lower the ADAV threshold in the existing criteria and add an alternative criteria (2) that includes a Displayed ADAV and a Step-Up Displayed ADAV threshold. Additionally, the Exchange is proposing that criteria (2) of Liquidity Provision Tier 5 will expire no later than November 30, 2023, and the Exchange will indicate this in a note under the Liquidity Provision Tiers pricing table on the Fee Schedule.

With respect to Liquidity Provision Tier 6, the Exchange currently provides an enhanced rebate of $0.0024 per share for executions of Added Displayed Volume for Members that qualify for such tier by achieving a Displayed ADAV that is equal to or greater than 0.007% of the TCV and a Step-Up Displayed ADAV of the TCV from May 2023 that is equal to or greater than 50% of the Member's May 2023 Displayed ADAV of the TCV. As noted above, the criteria under this Tier has been shifted into criteria (2) of Liquidity Provision Tier 5. As such, the Exchange now proposes to eliminate Liquidity Provision Tier 6, as the Exchange no longer wishes to, nor is it required to, maintain such tier.

Lastly, the Exchange is proposing to delete the language on the Fee Schedule that indicates Members that qualify for Liquidity Provision Tiers 4, 5, or 6 based on activity in a given month will also receive the associated Tier 4, 5 or 6 rebate during the following month. This method of providing the rebate under such Tiers was implemented on June 1, 2023,[20] and differed from the previous practice applicable to those tiers (and current practice with respect to all incentives and pricing tiers on the Exchange's Fee Schedule) whereby a Member receives the applicable rebate at the end of the month if it achieved the applicable criteria during that month. The Exchange implemented this method on a trial basis in an effort to encourage Members to increase their liquidity-adding order flow with an added layer of certainty in the rebate they would receive the next month, if applicable. However, the Exchange does not believe that the revised method incentivized Members to achieve Liquidity Provisions 4, 5, or 6 in a manner that was material enough to continue the trial further, and it would rather redirect the associated resources into other programs and tiers intended to incentivize increased order flow or enhance market quality. As such, the Exchange proposes to discontinue this method and provide the applicable rebate under Liquidity Provision Tiers 4 and 5 (as noted above, it is proposing to eliminate Liquidity Provision Tier 6) in the same manner in which it provides rebates under all other pricing tiers.

The purpose of reducing the rebates for executions of Added Displayed Volume under Liquidity Provision Tiers 2, 3 and 5 as proposed, which the Exchange believes in each case represents a modest reduction and remains commensurate with the required criteria as modified, and eliminating Liquidity Provision Tier 6 is for business and competitive reasons, as the Exchange believes that such rebate reductions and tier elimination would decrease the Exchange's expenditures with respect to its transaction pricing in a manner that is still consistent with the Exchange's overall pricing philosophy of encouraging added liquidity. The purpose of modifying the required criteria under Liquidity Provision Tiers 1–5 provides an incremental incentive for Members to strive for higher volume thresholds to receive higher enhanced rebates for such executions and, as such, is intended to encourage Members to maintain or increase their order flow, primarily in the form of liquidity-adding volume, to the Exchange, thereby contributing to a deeper and more liquid market to the benefit of all Members and market participants. The Exchange believes that the Liquidity Provision Tiers, as modified by the proposed changes described above, reflect a reasonable and competitive pricing structure that is right-sized and consistent with the Exchange's overall pricing philosophy of encouraging added and/or displayed liquidity. Specifically, the Exchange believes that, after giving effect to the proposed changes described above, the rebate for executions of Added Displayed Volume provided under each of the Liquidity Provision Tiers 1–5 and the manner in which it is provided remains commensurate with the corresponding required criteria under each such tier and is reasonably related to the market quality benefits that each such tier is designed to achieve.

