identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PEARL–2021–60 and should be submitted on or before February 8, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–00773 Filed 1–14–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, January 20, 2021.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;
Institution and settlement of administrative proceedings;
Resolution of litigation claims; and
Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Authority: 5 U.S.C. 552b.

Dated: January 13, 2022.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2022–00920 Filed 1–13–22; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93949; File No. SR–MEMX–2021–21]

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

January 11, 2022.

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 December 30, 2021, 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 January 3, 2022. 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 standard 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"); (ii) modify the Liquidity Provision Tiers by reducing the rebate for executions of Added Displayed Volume and modifying the required criteria under Liquidity Provision Tier 1, modifying the required criteria under Liquidity Provision Tier 2, and adopting a new Liquidity Provision Tier 3; (iii) modify Liquidity Removal Tier 1 by increasing the fee for executions of orders in securities priced at or above $1.00 per share that remove liquidity from the Exchange (such orders, "Removed Volume") and modifying the required criteria under such tier; (iv) modify the Displayed Liquidity Incentive ("DLI") Tiers by reducing the rebates for executions of Added Displayed Volume under DLI Tiers 1 and 2 and adopting a new additive rebate for executions of Added Displayed Volume applicable to DLI Tiers 1 and 2; and (v) modify the Exchange's pricing for executions of orders in securities priced below $1.00 per share that remove liquidity from the Exchange (such orders, "Removed Sub-Dollar Volume") and orders in securities priced below $1.00 per share that add non-displayed liquidity to the Exchange (such orders, "Added Non-Displayed Sub-Dollar Volume").

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

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Rule 1.5(p).

has more than approximately 17% of the total market share of executed volume of equities trading.[4] 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 4% of the overall market share.[5] 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.

Reduced Standard Rebate for Added Displayed Volume

Currently, the Exchange provides a standard rebate of $0.0028 per share for executions of Added Displayed Volume. The Exchange now proposes to reduce the standard rebate for executions of Added Displayed Volume to $0.0022 per share.[6] The purpose of reducing the standard rebate for executions of Added Displayed Volume is for business and competitive reasons, as the Exchange believes that the reduction of such rebate 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 displayed liquidity. The Exchange notes that despite the reduction proposed herein, the proposed standard rebate for executions of Added Displayed Volume (*i.e.,* $0.0022 per share) remains higher than, and competitive with, the standard rebates provided by other exchanges for executions of orders in securities priced at or above $1.00 per share that add displayed liquidity.[7]

Liquidity Provision Tiers

The Exchange currently offers Liquidity Provision Tiers in which qualifying Members are provided an enhanced rebate for executions of Added Displayed Volume by achieving certain specified volume criteria. Now, the Exchange proposes to modify its Liquidity Provision Tiers by reducing the rebate for executions of Added Displayed Volume and modifying the required criteria under Liquidity Provision Tier 1, modifying the required criteria under Liquidity Provision Tier 2, and adopting a new Liquidity Provision Tier 3.

First, the Exchange proposes to reduce the rebate for executions of Added Displayed Volume under Liquidity Provision Tier 1 from $0.00335 per share to $0.00325 per share.[8] The Exchange believes that the proposed rebate represents only a modest decrease from the current rebate provided for executions of Added Displayed Volume under Liquidity Provision Tier 1. The purpose of reducing the enhanced rebate for executions of Added Displayed Volume under Liquidity Provision Tier 1 is for business and competitive reasons, as the Exchange believes the reduction of such rebate 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 displayed liquidity. The Exchange also proposes to modify the required criteria under Liquidity Provision Tier 1. Currently, a Member qualifies for Liquidity Provision Tier 1 by achieving an ADAV[9] of at least 0.20% of the TCV.[10] Now, the Exchange proposes to modify this required criteria such that a Member would now qualify for Liquidity Provision Tier 1 by achieving an ADAV of at least 0.25% of the TCV. Thus, such proposed change would increase the ADAV threshold, which is designed to encourage Members to maintain or increase their orders that add liquidity on the Exchange. The Exchange believes that the tier, as proposed, would further incentivize increased order flow to the Exchange, thereby promoting price discovery and contributing to a deeper and more liquid market to the benefit of all market participants.

