

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-100239; File No. SR-MEMX-2024-19)

May 29, 2024

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

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 16, 2024, MEMX, LLC (“MEMX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to amend the Short Term Options Series Program in Rule 19.5, Interpretation and Policy .05. The text of the proposed rule change is provided in Exhibit 5.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4.

the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

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

Currently, Table 1 in Rule 19.5, Interpretation and Policy .05(h), specifies each symbol that qualifies as a Short Term Option Daily Expiration.⁶ Today, Table 1 permits the listing and trading of Monday Short Term Option Daily Expirations and Wednesday Short Term Option Daily Expirations for IWM. At this time, the Exchange proposes to expand the Short Term Option Series Program to permit the listing and trading of no more than a total of two IWM

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

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

Short Term Option Daily Expirations beyond the current week for each of Monday, Tuesday, Wednesday, and Thursday expirations at one time.⁷ The listing and trading of Tuesday and Thursday Short Term Option Daily Expirations would be subject to Rule 19.5, Interpretation and Policy .05.

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

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

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

⁸ See Rule 19.5, Interpretation and Policy .05(h).

⁹ Id.

business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days beyond the current week and are not business days in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire.¹⁰

The interval between strike prices for the proposed Tuesday and Thursday IWM Short Term Option Daily Expirations will be the same as those for Tuesday and Thursday IWM Short Term Option Daily Expirations in SPY and QQQ, applicable to the Short Term Option Series Program.¹¹ Specifically, the Tuesday and Thursday IWM Short Term Option Daily Expirations will have a \$0.50 strike interval minimum. As is the case with other equity options series listed pursuant to the Short Term Option Series Program, the Tuesday and Thursday IWM Short Term Option Daily Expiration series will be P.M.-settled.

Pursuant to Rule 19.5, Interpretation and Policy .05(h), with respect to the Short Term Option Series Program, a Tuesday or Thursday expiration series shall expire on the first business day immediately prior to that Tuesday or Thursday, e.g., Monday or Wednesday of that week, respectively, if the Tuesday or Thursday is not a business day.

Currently, for each option class eligible for participation in the Short Term Option Series Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.¹² The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective weekly rules; the Exchange may list these additional series that are listed by other options exchanges.¹³ This thirty (30) series restriction would apply to Tuesday and Thursday IWM Short Term Option Daily Expiration series as well. With this

¹⁰ Today, IWM may trade on Mondays and Wednesdays, in addition to Fridays, as is the case for all options series.

¹¹ See Rule 19.5, Interpretation and Policy .05(e).

¹² See Rule 19.5, Interpretation and Policy .05(a).

¹³ See Rule 19.5, Interpretation and Policy .05(a).

proposal, Tuesday and Thursday IWM Expirations would be treated the same as Tuesday and Thursday Expirations in SPY and QQQ. With respect to monthly option series, Short Term Option Daily Expirations expire in the same week in which monthly option series on the same class expire.¹⁴ Further, as is the case today with other Tuesday and Thursday Short Term Option Daily Expirations, the Exchange would not permit Tuesday and Thursday Short Term Option Daily Expirations to expire on a business day in which monthly options series or Quarterly Options Series expire.¹⁵ Therefore, all Short Term Option Daily Expirations would expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days beyond the current week and are not business days in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire. The Exchange does not believe that any market disruptions will be encountered with the introduction of P.M.-settled Tuesday and Thursday IWM Short Term Option Daily Expirations. The Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Tuesday and Thursday Short Term Option Daily Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire Tuesday and Thursday for SPY and QQQ and has not experienced any market disruptions nor issues with capacity. Today, the Exchange has surveillance programs in place to support and properly monitor trading in Short Term Option Series that expire Tuesday and Thursday for SPY and QQQ.

¹⁴ See Rule 19.5, Interpretation and Policy .05(b).

¹⁵ See Rule 19.5, Interpretation and Policy .05(h).