Retail Tier

As described above, the Exchange is proposing to provide a base rebate of $0.0032 per share for executions of Added Displayed Retail Volume. In addition, the Exchange is proposing to adopt a new tiered pricing structure applicable to the rebate provided for executions of Added Displayed Retail Volume. Specifically, the Exchange proposes to adopt a new volume-based tier, referred to by the Exchange as the Retail Tier, in which the Exchange will provide an enhanced rebate for executions of Added Displayed Retail Volume that meet a certain specified volume threshold on the Exchange. Under the proposed Retail Tier 1, the Exchange will provide an enhanced rebate of $0.0034 per share for executions of Added Displayed Retail Volume for a Member that qualifies for

[18] The proposed pricing for Liquidity Provision Tier 4 is referred to by the Exchange on the Fee Schedule under the existing description ''Added displayed volume, Liquidity Provision Tier 4'' with a Fee Code of ''B4'', ''D4'' or ''J4'', as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

[19] The proposed pricing for Liquidity Provision Tier 5 is referred to by the Exchange on the Fee Schedule under the existing description ''Added displayed volume, Liquidity Provision Tier 5'' with a Fee Code of ''B5'', ''D5'' or ''J5'', as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

[20] *See* Securities Exchange Act Release No. 97724 (June 14, 2023), 88 FR 40361 (June 21, 2023) (SR–MEMX–2023–10).

the Retail Tier 1 by achieving a Retail Order ADAV that is equal to or greater than 0.07% of the TCV. The $0.0003 per share additive rebate will be provided in addition to the rebate that is otherwise applicable to each of a qualifying Members' orders that constitutes Setter Volume (including a rebate provided under another pricing tier/incentive).[21] The Exchange proposes to provide Members that qualify for the proposed new Retail Tier 1 a rebate of 0.075% of the total dollar volume of the transaction for executions of orders in securities priced below $1.00 per share that add displayed liquidity to the Exchange, which is the same rebate that is currently applicable to such executions for all Members.

The proposed Retail Tier is designed to encourage growth in Retail Order flow to the Exchange by providing an additional rebate for executions of Added Displayed Retail Volume, thereby promoting increased liquidity and providing for overall enhanced price discovery and market quality on the Exchange. The Exchange notes that the proposed Retail Tier is comparable to other volume-based incentives and discounts, which have been widely adopted by exchanges (including the Exchange).[22]

Liquidity Removal Tier

The Exchange currently charges a standard fee of $0.0030 per share for executions of orders in securities priced at or above $1.00 per share that remove liquidity from the Exchange (such orders, ''Removed Volume''). The Exchange also currently offers Liquidity Removal Tier 1 under which qualifying Members are charged a discounted fee of $0.00295 per share for executions of Removed Volume by achieving (1) an ADV that is equal to or greater than 0.50% of the TCV; or (2) a Remove ADV[23] that is equal to or greater than 0.30% of the TCV. Now, the Exchange proposes to modify the required criteria under Liquidity Removal Tier 1 such that a Member would qualify for such tier by achieving (1) an ADV that is equal to or greater than 0.60% of the TCV; and (2) a Remove ADV that is equal to or greater than 0.30% of the TCV.[24] Thus, such proposed change would increase the ADV threshold in the first required criteria and keep the second required criteria intact with no changes except that, as proposed, a Member would be required to achieve both criteria, rather than one or the other. The Exchange is not proposing to change the rebate provided under such tier.

The proposed change to the Liquidity Removal Tier 1 is designed to encourage Members to maintain or increase their order flow, including in the form of orders that remove liquidity, to the Exchange in order to qualify for the discounted fee for executions of Removed Volume. While the Exchange's overall pricing philosophy generally encourages adding liquidity over removing liquidity, the Exchange believes that providing alternative criteria that are based on different types of volume that Members may choose to achieve, such as the proposed new criteria under Liquidity Removal Tier 1, contributes to a more robust and well-balanced market ecosystem on the Exchange to the benefit of all Members.

Non-Display Add Tier 1

The Exchange currently offers Non-Display Add Tiers 1–4 under which a Member may receive an enhanced rebate for executions of Added Non-Displayed Volume by achieving the corresponding required volume criteria for each such tier. Currently, a Member qualifies for Non-Display Add Tier 1, and thus receives an enhanced rebate of $0.0028 per share for executions of Added Non-Displayed Volume under such tier, by achieving: (1) a Non-Displayed ADAV that is equal to or greater than 8,000,000 shares; or (2) an ADAV (excluding Retail Orders) that is equal to or greater than 0.45% of the TCV.[25] The Exchange now proposes to modify Non-Display Add Tier 1 such that a Member would now qualify for such tier by achieving a Non-Displayed ADAV that is equal to or greater than 8,000,000 shares. Thus, such proposed change would keep the first existing criteria intact without changes and eliminate the second alternative criteria, which the Exchange believes would make the tier easier for Members to achieve, and, in turn, while the Exchange has no way of predicting with certainty how the proposed new criteria will impact Member activity, the Exchange expects that more Members will qualify, or strive to qualify, for such tier than currently do, resulting in the submission of additional order flow to the Exchange. The Exchange is not proposing to change the rebate provided under this tier.

