

A copy of the request will be posted on PBGC's website at <https://www.pbgc.gov/prac/laws-and-regulation/federal-register-notices-open-for-comment>. It may also be obtained without charge by writing to the Disclosure Division ([disclosure@pbgc.gov](mailto:disclosure@pbgc.gov)), Office of the General Counsel of PBGC, 445 12th Street SW, Washington, DC 20024-2101; or, calling 202-229-4040 during normal business hours. If you are deaf or hard of hearing or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

**FOR FURTHER INFORMATION CONTACT:** Monica O'Donnell ([odonnell.monica@pbgc.gov](mailto:odonnell.monica@pbgc.gov)), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024-2101, 202-229-8706. If you are deaf or hard of hearing or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

**SUPPLEMENTARY INFORMATION:** Sections 4041 and 4042 of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. 13019-1461, govern the termination of single-employer defined benefit pension plans that are subject to title IV of ERISA. A plan administrator may initiate a distress termination pursuant to section 4041(c), and PBGC may itself initiate proceedings to terminate a pension plan under section 4042 if PBGC determines that certain conditions are present. Under sections 4041 and 4042 of ERISA, upon a request by an affected party, a plan administrator must disclose information it has submitted to PBGC in connection with a distress termination filing, and a plan administrator or plan sponsor must disclose information it has submitted to PBGC in connection with a PBGC-initiated termination. The provisions also require PBGC to disclose the administrative record relating to a PBGC-initiated termination upon request by an affected party.

The existing collection of information was approved under OMB control number 1212-0065 (expires April 30, 2024). On October 27, 2023, PBGC published in the *Federal Register* (at 88 FR 73887) a notice informing the public of its intent to request an extension of this collection of information. No comments were received. PBGC is requesting that OMB extend approval of the collection for three years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

PBGC estimates that approximately 30 plans will terminate as distress or PBGC-initiated terminations each year and that two participants or other affected parties of every nine distress terminations or PBGC-initiated terminations filed will annually make requests for termination information, or  $\frac{2}{9}$  of 30 (approximately 7 per year). PBGC estimates that the hour burden for each request will be about 20 hours. PBGC expects that the staff of plan administrators and sponsors will perform the work in-house and that no work will be contracted to third parties. The total annual hour burden is estimated to be 140 hours (7 plans  $\times$  20 hours), and the total annual cost burden is estimated to be \$0.

Issued in Washington, DC.

**Hilary Duke,**

*Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-99266; File No. SR-MEMX-2023-41]

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

January 3, 2024.

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 December 26, 2023, 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). The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal on January 1, 2024. 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 remove an expired criteria under Liquidity Provision Tier 4.

The Exchange currently provides a base rebate of \$0.0015 per share 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").<sup>4</sup> The Exchange also currently offers Liquidity Provision Tiers 1-5 under which a Member may receive an enhanced rebate for executions of Added Displayed Volume by achieving the corresponding required volume criteria for each such tier. With respect to Liquidity Provision Tier 4, the Exchange currently provides an enhanced rebate of \$0.0029 per share for executions of Added Displayed Volume for Members that qualify for such tier by achieving: (1) an ADAV<sup>5</sup> (excluding Retail Orders) that is equal to or greater than 0.09% of the TCV;<sup>6</sup> or (2) an ADAV that is equal to or greater than 0.006% of the TCV and a Step-Up

<sup>4</sup> The base rebate 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, on execution reports.

<sup>5</sup> 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.

<sup>6</sup> 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.

<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).

ADAV<sup>7</sup> from June 2023 that is equal to or greater than 40% of the Member's June 2023 ADAV.<sup>8</sup> Additionally, the Fee Schedule indicates that criteria (2) of Liquidity Provision Tier 4 will expire no later than December 31, 2023. Now, given the expiration of criteria (2) of Liquidity Provision Tier 4, it is necessary to modify the Fee Schedule to delete this criteria (2) as well as the note under the Liquidity Provision Tiers pricing table that indicates its expiration, as both are no longer applicable and otherwise obsolete. The Exchange is not proposing to make any changes to this or any other Liquidity Provision Tier, and as such, Liquidity Provision Tier 4 will now consist solely of the previously existing criteria (1).

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>9</sup> in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,<sup>10</sup> 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 discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed change to modify Liquidity Provision Tier 4 to remove the expired criteria (2) criteria is reasonable because there was an expiration date associated with this criteria that has now passed. As such, this criteria is no longer available under this tier, and should not remain on the Fee Schedule. The Exchange believes that the enhanced rebate for executions of Added Displayed Volume provided under Liquidity Provision Tier 4, which the Exchange is not proposing to change with this proposal, remains commensurate with the required criteria under such tier, as modified, and is reasonably related to the market quality benefits that such tier is designed to achieve. The Exchange also believes the enhanced rebate for executions of Added Displayed Volume provided under Liquidity Provision Tier 4 remains equitable and not unfairly

discriminatory, as such enhanced rebate will continue to apply equally to all qualifying Members.

