

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-89836; File No. 4-764)

September 11, 2020

Self-Regulatory Organizations; MEMX LLC; Order Declaring Effective a Minor Rule Violation Plan

On August 5, 2020, MEMX LLC (“MEMX” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed minor rule violation plan (“MRVP” or “Plan”) pursuant to Section 19(d)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19d-1(c)(2) thereunder.<sup>2</sup> The proposed MRVP was published for public comment on August 11, 2020.<sup>3</sup> This order declares the Exchange’s proposed MRVP effective.<sup>4</sup>

The Exchange’s MRVP specifies the rule violations which will be included in the Plan and will have sanctions not exceeding \$2,500. Any violations which are resolved under the MRVP would not be subject to the provisions of Rule 19d-1(c)(1) of the Act,<sup>5</sup> which requires that a self-regulatory organization (“SRO”) promptly file notice with the Commission of any final disciplinary action taken with respect to any person or organization.<sup>6</sup> In accordance with

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

<sup>2</sup> 17 CFR 240.19d-1(c)(2).

<sup>3</sup> See Securities Exchange Act Release No. 89485 (August 5, 2020), 85 FR 48577 (“Notice”). The Commission received one comment letter that was not germane to the proposal. See letter dated August 24, 2020, from Angela N B.

<sup>4</sup> Terms not otherwise defined herein are defined in the Exchange Rules.

<sup>5</sup> 17 CFR 240.19d-1(c)(1).

<sup>6</sup> The Commission adopted amendments to paragraph (c) of Rule 19d-1 to allow SROs to submit for Commission approval plans for the abbreviated reporting of minor disciplinary infractions. See Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984). Any disciplinary action taken by an SRO against any person for violation of a rule of the SRO which has been designated as a minor rule violation pursuant to such a plan filed with and declared effective by the Commission is not considered “final” for purposes of Section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding \$2,500 and the sanctioned person has not sought an

Rule 19d-1(c)(2) under the Act,<sup>7</sup> the Exchange proposed to designate certain specified rule violations as minor rule violations, and requested that it be relieved of the prompt reporting requirements regarding such violations, provided it gives notice of such violations to the Commission on a quarterly basis.

The Exchange proposed to include in its MRVP the procedures included in Exchange Rule 8.15 (“Imposition of Fines for Minor Violation(s) of Rules”) and the violations included in Rule 8.15.01 (“List of Exchange Rule Violations and Recommended Fine Schedule Pursuant to Rule 8.15”).<sup>8</sup> According to the Exchange’s MRVP, under Rule 8.15(a), the Exchange may impose a fine (not to exceed \$2,500) on any Member, associated person of a Member, or registered or non-registered employee of a Member, for any violation of a Rule of the Exchange which violation the Exchange shall have determined is minor in nature, as set forth in Rule 8.15.01. The Exchange may aggregate similar violations generally if the conduct was unintentional, there was no injury to public investors, or the violations resulted from a single systemic problem or cause that has been corrected. In any action taken by the Exchange pursuant to Rule 8.15, the person against whom a fine is imposed shall be served with a written statement, signed by an authorized officer of the Exchange, setting forth (i) the Rule or Rules alleged to have been violated; (ii) the act or omission constituting each such violation; (iii) the fine imposed for each such violation; and (iv) the date by which such determination becomes

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adjudication, including a hearing, or otherwise exhausted his administrative remedies.

<sup>7</sup> 17 CFR 240.19d-1(c)(2).

<sup>8</sup> The Exchange received its grant of registration on May 4, 2020, which included the rules that govern the Exchange. Contemporaneous with this submission, the Exchange filed with the Commission a rule filing that proposed a minor amendment to Rule 8.15(a) and a proposed change to Rule 8.15.01 to add Rules 4.5 through 4.16 (Consolidated Audit Trail Compliance Rules). This submission proposed the Exchange’s MRVP, including those proposed changes to Rules 8.15 and 8.15.01. See Securities Exchange Act Release No. 89509 (August 7, 2020), 85 FR 49407 (August 13, 2020) (SR-MEMX-2020-03).

final and such fine becomes due and payable to the Exchange. Pursuant to paragraph (c) of Rule 8.15, if the person against whom a fine is imposed pursuant to Rule 8.15 pays such fine, that payment shall be deemed to be a waiver by of such person's right to a disciplinary proceeding under Rules 8.1 through 8.13 and any review of the matter by the Appeals Committee or by the Board. Any person against whom a fine is imposed pursuant to Rule 8.15 may contest such a finding pursuant to paragraph (d) of Rule 8.15 by filing with the Exchange not later than the date by which such determination must be contested (such date to be not less than 15 business days after the date of service of the written statement by the Exchange) a written response meeting the requirements provided in Rule 8.5 at which point the matter shall become a disciplinary proceeding subject to the provisions of Rules 8.1 through 8.13.<sup>9</sup>

Once MEMX's MRVP is effective, the Exchange will provide to the Commission a quarterly report for any actions taken on minor rule violations under the MRVP. The quarterly report will include: the Exchange's internal file number for the case, the name of the individual and/or organization, the nature of the violation, the specific rule provision violated, the sanction imposed, the number of times the rule violation occurred, and the date of the disposition.

The Commission finds that the proposal is consistent with the public interest, the protection of investors, and otherwise in furtherance of the purposes of the Act, as required by Rule 19d-1(c)(2) under the Act,<sup>10</sup> because the MRVP will permit the Exchange to carry out its oversight and enforcement responsibilities as an SRO more efficiently in cases where full disciplinary proceedings are not necessary due to the minor nature of the particular violation.

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<sup>9</sup> See, Notice, supra note 3.

<sup>10</sup> 17 CFR 240.19d-1(c)(2).

In declaring the Exchange's MRVP effective, the Commission in no way minimizes the importance of compliance with Exchange rules and all other rules subject to the imposition of sanctions under Exchange Rule 8.15. The Commission believes that the violation of an SRO's rules, as well as Commission rules, is a serious matter. However, Exchange Rule 8.15 provides a reasonable means of addressing violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that the Exchange will continue to conduct surveillance and make determinations based on its findings, on a case-by-case basis, regarding whether a sanction under the MRVP is appropriate, or whether a violation requires formal disciplinary action.

IT IS THEREFORE ORDERED, pursuant to Rule 19d-1(c)(2) under the Act,<sup>11</sup> that the proposed MRVP for MEMX LLC, File No. 4-764, be, and hereby is, declared effective.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>11</sup> Id.

<sup>12</sup> 17 CFR 200.30-3(a)(44).