The tiered pricing structure for executions of Added Non-Displayed Volume under the Non-Display Add Tiers provides an incremental incentive for Members to strive for higher volume thresholds to receive higher enhanced rebates for such executions and, as such, is intended to encourage Members to maintain or increase their order flow, particularly in the form of liquidity-adding non-displayed volume, to the Exchange, thereby contributing to a deeper and more robust and well-balanced market ecosystem to the benefit of all Members and market participants.

NBBO Setter/Joiner Tiers

The Exchange currently offers NBBO Setter/Joiner Tiers 1–2 under which a Member may receive an additive rebate for a qualifying Member's executions of Added Displayed Volume (other than Retail Orders) that establish the NBBO (such orders, ''Setter Volume'') and executions of Added Displayed Volume (other than Retail Orders) that establish a new best bid or offer on the Exchange that matches the NBBO first established on an away market (such orders, ''Joiner Volume''). The Exchange now proposes to modify the NBBO Setter/Joiner Tiers by decreasing the additive rebate provided for executions of Setter and Joiner Volume under NBBO Setter/Joiner Tier 1 and renaming such tier ''NBBO Setter Tier 1'' and eliminating NBBO Setter/Joiner Tier 2, as further described below.

With respect to NBBO Setter/Joiner Tier 1, the Exchange currently provides an additive rebate of $0.0004 per share for executions of Setter Volume for Members that qualify for such tier by achieving an ADAV equal to or greater than 0.10% of the TCV with respect to orders with Fee Code B.[26] Now, the Exchange proposes to reduce the rebate

[21] The proposed pricing for the Retail Tier is referred to by the Exchange on the Fee Schedule under the description ''Added displayed volume, Retail Tier 1'' with a Fee Code of ''Br1'', ''Dr1'' or ''Jr1'', as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

[22] *See, e.g.,* the Retail Volume Tiers reflected on the Cboe BZX equities trading fee schedule (available at *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/*), and the Retail Volume Tiers reflected on the Cboe EDGX equities trading fee schedule (available at *https://www.cboe.com/us/equities/membership/fee_schedule/edgx/*).

[23] As set forth on the Fee Schedule, ''Remove ADV'' means ADV with respect to orders that remove liquidity.

[24] The proposed pricing for Liquidity Removal Tier 1 is referred to by the Exchange on the Fee Schedule under the existing description ''Removed volume from MEMX Book, Liquidity Removal Tier 1'' with a Fee Code of ''R1'' assigned on the monthly invoices provided by the Exchange. The Exchange is not proposing to change the fee charged under Liquidity Removal Tier 1 for executions of securities priced below $1.00 per share.

[25] The pricing for Non-Display Add Tier 1 is referred to by the Exchange on the Fee Schedule under the existing description ''Added non-displayed volume, Non-Display Add Tier 1'' with a Fee Code of ''H1'', ''M1'' or ''P1'', as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

[26] The Exchange notes that orders with Fee Code B include orders, other than Retail Orders, that establish the NBBO.

for NBBO Setter/Joiner Tier 1 to $0.0002 per share. The Exchange believes that the additive rebate remains commensurate with the required criteria under such tier, as modified, and is reasonably related to the market quality benefits that such tier is designed to achieve.

With respect to NBBO/Setter Joiner Tier 2, the Exchange currently provides an additive rebate of $0.0002 per share for executions of Setter Volume and Joiner Volume for Members that qualify for such tier by achieving an ADAV that is equal to or greater than 0.05% of the TCV and a Displayed ADAV with respect to orders with Fee Code B or J [27] that is equal to or greater than 40% of the Member's Displayed ADAV with respect to orders with Fee Code B, D or J.[28] The Exchange now proposes to eliminate NBBO Setter/Joiner Tier 2, as the Exchange no longer wishes to, nor is it required to, maintain such tier.

Finally, after the proposed elimination of NBBO Setter/Joiner Tier 2, only one relevant Tier remains, and that tier only applies to orders with a Fee Code B that establish the NBBO. As such, the Exchange proposes to rename this tier category ''NBBO Setter Tier'', and the relevant Tier 1 ''NBBO Setter Tier 1''.