Next, the Exchange proposes to modify the required criteria under Liquidity Provision Tier 2. Currently, a Member qualifies for Liquidity Provision Tier 2 by achieving an ADAV that is greater than or equal to 0.10% of the TCV. Now, the Exchange proposes to modify this required criteria such that a Member would now qualify for Liquidity Provision Tier 2 by achieving either: (1) An ADAV of at least 0.20% of the TCV; or (2) a Step-Up ADAV[11] from December 2021 of at least 0.05% of the TCV. Thus, such proposed changes would increase the ADAV threshold and provide an alternative Step-Up ADAV threshold that a Member may choose to achieve in order to qualify for Liquidity Provision Tier 2 that is based on such Member increasing its ADAV above its December 2021 ADAV, each of which is designed to encourage Members to maintain or increase their orders that add liquidity on the Exchange. The Exchange believes that the tier, as proposed, would further incentivize increased order flow to the Exchange, thereby promoting price discovery and contributing to a deeper

[4] Market share percentage calculated as of December 29, 2021. The Exchange receives and processes data made available through consolidated data feeds (*i.e.,* CTS and UTDF).

[5] *Id.*

[6] This proposed standard pricing 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.

[7] *See, e.g.,* the NYSE Arca, Inc. equities trading fee schedule on its public website (available at *https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf*), which reflects a standard rebate of $0.0020 per share for executions of orders in securities priced at or above $1.00 per share that add displayed liquidity; the Cboe BZX Exchange, Inc. (''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 standard rebate of $0.0018 per share for executions of orders in securities priced at or above $1.00 per share that add displayed liquidity; the Nasdaq Stock Market LLC Price List—Trading Connectivity (available at *http://nasdaqtrader.com/Trader.aspx?id=PriceListTrading2*), which reflects a standard rebate of $0.0020 per share for executions of orders in Tape A and Tape B securities priced at or above $1.00 per share that add displayed liquidity and a standard rebate of $0.0015 per share for executions of orders in Tape C securities priced at or above $1.00 per share that add displayed liquidity.

[8] The proposed 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. The Exchange notes that because the determination of whether a Member qualifies for a certain pricing tier for a particular month will not be made until after the month-end, the Exchange will provide the Fee Codes otherwise applicable to such transactions on the execution reports provided to Members during the month and will only designate the Fee Codes applicable to the achieved pricing tier on the monthly invoices, which are provided after such determination has been made, as the Exchange does for its tier-based pricing today.

[9] 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.

[10] 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.

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

and more liquid market to the benefit of all market participants. The Exchange does not propose to change the pricing under Liquidity Provision Tier 2.

Additionally, the Exchange is proposing to adopt a new Liquidity Provision Tier 3 in which it would provide an enhanced rebate of $0.0027 per share for executions of Added Displayed Volume for Members that qualify by achieving an ADAV of at least 0.05% of the TCV.[12] The Exchange proposes to provide Members that qualify for Liquidity Provision Tier 3 a rebate of 0.05% of the total dollar value 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 applicable to such executions for all Members. The proposed Liquidity Provision Tier 3 is designed to encourage Members to maintain or increase their orders that add liquidity on the Exchange in order to qualify for an enhanced 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. Further, the proposed new Liquidity Provision Tier 3 would provide Members that would not qualify for Liquidity Provision Tiers 1 and 2 with an opportunity to still qualify for an enhanced rebate for executions of Added Displayed Volume in a manner that, coupled with the higher enhanced rebates provided under Liquidity Provision Tiers 1 and 2, as described above, provides increasingly higher benefits for satisfying increasingly more stringent criteria.

Liquidity Removal Tier 1

Currently, the Exchange charges a standard fee of $0.0029 per share for executions of Removed Volume. The Exchange also currently offers Liquidity Removal Tier 1 in which qualifying Members are charged a lower fee of $0.0027 per share for executions of Removed Volume by achieving either: (1) A Step-Up ADAV from October 2021 of at least 0.05% of the TCV; or (2) an ADV of at least 0.55% of the TCV. Now, the Exchange proposes to increase the fee charged for executions of Removed Volume under such tier and modify the required criteria under such tier. Specifically, the Exchange proposes to charge a fee of $0.0028 per share for executions of Removed Volume for Members that qualify for Liquidity Removal Tier 1 by achieving either: (1) An ADAV of at least 0.50% of the TCV; or (2) an ADV of at least 0.70% of the TCV.

