

# SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105620; File No. SR-MEMX-2026-15]

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

June 5, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on May 29, 2026, 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<sup>3</sup> (the "Fee Schedule") pursuant to Exchange Rules 15.1(a) and (c). As is further described below, the Exchange proposes to amend the MEMX Options Fee Schedule (the "Options Fee Schedule") by eliminating the Volume Tier 1. The Exchange proposes to implement the changes to the Options Fee Schedule pursuant to this proposal on June 1, 2026. The text of the proposed rule change is provided in Exhibit 5.

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

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

<sup>3</sup> See Exchange Rule 1.5(p).

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 Options Fee Schedule by eliminating the Volume Tier 1.

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. The Exchange is one of only 18 options venues to which market participants may direct their order flow. Based on publicly available information, no single options exchange has more than approximately 18.1% of the market share and currently the Exchange represents only approximately 3.9% of the market share.<sup>4</sup> In such a low-concentrated and highly competitive market, no single options exchange, including the Exchange, possesses significant pricing power in the execution of option order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, discontinue, or reduce use of certain categories of products in response to fee changes. Accordingly, competitive

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<sup>4</sup> Market share percentage calculated as of May 21, 2026. The Exchange receives and processes data made available through the consolidated data feeds (i.e., OPRA).

forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. The Exchange's Fee Schedule sets forth standard rebates and rates applied per contract. The Exchange also provides tiered pricing which provides Members opportunities to qualify for higher rebates where certain volume criteria and thresholds are met.

Currently, the Exchange offers the Volume Tier 1, which provides Members an enhanced rebate for executions of contracts that add liquidity in options where the underlying security is in the Penny Interval Program ("Penny options")<sup>5</sup> that are made in a Professional<sup>6</sup> capacity ("Added Professional Penny Volume"). Specifically, under this tier, the Exchange provides an enhanced rebate of \$0.47 per contract for executions of Added Professional Penny Volume for Members that qualify for Volume Tier 1 by achieving an ADAV<sup>7</sup> in the Customer,<sup>8</sup> Professional,<sup>9</sup> Firm,<sup>10</sup>

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<sup>5</sup> MEMX Options provides Fee Code "P" for transactions in Penny options. Fee Codes are provided by the Exchange on the monthly invoices provided to Options Members.

<sup>6</sup> As set forth on the Fee Schedule, "Professional" applies to any order for the account of a Professional. The term "Professional" means any person or entity that (A) is not a broker or dealer in securities; and (B) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). All Professional orders shall be appropriately marked by Options Members. See Exchange Rule 16.1. MEMX Options provides fee qualifier "p" for professional transactions.

<sup>7</sup> As proposed, the term "ADAV" means the average daily added volume calculated as the number of contracts added per day. ADAV is calculated on a monthly basis. The Exchange is proposing to add this definition under the "Definitions" section of the Fee Schedule.

<sup>8</sup> As set forth on the Fee Schedule, "Customer" applies to any order for the account of a Priority Customer. "Priority Customer" shall have the meaning set forth in Rule 16.1 of the MEMX Rulebook.

<sup>9</sup> As set forth on the Fee Schedule, "Professional" applies to any order for the account of a Professional. The term "Professional" means any person or entity that (A) is not a broker or dealer in securities; and (B) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). All Professional orders shall be appropriately marked by Options Members. See Exchange Rule 16.1. MEMX Options provides fee qualifier "p" for professional transactions.

<sup>10</sup> As set forth on the Fee Schedule, "Firm" applies to any order for the proprietary account of an OCC clearing member. MEMX Options provides fee qualifier "f" for firm transactions.

Away Market Maker,<sup>11</sup> and/or Broker-Dealer<sup>12</sup> capacities in Penny symbols that is equal to or greater than 0.125% of the equity and ETF option TCV.<sup>13</sup> Now, the Exchange proposes to eliminate this tier, as the Exchange no longer wishes to, nor is required to, maintain such tiered pricing.

## 2. Statutory Basis

The Exchange believes that its proposal to amend the Options Fee Schedule is consistent with the provisions of Section 6 of the Act,<sup>14</sup> in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,<sup>15</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among Options Members and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

MEMX Options 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

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<sup>11</sup> As set forth on the Fee Schedule, "Away Market Maker" applies to any order for the account of a market maker on another options exchange. MEMX Options provides fee qualifier "a" for away market maker transactions.

<sup>12</sup> As set forth on the Fee Schedule, "Broker Dealer" applies to any order for the account of a broker-dealer, including a foreign broker dealer. MEMX Options provides fee qualifier "b" for broker-dealer transactions.

<sup>13</sup> As proposed, the term "TCV" means the total consolidated volume calculated as the volume reported by all exchanges to the consolidated transaction reporting plan for the month for which the fees apply. The Exchange is also proposing to add this definition under the "Definitions" section of the Fee Schedule.

<sup>14</sup> 15 U.S.C. 78f.

<sup>15</sup> 15 U.S.C. 78f(b)(4) and (5).

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.”<sup>16</sup>

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 to eliminate the Volume Tier 1 is reasonable because the Exchange is not required to maintain this rebate nor provide Members an opportunity to receive enhanced rebates. The Exchange believes its proposal to eliminate this rebate is equitable and not unfairly discriminatory because it applies to all Members (*i.e.*, the rebate will no longer be available to any Member). The proposed rule change merely results in Members not receiving an enhanced rebate, which, as noted above, the Exchange is not required to offer or maintain. Further, the proposed rule change to eliminate the Volume Tier 1 enables the Exchange to redirect resources and funding into other programs and tiers intended to incentivize increased order flow, and competitive pricing structure 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.

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

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<sup>16</sup> Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the proposal relates to the elimination of a Volume Tier and as such, does not have any impact on intra- or inter-market competition because the proposed change is solely designed to accurately reflect the pricing that the Exchange currently offers, thereby adding clarity to the Fee Schedule.

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.”<sup>17</sup> 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’ ....”<sup>18</sup> 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.

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<sup>17</sup> Id.

<sup>18</sup> 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)).

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<sup>19</sup> and Rule 19b-4(f)(2)<sup>20</sup> 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](mailto:rule-comments@sec.gov). Please include file number SR-MEMX-2026-15 on the subject line.

Paper Comments:

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<sup>19</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>20</sup> 17 CFR 240.19b-4(f)(2).

- 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-2026-15. 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 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-2026-15 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.<sup>21</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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<sup>21</sup> 17 CFR 200.30-3(a)(12).