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<sup>11</sup> 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.

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

In accordance with Section 6(b)(8) of the Act,<sup>12</sup> the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the proposed rule change would not place any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather is designed to enhance the clarity of the Fee Schedule and alleviate possible Member confusion that may arise from the inclusion of obsolete language.

### 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>13</sup> and Rule 19b-4(f)(2)<sup>14</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-2023-41 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-2023-41. 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-2023-41 and should be submitted on or before January 30, 2024.

<sup>7</sup> As set forth on the Fee Schedule, "Step Up ADAV" means ADAV in the relevant baseline month subtracted from current ADAV.

<sup>8</sup> The proposed pricing for Liquidity Provision Tier 4 is referred to by the Exchange on the Fee Schedule under the existing description "Added displayed volume, Liquidity Provision Tier 4" with a Fee Code of "B4", "D4" or "J4", as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

<sup>9</sup> 15 U.S.C. 78f.

<sup>10</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>11</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>12</sup> 15 U.S.C. 78f(b)(8).

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>14</sup> 17 CFR 240.19b-4(f)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2024-00178 Filed 1-8-24; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-99269; File No. SR-NASDAQ-2023-056]

### Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Schedule of Fees at Equity 7 Sections 114 and 118

January 3, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 21, 2023, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("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 proposes to amend the Exchange's schedule of fees at Equity 7, Sections 114 and 118.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### 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

On December 13, 2023, Nasdaq experienced a technical issue with its RASH order handling system. The issue involved a duplication of an internal order identification numbers, which impacted a subset of orders for some members, including unacknowledged orders, an inability to cancel open orders, intermittent port disconnects, missing execution reports, and mismatched execution reports.

Because Nasdaq's fee and rebate schedule in Equity 7, Sections 114 and 118 provide that members may achieve better pricing if they achieve certain specified volumes of activity during a given month (as measured by Consolidated Volume (defined below) and Average Daily Volume ("ADV")), the RASH issue may have impacted the ability of affected members to reach the required volumes. By way of illustration, a member with shares of liquidity provided in all securities through one of its Nasdaq Market Center market participant identifiers ("MPIDs") that represent more than 1.50% of the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities in equity securities of at least one round lot ("Consolidated Volume") during a month receives a rebate of \$0.00305 per share executed with respect to liquidity that it provides during the month through displayed quotes/orders. By contrast, members providing lower volumes of liquidity receive lower rebates with respect to displayed quotes/order ranging from \$0.0020 to \$0.0030 per share executed. If a member had provided liquidity that represented slightly in excess of 1.50% of Consolidated Volume on each day of December 2023 other than December 13, but was prevented from reaching comparable levels on that date due to the RASH issue, it is possible that the rebate it would ultimately earn for the entire month would be lower than would otherwise have been the case. Similarly, under Equity 7, Section 114, a member may be entitled to receive an enhanced rebate under Nasdaq's Qualified Market Maker Program, Designated Liquidity Provider Program, or its NBBO Program, based on its achievement of certain Consolidated Volume or ADV criteria specified in the rule. The ability of a member to achieve

these criteria may have also been affected by the RASH issue.

Accordingly, in order to ensure that fees and rebates are not adversely impacted by the RASH issue, Nasdaq proposes to exclude December 13, 2023 from calculations of Consolidated Volume and ADV made under Equity 7, Sections 114 and 118 if doing so would allow a member to achieve more favorable pricing than would be the case if the day were included. Thus, members that are unaffected by the RASH issue would not have the day arbitrarily excluded from their calculations. Nasdaq will perform all calculations needed to implement the change.

##### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>3</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>4</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Nasdaq believes that the proposed change is reasonable because it will allow members to receive December 2023 pricing that is based on either the exclusion, or the inclusion, of December 13, whichever is more favorable to the member. The proposed change is equitable and not unfairly discriminatory, because it will ensure that the fees and rebates applicable to members that were subject to the RASH issue are not adversely affected by the issue.

#### 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 not necessary or appropriate in furtherance of the purposes of the Act. The change will help to ensure that members that were affected by the RASH issue are not required to pay higher fees, or receive lower rebates, during December 2023 than would otherwise be the case. Accordingly, Nasdaq believes that the proposed changes will protect members from incurring unanticipated charges.

<sup>15</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> 15 U.S.C. 78f(b).

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