The Exchange believes that the proposed fee represents only a modest increase from the current fee charged for executions of Removed Volume under Liquidity Removal Tier 1. The purpose of increasing such fee is for business and competitive reasons, as the Exchange believes that increasing such fee would generate additional revenue to offset some of the costs associated with the Exchange's current transaction pricing structure, which provides various rebates for liquidity-adding orders, and the Exchange's operations generally, in a manner that is still consistent with the Exchange's overall pricing philosophy of encouraging added liquidity. The Exchange notes that the proposed changes to the required criteria under Liquidity Removal Tier 1 would replace the current Step-Up ADAV threshold with an ADAV threshold that is not based on a Member's ADAV from a prior month (but that is a higher percentage of the TCV) and would increase the alternative ADV threshold. Thus, the purpose of the proposed changes to the required criteria is to encourage Members to maintain or increase their order flow to the Exchange. The Exchange believes that the tier, as proposed, would further incentivize increased order flow 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 it is also proposing to change the fee charged under Liquidity Removal Tier 1 for executions of Removed Sub-Dollar Volume, as further described below.

DLI Tiers and 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, generally, and in a targeted group of securities (*i.e.,* the DLI Target Securities), in particular, 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, including the DLI Target Securities specifically, and committing capital to support the execution of orders.[13] Now, the Exchange proposes to modify its DLI Tiers by reducing the rebates for executions of Added Displayed Volume under DLI Tiers 1 and 2 and adopting a new additive rebate for executions of Added Displayed Volume applicable to DLI Tiers 1 and 2.

First, the Exchange proposes to reduce the rebates for executions of Added Displayed Volume under DLI Tiers 1 and 2. Currently, the Exchange provides enhanced rebates of $0.0035 per share under DLI Tier 1 and $0.0034 per share under DLI Tier 2 for executions of Added Displayed Volume for Members that qualify for such tiers.[14] Now, the Exchange proposes to reduce the rebate provided under DLI Tier 1 to $0.0033 per share and the rebate provided under DLI Tier 2 to $0.0031 per share. The Exchange is not proposing to modify the required criteria for a Member to qualify for DLI Tier 1 or DLI Tier 2, nor is the Exchange proposing to change the rebates provided under such tiers for executions of orders in securities priced below $1.00 per share that add displayed liquidity to the Exchange. The purpose of reducing the enhanced rebates provided under DLI Tiers 1 and 2 for executions of Added Displayed Volume is for business and competitive reasons, as the Exchange believes the reduction of such rebates would decrease the Exchange's expenditures with respect to the Exchange's transaction pricing in a manner that is still consistent with the Exchange's overall pricing philosophy of encouraging added liquidity and promoting the price discovery and market quality objectives of the DLI Tiers.

The Exchange also proposes to revise the ''Displayed Liquidity Incentive Tiers'' heading on the Fee Schedule to read ''Displayed Liquidity Incentive

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

[13] *See* the Exchange's Fee Schedule (available at *https://info.memxtrading.com/fee-schedule/*) for additional details regarding the Exchange's DLI Tiers and DLI Target Securities. *See also* Securities Exchange Act Release No. 92150 (June 10, 2021), 86 FR 32090 (June 16, 2021) (SR–MEMX–2021–07) (notice of filing and immediate effectiveness of fee changes adopted by the Exchange, including the adoption of DLI).

[14] The pricing for DLI Tier 1 is referred to by the Exchange on the Fee Schedule under the description ''Added displayed volume, DLI Tier 1'' with a Fee Code of ''Bq1'', ''Bq1'' or ''Jq1'', as applicable. The pricing for DLI Tier 2 is referred to by the Exchange on the Fee Schedule under the description ''Added displayed volume, DLI Tier 2'' with a Fee Code of ''Bq2'', ''Dq2'' or ''Jq2'', as applicable.