Impact of Proposal

The Exchange notes that listings in the Short Term Option Series Program comprise a significant part of the standard listing in options markets. The below table sets forth the percentage of weekly listings as compared to monthly, quarterly, and Long-Term Option Series in 2023 in the options industry.¹⁶ The Exchange notes that during this time period all options exchanges mitigated weekly strike intervals.

Number of Strikes - 2023	
Expiration	Percent of Total Series
Monthly	62.82%
Weekly	17.22%
LEAP	17.77%
Quarterly	2.20%

Similar to SPY and QQQ, the Exchange would limit the number of Short Term Option Daily Expirations for IWM to two expirations for Tuesday and Thursday expirations while expanding the Short Term Option Series Program to permit Tuesday, and Thursday expirations for IWM. Expanding the Short Term Option Series Program to permit the listing of Tuesday and Thursday expirations in IWM will account for the addition of 6.77% of strikes for IWM.¹⁷ With respect to the impact to the Short Term Option Series Program on IWM overall, the impact would be a 20% increase in strikes.¹⁸ With respect to the impact to the Short Term Options

¹⁶ Per Nasdaq ISE, LLC (“Nasdaq ISE”), this information was sourced from The Options Clearing Corporation (“OCC”). The information includes time averaged data for all 17 options markets through December 8, 2023. See Securities Exchange Act Release No. 99604 (February 26, 2024), 89 FR 15235 (March 1, 2024) (SR-ISE-2024-06).

¹⁷ Nasdaq ISE sourced this information, which are estimates, from LiveVol®. The information includes data for all 17 options markets as of January 3, 2024. See id.

¹⁸ Nasdaq ISE sourced this information, which are estimates, from LiveVol®. The information includes data for all 17 options markets as of January 3, 2024. See id.

Series Program overall, the impact would be a 0.1% increase in strikes.¹⁹ Members will continue to be able to expand hedging tools because all days of the week would be available to permit Members to tailor their investment and hedging needs more effectively in IWM.

Number of Strikes - 2023	
Expiration	Percent of Total Series
Monthly	35.13%
Weekly	48.30%
LEAP	12.87%
Quarterly	3.70%

Weeklies comprise 48.30% of the total volume of options contracts.²⁰ The Exchange believes that inner weeklies (first two weeks) represent high volume as compared to outer weeklies (the last three weeks) and would be more attractive to market participants. The introduction of IWM Tuesday and Thursday expirations will, among other things, expand hedging tools available to market participants and continue the reduction of the premium cost of buying protection. The Exchange believes that IWM Tuesday and Thursday expirations will allow market participants to purchase IWM options based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.²¹ Specifically, the

¹⁹ Nasdaq ISE sourced this information, which are estimates, from LiveVol®. The information includes data for all 17 options markets as of January 3, 2024. See id.

²⁰ This table sets forth industry volume. Weeklies comprise 48.30% of volume while only comprising 17.22% of the strikes. Nasdaq ISE sourced this information from OCC. The information includes data for all 17 options markets through December 8, 2023. See Securities Exchange Act Release No. 99604 (February 26, 2024), 89 FR 15235 (March 1, 2024) (SR-ISE-2024-06).

²¹ 15 U.S.C. 78f(b).

Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²² requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²³ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that IWM Tuesday and Thursday Short Term Daily Expirations will allow market participants to purchase IWM options based on their timing as needed and allow them to tailor their investment and hedging needs more effectively. Further, the proposal to permit Tuesday and Thursday Short Term Daily Expirations for options on IWM listed pursuant to the Short Term Option Series Program, subject to the proposed limitation of two nearest expirations, would protect investors and the public interest by providing the investing public and other market participants more flexibility to closely tailor their investment and hedging decisions in IWM options, thus allowing them to better manage their risk exposure. In particular, the Exchange believes the Short Term Option Series Program has been successful to date and that Tuesday and Thursday IWM Short Term Daily Expirations should simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Short Term Option Series

²² 15 U.S.C. 78f(b)(5).

²³ Id.