Adoption of Tape B Volume Tier

The Exchange proposes to adopt a new volume-based tier, referred to by the Exchange as the Tape B Volume Tier, in which the Exchange will provide an additive rebate for executions of Added Displayed Volume (excluding Retail Orders) in Tape B Securities (such orders, ''Tape B Volume''). Under the proposed Tape B Volume Tier 1, the Exchange will provide an additive rebate of $0.0001 per share for executions of Tape B Volume for a Member that qualifies for the Tape B Volume Tier 1 by achieving: (1) a Step-Up Tape B ADAV [29] of the Tape B TCV from October 2023 that is equal to or greater than 0.10%(excluding Retail Orders); and (2) a Tape B ADAV that is equal to or greater than 0.25% of the Tape B TCV (excluding Retail Orders). The $0.0001 per share additive rebate will be provided in addition to the rebate that is otherwise applicable to each of a qualifying Members' orders that constitutes Tape B Volume (including a rebate provided under another pricing tier/incentive).[30] Additionally, the Exchange is proposing Tape B Volume Tier 1 will expire no later than April 30, 2024, and the Exchange will indicate this in a note under the Tape B Volume Tier pricing table on the Fee Schedule. The Exchange notes that the additive rebate will not apply to executions of orders in Tape B securities priced below $1.00 per share.

The proposed Tape B Volume Tier is designed to attract displayed liquidity to the Exchange in Tape B securities by providing an additional rebate for executions of Tape B Volume to Members, thereby promoting price discovery and market quality on the Exchange. The Exchange notes that the proposed Tape B Volume Tier is comparable to other volume-based incentives and discounts, which have been widely adopted by exchanges (including the Exchange), including similar pricing incentives applicable to Tape B securities.[31]

DLI Additive Rebate

The Exchange currently offers DLI Tiers 1 and 2 in which qualifying Members are provided an enhanced rebate for executions of Added Displayed Volume. The DLI Tiers are designed to encourage Members, through the provision of such enhanced rebates for executions of Added Displayed Volume, to promote price discovery and market quality by quoting at the NBBO for a significant portion of each day in a large number of securities, thereby benefitting the Exchange and investors by providing improved trading conditions for all market participants through narrower bid-ask spreads and increased depth of liquidity available at the NBBO in a broad base of securities, and committing capital to support the execution of orders.[32] The Exchange is not proposing to modify the DLI Tiers at this time, however, the Exchange is proposing to adopt a new additive rebate for executions of Added Displayed Volume applicable to DLI Tier 1 and Liquidity Provision Tier 1 or Liquidity Provision Tier 2 (the ''DLI Additive Rebate''). Specifically, the proposed DLI Additive Rebate would provide an additive rebate of $0.0001 per share for executions of Added Displayed Volume that otherwise qualify for the applicable rebate under Liquidity Provision Tier 1 or Liquidity Provision Tier 2 as well as the applicable criteria under DLI Tier 1,[33] as described more fully below.

First, a Member qualifies for DLI Tier 1 by having (1) an NBBO time of at least 25% in an average of at least 1,000 securities per trading day during the month; and (2) an ADAV that is equal to or greater than 0.10% of the TCV.[34] Under Liquidity Provision Tier 1, the Exchange is proposing (as described above) to provide an enhanced rebate of $0.0033 per share for executions of Added Displayed Volume for Members that qualify for such tier by achieving: (1) an ADAV (excluding Retail Orders) that is equal to or greater than 0.45% of the TCV; or (2) a Step-Up ADAV from September 2023 that is equal to or greater than 0.05% of the TCV, an ADV that is equal to or greater than 0.50% of the TCV, and a Non-Displayed ADAV that is equal to or greater than 5,000,000 shares; or (3) an ADAV that is equal to or greater than 0.30% of the TCV and a Non-Displayed ADAV that is equal to or greater than 7,000,000 shares. Under Liquidity Provision Tier 2, the Exchange is proposing (as described above) to provide an enhanced rebate of $0.0032 for executions of Added Displayed Volume for Members that qualify for such tier by having: (1) an ADAV that is greater than or equal to 0.25% of the TCV and a Non-Displayed ADAV that is equal to or greater than 4,000,000 shares; or (2) a Step-Up Displayed ADAV of the TCV from September 2023 that is equal to or greater than 0.10% and a Displayed ADAV (excluding Retail Orders) that is equal to or greater than 0.20% of the TCV. Members would

[27] The Exchange notes that orders with Fee Code J include orders, other than Retail Orders, that establish a new BBO on the Exchange that matches the NBBO first established on an away market.