(DLI) Tiers'' (*i.e.,* to include the ''DLI'' abbreviation in a parenthetical) so that it is clear that references to ''DLI'' on the Fee Schedule are references to the Displayed Liquidity Incentive.

Additionally, the Exchange is proposing to adopt a new additive rebate for executions of Added Displayed Volume applicable to DLI Tiers 1 and 2 (the ''DLI Additive Rebate''). Specifically, the proposed DLI Additive Rebate would provide an additive rebate of $0.0001 per share that is in addition the otherwise applicable rebate under DLI Tier 1 or DLI Tier 2 for a qualifying Member's executions of Added Displayed Volume.[15] As proposed, a Member that qualifies for DLI Tier 1 would qualify for the DLI Additive Rebate if such Member has an ADAV of at least 0.30% of the TCV, and a Member that qualifies for DLI Tier 2 would qualify for the DLI Additive Rebate if such Member has an ADAV of at least 0.10% of the TCV.[16] The Exchange notes that the DLI Additive Rebate would only apply to executions of Added Displayed Volume that would otherwise receive the rebate applicable under DLI Tier 1 or DLI Tier 2.[17] 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 or DLI Tier 2) 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.[18]

Pricing for Certain Sub-Dollar Volume

Currently, the Exchange charges a standard fee of 0.05% of the total dollar value of the transaction for executions of Removed Sub-Dollar Volume, which is the same fee that is applicable to all Members (including those that qualify for Liquidity Removal Tier 1). Now, the Exchange proposes to increase the standard fee charged to all Members (including those that qualify for Liquidity Removal Tier 1) for executions of Removed Sub-Dollar Volume to 0.25% of the total dollar value of the transaction.[19] The purpose of increasing the standard fee for executions of Removed Sub-Dollar Volume is for business and competitive reasons, as the Exchange believes that increasing such fee would generate additional revenue to offset some of the costs associated with the Exchange's current transaction pricing structure, which provides various rebates for liquidity-adding orders, and the Exchange's operations generally, in a manner that is still consistent with the Exchange's overall pricing philosophy of encouraging added liquidity. The Exchange notes that despite the increase proposed herein, the proposed standard fee for executions of Removed Sub-Dollar Volume (*i.e.,* 0.25% of the total dollar value of the transaction) remains lower than, and competitive with, the standard fee charged by at least one other equity exchange for executions of orders in securities priced below $1.00 per share that remove liquidity.[20]

Currently, the Exchange provides a standard rebate of 0.05% of the total dollar value of the transaction for executions of orders (including Midpoint Peg orders) of Added Non-Displayed Sub-Dollar Volume. Now, the Exchange proposes to modify this standard pricing to provide for free executions of orders (including Midpoint Peg orders) of Added Non-Displayed Sub-Dollar Volume.[21] The purpose of eliminating the standard rebate for executions of orders (including Midpoint Peg orders) of Added Non-Displayed Sub-Dollar Volume is for business and competitive reasons, as the Exchange believes the elimination of such rebate would decrease the Exchange's expenditures with respect to the Exchange's transaction pricing in a manner that is still consistent with the Exchange's overall pricing philosophy of encouraging added displayed liquidity. The Exchange notes that multiple other equities exchanges currently provide standard pricing of free executions of orders in securities priced below $1.00 per share that add non-displayed liquidity.[22]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[23] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[24] 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

[15] 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 ''Y'' to be appended to the otherwise applicable Fee Code for qualifying executions (which include Fee Codes ''Bq1'', ''Dq1'', ''Jq1'', ''Bq1X'', ''Dq1X'', ''Jq1X'', ''Bq2'', ''Dq2'', ''Jq2'', ''Bq2X'', ''Dq2X'', ''Jq2X'').

[16] Thus, a Member that qualifies for DLI Tier 1 and the DLI Additive Rebate applicable to DLI Tier 1 (by achieving an ADAV of at least 0.30% of the TCV) would receive a rebate of $0.0034 per share (which is the proposed $0.0033 per share rebate under DLI 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 DLI Tier 2 and the DLI Additive Rebate applicable to DLI Tier 2 (by achieving an ADAV of at least 0.10% of the TCV) would receive a rebate of $0.0032 per share (which is the proposed $0.0031 per share rebate under DLI Tier 2, as described above, plus the $0.0001 per share DLI Additive Rebate) for executions of Added Displayed Volume.