Program has expanded the landscape of hedging. Similarly, the Exchange believes Tuesday and Thursday IWM Short Term Daily Expirations should create greater trading and hedging opportunities and provide customers the flexibility to tailor their investment objectives more effectively. The Exchange currently lists SPY and QQQ Tuesday and Thursday Short Term Daily Expirations.²⁴

With this proposal, Tuesday and Thursday IWM Expirations would be treated similar to existing Tuesday and Thursday SPY and QQQ Expirations and would expire in the same week that standard monthly options expire on Fridays.²⁵ Further, today, Tuesday and Thursday Short Term Option Daily Expirations do not expire on a business day in which monthly options series or Quarterly Options Series expire.²⁶ Today, all Short Term Option Daily Expirations expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days and are not business days in which monthly options series or Quarterly Options Series expire. There are no material differences in the treatment of Tuesday and Thursday SPY and QQQ Short Term Daily Expirations as compared to the proposed Tuesday and Thursday IWM Short Term Daily Expirations.

Finally, the Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in the proposed Tuesday and Thursday IWM Short Term Daily Expirations, in the same way that it monitors trading in the current Short Term Option Series and trading in Tuesday and Thursday SPY and QQQ Expirations. The Exchange also represents that it has the necessary systems capacity to support the new options series. Finally, the Exchange

²⁴ See Rule 19.5, Interpretation and Policy .05(h).

²⁵ See Rule 19.5, Interpretation and Policy .05(b).

²⁶ See Rule 19.5, Interpretation and Policy .05(h).

does not believe that any market disruptions will be encountered with the introduction of Tuesday and Thursday IWM Short Term Daily Expirations.

Finally, the Exchange notes the proposed rule change is substantively the same as a rule change proposed by ISE, which the Commission recently approved.²⁷

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Similar to SPY and QQQ Tuesday and Thursday Expirations, the introduction of IWM Tuesday and Thursday Short Term Daily Expirations does not impose an undue burden on competition. The Exchange believes that it will, among other things, expand hedging tools available to market participants and continue the reduction of the premium cost of buying protection. The Exchange believes that IWM Tuesday and Thursday Short Term Daily Expirations will allow market participants to purchase IWM options based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

The Exchange does not believe the proposal will impose any burden on intermarket competition, as nothing prevents other options exchanges from proposing similar rules to list and trade Short-Term Option Series with Tuesday and Thursday Short Term Daily Expirations. The Exchange notes that having Tuesday and Thursday IWM expirations is not a novel proposal, as SPY and QQQ Tuesday and Thursday Expirations are currently listed on the Exchange.²⁸ Additionally, as noted above, the Commission recently approved a substantively identical proposal of another exchange.²⁹ Further, the Exchange does not believe the proposal will impose

²⁷ See supra note 5.

²⁸ See Rule 19.5, Interpretation and Policy .05(h).

²⁹ See supra note 5.

any burden on intramarket competition, as all market participants will be treated in the same manner under this proposal

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³⁰ and Rule 19b-4(f)(6) thereunder.³¹ Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act³² and subparagraph (f)(6) of Rule 19b-4 thereunder.³³

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act³⁴ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)³⁵ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission

³⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

³¹ 17 CFR 240.19b-4(f)(6).

³² 15 U.S.C. 78s(b)(3)(A)(iii).

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

³⁴ 17 CFR 240.19b-4(f)(6).

³⁵ 17 CFR 240.19b-4(f)(6)(iii).

waive the 30-day operative delay to permit the Exchange to implement the proposal at the same time as its competitor exchanges, thus creating competition among Short Term Option Series throughout the industry. The Exchange notes that its proposal is substantially similar in all material respects to a proposal submitted by Nasdaq ISE that was recently approved by the Commission.³⁶ The Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.³⁷

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 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

³⁶ See *supra* note 5.

³⁷ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

- Send an email to rule-comments@sec.gov. Please include file number SR-MEMX-2024-19 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-2024-19. 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-2024-19 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁸

Sherry R. Haywood,
Assistant Secretary.

³⁸ 17 CFR 200.30-3(a)(12), (59).