[28] The Exchange notes that orders with Fee Code D include orders that add displayed liquidity to the Exchange but that are not Fee Code B or J, and thus, orders with Fee Code B, D or J include all orders, other than Retail Orders, that add displayed liquidity to the Exchange.

[29] The Exchange proposes to define ''Step-Up Tape B ADAV'' in the Fee Schedule as the ADAV in Tape B securities as a percentage of the TCV in the relevant baseline month subtracted from the current ADAV in Tape B securities as a percentage of the TCV.

[30] The proposed pricing for the Tape B Volume Tier is referred to by the Exchange on the Fee Schedule under the new description ''Tape B Volume Tier'' with a Fee Code of ''b'' to be appended to the otherwise applicable Fee Code assigned by the Exchange on the monthly invoices for qualifying executions.

[31] *See, e.g.,* Securities Exchange Act Release No. 73813 (September 11, 2015), 80 FR 55882 (September 17, 2015) (SR–BATS–2015–74) (notice of filing and immediate effectiveness of a proposed rule change related to fees to adopt a Tape B Volume Tier that provides an enhanced rebates for executions of orders in Tape B Securities to BZX (formerly BATS Exchange, Inc.) members that qualify for such tiers by achieving a specified Tape B ADAV threshold).

[32] *See* the Exchange's Fee Schedule (available at: *https://info.memxtrading.com/equities-trading-resources/us-equities-fee-schedule*) for additional details regarding the Exchange's DLI Tiers and DLI Target Securities.

[33] This proposed pricing is referred to by the Exchange on the Fee Schedule under the new description ''DLI Additive Rebate'' with a Fee Code of ''q'' to be appended to the otherwise applicable Fee Code for qualifying executions.

[34] The enhanced rebate provided under DLI Tier 1 is $0.0031 per share for executions of Added Displayed Volume.

qualify for the DLI Additive rebate and by achieving both the criteria under DLI Tier 1 and either Liquidity Provision Tier 1 or Liquidity Tier 2.[35]

The purpose of the proposed DLI Additive Rebate is to encourage Members that consistently quote at the NBBO on the Exchange (*i.e.,* Members that qualify for DLI Tier 1) to also maintain or increase their orders that add liquidity on the Exchange in order to qualify for an additive rebate for executions of Added Displayed Volume, which, in turn, the Exchange believes would encourage the submission of additional Added Displayed Volume to the Exchange, thereby promoting price discovery and contributing to a deeper and more liquid market to the benefit of all market participants. The Exchange notes that the proposed DLI Additive Rebate is comparable to other volume-based incentives and discounts, which have been widely adopted by exchanges, including the Exchange, such as pricing tiers that provide a supplemental incentive for firms that achieve a specified volume threshold.[36]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[37] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[38] in particular, 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 permit unfair discrimination 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.'' [39]

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, 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 proposal reflects a reasonable and competitive pricing structure designed to incentivize market participants to direct additional order flow, including displayed, non-displayed, liquidity-adding and/or liquidity-removing orders, to the Exchange, which the Exchange believes would promote price discovery and enhance liquidity and market quality on the Exchange to the benefit of all Members and market participants.

The Exchange believes that the proposed change to reduce the base rebate provided for executions Added Displayed Retail Volume is reasonable because, as described above, such change is designed to decrease the Exchange's expenditures with respect to its transaction pricing in a manner that is still consistent with the Exchange's overall pricing philosophy of encouraging added and/or displayed liquidity, and the proposed new base rebate for executions of Added Displayed Retail Volume remains in competitive with, the base rebates provided by other exchanges in each case for executions of similar orders.[40] The Exchange also believes the proposed base rebate for executions of Added Displayed Retail Volume is equitable and not unfairly discriminatory, as such base rebate will apply equally to all Members submitting Retail Orders to the Exchange.