[17] The Exchange notes that such executions are also eligible to receive the $0.0002 per share additive rebate under the existing Targeted Step-Up Tier for Members that also qualify for such incentive.

[18] The Exchange's Targeted Step-Up Tier currently provides an additive rebate of $0.0002 per share for executions of added volume for Members that qualify for the Targeted Step-Up Tier by achieving one of two specified volume thresholds in certain designated securities. *See* the Exchange's Fee Schedule (available at *https://info.memxtrading.com/fee-schedule/*) for additional details regarding the Targeted Step-Up Tier. *See also* Securities Exchange Act Release No. 93554 (November 10, 2021), 86 FR 64248 (November 17, 2021) (SR–MEMX–2021–16) (notice of filing and immediate effectiveness of fee changes adopted by the Exchange, including the adoption of the Targeted Step-Up Tier).

[19] This proposed pricing for Removed Sub-Dollar Volume is referred to by the Exchange on the Fee Schedule under the existing descriptions ''Removed volume from MEMX Book'' with a Fee Code of ''R'' and ''Removed volume from MEMX Book, Liquidity Removal Tier 1'' with a Fee Code of ''R1'', as applicable.

[20] *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 standard fee of 0.30% of the total dollar value of the transaction for executions of orders in securities priced below $1.00 per share that remove liquidity.

[21] This proposed pricing for Added Non-Displayed Sub-Dollar Volume is referred to by the Exchange on the Fee Schedule under the existing descriptions ''Added non-displayed volume'' with a Fee Code of ''H'' and ''Added non-displayed volume, Midpoint Peg'' with a Fee Code of ''M'', as applicable.

[22] *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 free executions as the standard pricing for orders in securities priced below $1.00 per share that add non-displayed liquidity; the Cboe EDGA Exchange, Inc. equities trading fee schedule on its public website (available at *https://www.cboe.com/us/equities/membership/fee_schedule/edga/*), which reflects free executions as the standard pricing for orders in securities priced below $1.00 per share that add non-displayed liquidity.

[23] 15 U.S.C. 78f.

[24] 15 U.S.C. 78f(b)(4) and (5).

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.'' [25]

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 to the Exchange, which the Exchange believes would enhance liquidity and market quality on the Exchange to the benefit of all Members, as well as to 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 displayed liquidity.

Regarding the proposed changes to the standard rates, the Exchange believes that reducing the standard rebate for executions of Added Displayed Volume, increasing the standard fee for executions of Removed Sub-Dollar Volume (including for Members that qualify for Liquidity Removal Tier 1), and eliminating the standard rebate (*i.e.,* to provide free executions) for executions of orders (including Midpoint Peg orders) of Added Non-Displayed Sub-Dollar Volume are reasonable because, as indicated above, in order to operate in the highly competitive equities markets, the Exchange and its competing exchanges seek to offer similar pricing structures, including assessing comparable standard fees and rebates, as applicable, for executions of Added Displayed Volume, Removed Sub-Dollar Volume, and Added Non-Displayed Sub-Dollar Volume. Thus, the Exchange believes the proposed standard rate changes for executions of Added Displayed Volume, Removed Sub-Dollar Volume, and Added Non-Displayed Sub-Dollar Volume proposed herein are reasonable, as such rates are comparable to, and competitive with, the standard fees and rebates, as applicable, assessed for such executions on other equity exchanges.[26] Further, the Exchange believes the proposed changes to reduce the standard rebates for executions of Added Displayed Volume and Added Non-Displayed Sub-Dollar Volume, as well as the proposed change to increase the standard fee for executions of Removed Sub-Dollar Volume, are reasonable because, as noted above, the Exchange believes such changes 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 displayed liquidity. The Exchange also believes that the proposed changes to these standard rates represents an equitable allocation of fees and are not unfairly discriminatory because such standard rates will continue to apply equally to all Members.

