

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-89485; File No. 4-764)

August 5, 2020

Self-Regulatory Organizations; MEMX LLC; Notice of Filing of Proposed Minor Rule Violation 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> notice is hereby given that 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”) with sanctions not exceeding \$2,500 which would not be subject to the provisions of Rule 19d-1(c)(1) of the Act<sup>3</sup> requiring 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>4</sup> In accordance with Rule 19d-1(c)(2) under the Act, the Exchange proposes to designate certain specified rule violations as minor rule violations and requests 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.

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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> 17 CFR 240.19d-1(c)(1).

<sup>4</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 adjudication, including a hearing, or otherwise exhausted his administrative remedies.

The Exchange proposes 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>5</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 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

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<sup>5</sup> The Exchange received its grant of registration on May 4, 2020, which included approving the rules that govern the Exchange. Exhibit A includes the entirety of Rules 8.15 and 8.15.01. Terms not otherwise defined herein are defined in the Exchange Rules. Contemporaneous with this filing, the Exchange filed with the Commission a rule filing that proposes 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 proposes the Exchange's MRVP, including those proposed changes to Rules 8.15 and 8.15.01. See SR-MEMX-2020-03, filed July 31, 2020, available at: <https://info.memxtrading.com/category/rule-filings/>.

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.

The Exchange proposes that, as set forth in Exchange Rule 8.15.01, violations of the following rules would be appropriate for disposition under the MRVP: Rule 4.2 and Interpretations thereunder (requiring the submission of responses to Exchange requests for trading data within specified time period); Rule 11.10(a)(5) (requirement to identify short sale orders as such); Rule 11.10(f) (requirement to comply with locked and crossed market rules); Rule 3.5 (Advertising Practices); Rule 12.11 Interpretations and Policy .01 and Exchange Act Rule 604 (failure to properly display limit orders); Rule 4.2 and Interpretations thereunder (related to the requirement to furnish Exchange-related order, market and transaction data, as well as financial or regulatory records and information); Rule 11.20(a)(1) (requirement for Market Makers to maintain continuous two-sided quotations); and Rules 4.5 through 4.16 (Consolidated Audit Trail Compliance Rules).

Upon the Commission's declaration of effectiveness of the MRVP, 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 fine imposed, the number of times the rule violation occurred, and the date of the disposition.

Based on compliance with the above, the Exchange requests that the rule violations designated in Exchange Rule 8.15.01 be designated as minor rule violations subject to a minor rule violation reporting plan and that the Exchange be relieved of the current reporting requirements regarding such violations. In addition, going forward, to the extent that there are any changes to the rules applicable to the Exchange's MRVP, the Exchange requests that the Commission deem such changes to be modifications to the Exchange's MRVP.

#### I. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the Exchange's proposed MRVP, including whether the proposed MRVP is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number 4-764 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, D.C. 20549-1090.

All submissions should refer to File Number 4-764. This file number should be included on the subject line if e-mail 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 (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed MRVP that are filed with the Commission, and all written communications relating to the proposed MRVP 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, D.C. 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the proposed MRVP also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number 4-764, and should be submitted on or before [insert date 15 days from publication in the Federal Register].

II. Date of Effectiveness of the Proposed Minor Rule Violation Plan and Timing for Commission Action

Pursuant to Section 19(d)(1) of the Act and Rule 19d-1(c)(2) thereunder,<sup>6</sup> after [insert date 15 days from publication in the Federal Register], the Commission may, by order, declare the Exchange proposed MRVP effective if the plan is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act. The Commission in its order may restrict the categories of violations to be designated as

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<sup>6</sup> 15 U.S.C. 78s(d)(1); 17 CFR 240.19d-1(c)(2).

minor rule violations and may impose any other terms or conditions to the proposed MRVP, File No. 4-764, and to the period of its effectiveness, which the Commission deems necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>7</sup> 17 CFR 200.30-3(a)(44).