The Exchange notes that volume-based incentives and discounts (such as tiers) have been widely adopted by exchanges, including the Exchange, and are reasonable, equitable and not unfairly discriminatory because they are open to all members on an equal basis and provide additional benefits or discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and the introduction of higher volumes of orders into the price and volume discovery process. The Exchange believes that each of the Liquidity Provision Tiers 1–5, Liquidity Removal Tier 1, Non-Display Add Tier 1, NBBO Setter Tier 1, each as modified by the changes proposed herein, as well as the proposed new Retail Tier, Tape B Volume Tier, and DLI Additive Rebate, are reasonable, equitable and not unfairly discriminatory for these same reasons, as such tiers would provide Members with an incremental incentive to achieve certain volume thresholds on the Exchange, are available to all Members on an equal basis, and, as described above, are designed to encourage Members to maintain or increase their order flow, including in the form of displayed, non-displayed, liquidity-adding and/or liquidity removing orders under the required criteria, as applicable, to the Exchange, which the Exchange believes would promote price discovery, enhance liquidity and market quality, and contribute to a more robust and well balanced market ecosystem on the Exchange to the benefit of all Members and market participants.

The Exchange also believes that such tiers reflect a reasonable and equitable allocation of fees and rebates, as the Exchange believes that, after giving effect to the changes proposed herein, the enhanced rebate for executions of Added Displayed Volume, Added Displayed Retail Volume, Added Non-Displayed Volume, Setter Volume, Added Tape B Volume, as well as the discounted fee for executions of Removed Volume under the modified Liquidity Removal Tier 1, each remains commensurate with the corresponding required criteria under each such tier and is reasonably related to the market quality benefits that each such tier is designed to achieve, as described above.

[35] Thus, a Member that qualifies for Liquidity Provision Tier 1 and the DLI Additive Rebate (by achieving the criteria under DLI Tier 1) would receive a rebate of $0.0034 per share (which is the $0.0033 per share rebate under Liquidity Provision Tier 1, as described above, plus the $0.0001 per share DLI Additive Rebate) for executions of Added Displayed Volume, and a Member that qualifies for Liquidity Provision Tier 2 and the DLI Additive Rebate (by achieving the criteria under DLI Tier 1) would receive a rebate of $0.0033 per share (which is the proposed $0.0032 per share rebate under Liquidity Provision Tier 2, as described above, plus the $0.0001 per share DLI Additive Rebate) for executions of Added Displayed Volume.

[36] *See* Securities Exchange Act Release No. 93949 (January 11, 2022), 87 FR 2655 (January 18, 2022) (SR–MEMX–2021–21) (Notice of filing and immediate effectiveness of fee changes adopted by the Exchange, including the adoption of a DLI Additive Rebate). The Exchange subsequently eliminated the DLI Additive Rebate on July 1, 2022. *See* Securities Exchange Act Release No. 95211 (July 7, 2022), 87 FR 41839 (July 13, 2022) (SR–MEMX–2022–16).

[37] 15 U.S.C. 78f.

[38] 15 U.S.C. 78f(b)(4) and (5).

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

[40] *See supra* note 8.

With respect to the proposed changes to eliminate Liquidity Provision Tier 6 and NBBO Setter/Joiner Tier 2, the Exchange believes such changes are reasonable because, as noted above, they would enable the Exchange to redirect the associated resources and funding into other programs and tiers intended to incentivize increased order flow or enhance market quality, and the Exchange is not required to maintain such tiers or provide Members any opportunities to receive additive rebates. The Exchange believes the proposal to eliminate such tiers is also equitable and not unfairly discriminatory because it would apply equally to all Members, in that the incentives would no longer be available for any Member.

Similarly, the Exchange believes the proposed discontinuance of the current method by which it is providing the enhanced rebates under Liquidity Provision Tiers 4 and 5 (each as modified by the proposed changes herein) is reasonable because, as noted above, the Exchange implemented this novel method on a trial basis and determined that it did not incentivize members to meet the applicable Liquidity Provision Tiers to the extent that it believes would support continuation. Further, the method by which the Exchange provides rebates does not affect any criteria or rebates provided under Liquidity Provision Tiers 4 and 5, and as such, modifying the method again does not alter the Exchange's reasonable and competitive pricing structure designed to incentivize market participants to direct additional flow to the Exchange. The Exchange believes the proposal to discontinue this method is also equitable and not unfairly discriminatory because it would apply equally to Members, in that the Exchange would instead provide the rebates to all Members for all pricing tiers under the same methodology whereby a Member is awarded a rebate based on its activity for the current month.