As noted above, volume-based incentives and discounts 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: (i) The value to an exchange's market quality; (ii) associated higher levels of market activity, such as high levels of liquidity provision and/or growth patterns; and (iii) the introduction of higher volumes of orders into the price and volume discovery processes.

In particular, the Exchange believes the proposed new Liquidity Provision Tier 3 is reasonable, equitable, and not unfairly discriminatory for these same reasons, as it provides Members with an additional incentive to achieve a certain volume threshold on the Exchange, is available to all Members and, as noted above, is designed to encourage Members to maintain or increase their orders that add liquidity on the Exchange in order to qualify for an enhanced 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. Moreover, the Exchange believes the proposed new Liquidity Provision Tier 3 is a reasonable means to incentivize such increased activity, as it provides Members with an additional opportunity to qualify for an enhanced rebate for executions of Added Displayed Volume with less stringent criteria than Liquidity Provision Tiers 1 and 2. The Exchange also believes that providing a rebate of 0.05% of the total dollar value of the transaction for executions of orders in securities priced below $1.00 per share that add displayed liquidity to the Exchange under proposed new Liquidity Provision Tier 3 is reasonable, equitable, and not unfairly discriminatory, as this is the same rebate that is applicable to such executions for all Members (*i.e.,* including those that do not qualify for any Liquidity Provision Tier), which is also the case under the Exchange's current pricing.

The Exchange also believes the proposed changes to Liquidity Provision Tiers 1 and 2, including to reduce the rebate for executions of Added Displayed Volume and modify the required criteria under Liquidity Provision Tier 1 and to modify the required criteria under Liquidity Provision Tier 2, are reasonable, equitable, and not unfairly discriminatory for the same reasons applicable to volume-based incentives and discounts described above. Specifically, the Exchange believes the proposed new required criteria under Liquidity Provision Tiers 1 and 2 is reasonable, equitable, and not unfairly discriminatory because all Members will continue to be eligible to qualify for such tiers and have the opportunity to receive the corresponding enhanced rebates for executions of Added Displayed Volume if such criteria is achieved and, as noted above, such criteria is designed to encourage Members to maintain or increase their orders that add liquidity on the

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

[26] *See supra* notes 7, 20, and 22.

Exchange in order to qualify for an enhanced 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 also believes the proposed reduced rebate for executions of Added Displayed Volume and proposed new required criteria under Liquidity Provision Tier 1 and the proposed new required criteria under Liquidity Provision Tier 2 are reasonable and consistent with an equitable allocation of fees and rebates, in that such reduced rebate represents only a modest decrease from the current rebate for executions of Added Displayed Volume under Liquidity Provision Tier 1 (*i.e.,* from $0.00335 per share to $0.00325 per share) and 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 displayed liquidity, and the more stringent criteria under such tiers correlates to, and is commensurate with, the corresponding tier's higher rebate.

Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would definitely result in any Members qualifying for the proposed Liquidity Provision Tiers. While the Exchange has no way of predicting with certainty how the proposed tiers will impact Member activity, the Exchange anticipates that multiple Members that currently qualify for Liquidity Provision Tiers 1 and 2 would be able to satisfy the proposed new required criteria under such tiers, which the Exchange believes continues to be commensurate with the fees under such tiers, and that multiple additional Members would be able to satisfy the required criteria under proposed new Liquidity Provision Tier 3. The Exchange also notes that the proposed tiers will not adversely impact any Member's ability to qualify for reduced fees or enhanced rebates offered under other pricing tiers. Should a Member not meet the proposed new criteria, the Member will merely not receive that corresponding enhanced rebate.

The Exchange also believes the proposed changes to Liquidity Removal Tier 1, including to increase the fee charged for executions of Removed Volume and modify the required criteria under such tier, are reasonable, equitable, and not unfairly discriminatory for the same reasons applicable to volume-based incentives and discounts described above. Specifically, the Exchange believes the proposed new required criteria under Liquidity Removal Tier 1 is reasonable, equitable, and not unfairly discriminatory because all Members will continue to be eligible to qualify for such tier and have the opportunity to receive the corresponding lower fee for executions of Removed Volume if such criteria is achieved and, as noted above, such criteria is designed to encourage Members to maintain or increase their order flow 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 also believes the proposed increased fee for executions of Removed Volume and proposed new required criteria under Liquidity Removal Tier 1 are reasonable and consistent with an equitable allocation of fees and rebates, in that such proposed fee represents only a modest increase from the current fee charged for executions of Removed Volume under Liquidity Removal Tier 1 (*i.e.,* from $0.0027 per share to $0.0028 per share) and would generate additional revenue to offset some of the costs associated with the Exchange's current transaction pricing in a manner that is still consistent with the Exchange's overall pricing philosophy of encouraging added displayed liquidity.

Additionally, while the Exchange has no way of predicting with certainty how the proposed new required criteria under such tier will impact Member activity, the Exchange anticipates that most, if not all, of the Members that currently qualify for Liquidity Removal Tier 1 would continue to qualify under the proposed new criteria, which the Exchange believes continues to be commensurate with the proposed new fee under such tier. The Exchange also notes that the proposed tier will not adversely impact any Member's ability to qualify for reduced fees or enhanced rebates offered under other pricing tiers. Should a Member not meet the proposed new criteria, the Member will merely not be charged the corresponding lower fee.

The Exchange believes the proposed changes to reduce the rebates for executions of Added Displayed Volume under DLI Tiers 1 and 2 are reasonable, equitable, and not unfairly discriminatory for the same reasons applicable to volume-based incentives and discounts described above, as such rebates would continue to apply equally to all Members, in that all Members would continue to have the opportunity to achieve the required criteria under such tiers, which the Exchange is not proposing to modify with this proposal, and in turn, qualify for an enhanced rebate for executions of Added Displayed Volume, and the rebate provided under DLI Tier 1 will remain higher than the rebate provided under DLI Tier 2 commensurate with the more stringent criteria of DLI Tier 1 than of DLI Tier 2. The Exchange further believes that such proposed changes are reasonable and consistent with an equitable allocation of fees and rebates, as such reduced rebates are 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 displayed liquidity and promoting the price discovery and market quality objectives of the DLI Tiers described above.

The Exchange also believes the proposed change to revise the ''Displayed Liquidity Incentive Tiers'' heading on the Fee Schedule to read ''Displayed Liquidity Incentive (DLI) Tiers'' (*i.e.,* to include the ''DLI'' abbreviation in a parenthetical) is reasonable, equitable, and not unfairly discriminatory in that it is designed to make clear for all Members that references to ''DLI'' on the Fee Schedule are references to the Displayed Liquidity Incentive.

As noted above, the Exchange believes that the proposed DLI Additive Rebate is similar to other volume-based incentives and discounts, which have been widely adopted by exchanges, including the Exchange,[27] and thus, the Exchange believes the proposed new DLI Additive Rebate is reasonable, equitable, and not unfairly discriminatory for the same reasons applicable to volume-based incentives and discounts described above. Specifically, the Exchange believes the proposed DLI Additive Rebate is reasonable, equitable, and not unfairly discriminatory, as it provides Members that consistently quote at the NBBO on the Exchange (*i.e.,* Members that qualify for DLI Tier 1 or DLI Tier 2) with an additional incentive to achieve a certain volume threshold on the Exchange, is available to all such Members, and, as noted above, is designed to encourage such Members to 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

[27] *See supra* note 18.

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 also believes the proposed additive rebate for executions of Added Displayed Volume under the proposed DLI Additive Rebate (*i.e.,* $0.0001 per share) is reasonable, in that it represents only a modest addition to the rebates otherwise applicable to executions of Added Displayed Volume for Members that qualify for DLI Tiers 1 or 2 and, in conjunction with the other changes proposed herein, would not provide for a rebate that is higher than the current maximum rebate provided by the Exchange. While the proposed DLI Additive Rebate is only available to Members that also qualify for DLI Tiers 1 or 2, the Exchange believes that it is reasonable, consistent with an equitable allocation of fees, and not unfairly discriminatory to provide such additive rebate only to such Members in recognition of the benefits that such Members provide to the Exchange and market participants by consistently quoting at the NBBO on the Exchange, as described above, particularly as the magnitude of the additive rebate is not unreasonably high and is, instead, reasonably related to the enhanced liquidity and market quality that such additive rebate is designed to achieve.