For the reasons discussed above, the Exchange submits that the proposal satisfies the requirements of Sections 6(b)(4) and 6(b)(5) of the Act [41] 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 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 proposal 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 proposal is intended to incentivize market participants to direct additional order flow to the Exchange, thereby enhancing liquidity and market quality on the Exchange to the benefit of all Members and market participants, as well as to generate additional revenue and decrease the Exchange's expenditures with respect to its transaction pricing in a manner that is still consistent with the Exchange's overall pricing philosophy of encouraging added displayed liquidity. As a result, the Exchange believes the proposal would enhance its competitiveness as a market that attracts actionable orders, thereby making it a more desirable destination venue for its customers. For these reasons, the Exchange believes that the proposal 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." [42]

Intramarket Competition

As discussed above, the Exchange believes that the proposal would decrease the Exchange's expenditures and generate additional revenue with respect to its transaction pricing in a manner that is still consistent with the Exchange's overall pricing philosophy of encouraging added and/or displayed liquidity and would incentivize market participants to direct additional order flow to the Exchange through volume-based tiers, thereby enhancing liquidity and market quality on the Exchange to the benefit of all Members, as well as enhancing the attractiveness of the Exchange as a trading venue, which the Exchange believes, in turn, would continue to encourage market participants to direct additional order flow to the Exchange. Greater liquidity benefits all Members by providing more trading opportunities and encourages Members to send additional orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants.

The Exchange does not believe that the proposed change to reduce the base rebate for executions of Added Displayed Retail Volume would impose any burden on intramarket competition because such change will apply to all Members uniformly, in that the proposed base rebate for such executions would be the base rebate applicable to all Members, and the opportunity to qualify for enhanced rebate, as applicable, is available to all Members. The opportunity to qualify for each of the Liquidity Provision Tiers 1–5, NBBO Setter Tier 1, Non-Display Add Tier 1, and Liquidity Removal Tier 1, each as modified by the changes proposed herein, as well as the proposed new Retail Tier, Tape B Volume Tier, and DLI Additive Rebate, and thus receive the corresponding enhanced rebates or discounted fees, as applicable, would be available to all Members that meet the associated volume and/or quoting requirements in any month. As described above, the Exchange believes that the required criteria under each such tier are commensurate with the corresponding rebate under such tier and are reasonably related to the enhanced liquidity and market quality that such tier is designed to promote. Additionally, the Exchange does not believe that the proposal to eliminate the method by which the Exchange currently provides the enhanced rebate under the Liquidity Provision Tiers 4 and 5 (each as modified by the changes proposed herein), would impose any burden on intramarket competition because such change will apply to all Members uniformly, and the methodology by which the Exchange provides rebates will be the same for all pricing tiers. For the foregoing reasons, the Exchange believes the proposed changes would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intermarket Competition

As noted above, the Exchange 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. 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 15.5% of the total market share of

[41] 15 U.S.C. 78f(b)(4) and (5).

[42] *See supra* note 39.

executed volume of equities trading. 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 executions of Added Displayed Volume, Added Displayed Retail Volume, Added Non-Displayed Volume and Removed Volume, 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 represent a competitive proposal through which the Exchange is seeking to generate additional revenue with respect to its transaction pricing and to encourage the submission of additional order flow to the Exchange through volume-based tiers, which have been widely adopted by exchanges, including the Exchange. Accordingly, the Exchange believes the proposal would not burden, but rather promote, intermarket competition by enabling it to better compete with other exchanges that offer similar pricing incentives to market participants.

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.'' [43] 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'. . . .''.[44] Accordingly, the Exchange does not believe its proposed pricing changes impose 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 [45] and Rule 19b–4(f)(2) [46] 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 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–MEMX–2023–30 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–2023–30. 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–MEMX–2023–30 and should be submitted on or before December 11, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[47]

Sherry R. Haywood,

Assistant Secretary.

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[43] *See supra* note 39.

[44] *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)).

[45] 15 U.S.C. 78s(b)(3)(A)(ii).

[46] 17 CFR 240.19b–4(f)(2).

[47] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Meeting of the Advisory Committee on Veterans Business Affairs

AGENCY: Small Business Administration (SBA).

ACTION: Notice of open Federal advisory committee meeting.

SUMMARY: The SBA is issuing this notice to announce the date, time, and agenda for a meeting of the Advisory Committee on Veterans Business Affairs (ACVBA).