Additionally, while the Exchange has no way of predicting with certainty how the proposed new DLI Additive Rebate will impact Member activity, the Exchange anticipates that several of the Members that currently qualify for DLI Tiers 1 or 2 would also satisfy the required criteria for the corresponding DLI Additive Rebate, which the Exchange believes to be commensurate with the proposed additive rebate in each case. The Exchange also notes that the proposed DLI Additive Rebate will not adversely impact any Member's ability to qualify for reduced fees or enhanced rebates offered under other pricing tiers or incentives. Should a Member not meet the proposed required criteria, the Member will merely not receive the additive rebate.

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 [28] 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 decrease the Exchange's expenditures and generate additional revenue with respect to its transaction pricing and to encourage Members to maintain or increase their order flow on the Exchange, thereby contributing to a deeper and more liquid market to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue. 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." [29]

Intramarket Competition

As discussed above, the Exchange believes that the proposal would incentivize Members to maintain or increase their order flow on the Exchange, thereby contributing to a deeper and more liquid market to the benefit of all market participants and 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 opportunity to qualify for the Liquidity Provision Tiers, the DLI Tiers, and Liquidity Removal Tier 1, and thus receive the proposed enhanced rebates for executions of Added Displayed Volume or be charged the proposed lower fee for executions of Removed Volume, as applicable, would be available to all Members that meet the associated volume requirements in any month. As noted above, the Exchange believes that meeting the proposed new volume requirements of the Liquidity Provision Tiers and Liquidity Removal Tier 1 is attainable for several market participants, and the Exchange believes such thresholds are reasonably related to the enhanced liquidity and market quality that such tiers are designed to promote. Similarly, as described above, the Exchange anticipates that several of the Members that currently qualify for DLI Tiers 1 or 2 would also satisfy the required criteria for the corresponding DLI Additive Rebate, which the Exchange believes to be commensurate with the proposed additive rebate in each case, and the Exchange believes that it is appropriate for the proposed DLI Additive Rebate to be available only to Members that qualify for DLI Tier 1 or DLI Tier 2 in recognition of the benefits that such Members provide to the Exchange and market participants, particularly as the magnitude of the additive rebate is not unreasonably high and is, instead, reasonably related to the enhanced liquidity and market quality that such additive rebate is designed to achieve. Lastly, as noted above, the proposed reduced standard rebates for executions of Added Displayed Volume and Added Non-Displayed Sub-Dollar Volume, as well as the proposed increased standard fee for executions of Removed Volume, would apply equally to all Members. 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 17% of the total market share of 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

[28] 15 U.S.C. 78f(b)(4) and (5).

[29] *See supra* note 25.

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, Removed Volume, Removed Sub-Dollar Volume, and Added Non-Displayed Sub-Dollar 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 change is a competitive proposal through which the Exchange is seeking to decrease the Exchange's expenditures and generate additional revenue with respect to its transaction pricing and to encourage additional order flow to the Exchange through volume-based incentives and discounts, which have been widely adopted by exchanges, and standard pricing that are comparable to, and competitive with, pricing for similar executions in place at other exchanges.[30] 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 standard pricing for executions of Added Displayed Volume, Removed Sub-Dollar Volume, and Added Non-Displayed Sub-Dollar Volume and similar pricing incentives and discounts to market participants that achieve certain volume criteria and thresholds.

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.'' [31] 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'. . . .''.[32] 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 [33] and Rule 19b–4(f)(2) [34] 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 (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MEMX–2021–21 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–2021–21. 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 (*http://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 10:00 a.m. and 3:00 p.m. Copies of the filing 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. All submissions should refer to File Number SR–MEMX–2021–21 and should be submitted on or before February 8, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

J. Matthew DeLesDernier,

Assistant Secretary.

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[30] *See supra* notes 7, 20, and 22.

[31] *See supra* note 25.

[32] *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)).

[33] 15 U.S.C. 78s(b)(3)(A)(ii).

[34] 17 CFR 240.19b–4(f)(2).

[35] 17 CFR 200.30–3(a)(12).