



8011-01

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87436; File No. 10-237]

MEMX LLC; Notice of Filing of Application, as Amended, for Registration as a National Securities Exchange under Section 6 of the Securities Exchange Act of 1934

October 31, 2019

On September 9, 2019, MEMX LLC (“MEMX” or “Applicant”) filed with the Securities and Exchange Commission (“Commission”) a Form 1 application under the Securities Exchange Act of 1934 (“Exchange Act”), seeking registration as a national securities exchange under Section 6 of the Exchange Act. On October 23, 2019, MEMX submitted Amendment No. 1 to its Form 1 application.¹ MEMX’s Form 1 application, as amended, provides detailed information on how it proposes to satisfy the requirements of the Exchange Act.

The Commission is publishing this notice to solicit comments on MEMX’s Form 1 application. The Commission will take any comments it receives into consideration in making its determination about whether to grant the Applicant’s request to register as a national securities exchange. The Commission will grant the registration if it finds that the requirements of the Exchange Act and the rules and regulations thereunder with respect to MEMX are satisfied.²

¹ In Amendment No. 1, Applicant submitted updated portions of its Form 1 application, including Exhibits A-5 (Second Amended and Restated LLC Agreement of MEMX LLC), B (Rules of MEMX), C-2 (Third Amended and Restated LLC Agreement of MEMX Holdings LLC), and C-4 (Amended and Restated LLC Agreement of MEMX SubCo LLC).

² 15 U.S.C. 78s(a).

As discussed in the Form 1 application, MEMX would be a subsidiary of its parent company, MEMX Holdings, LLC (“MEMX Holdings”), which would directly hold 99.5% of the equity of MEMX and indirectly hold the other 0.5% of the equity of MEMX through its 100% ownership of MEMX SubCo LLC.³ In turn, MEMX Holdings would be owned by a group of nine investors that include broker-dealers, retail brokers, and banks, eight of which have the ability to appoint a director to the board of MEMX Holdings.⁴ Three of those investors also would have the ability to nominate a director to the board of MEMX on a rotating schedule.⁵

The governing documents for MEMX can be found in Exhibit A to MEMX’s Form 1 application, and a listing of the officers and directors of MEMX can be found in Exhibit J. The governing documents for MEMX Holdings and MEMX SubCo LLC can be found in Exhibit C to MEMX’s Form 1 application. One notable novel governance provision in the LLC Agreement of MEMX Holdings concerns quorum requirements for the board of directors that would require the presence of certain named investor-appointed directors to have a quorum to conduct business.⁶

With respect to its trading system, the Form 1 application further provides that MEMX would operate a fully automated electronic trading platform for the trading of National Market System stocks through unlisted trading privileges with a continuous automated matching

³ A similar ownership structure exists for MEMX Execution Services LLC, which would act as an optional outbound routing broker for MEMX.

⁴ See Exhibit B (Directors and Observers Schedule) to the Third Amended and Restated LLC Agreement of MEMX Holdings.

⁵ See “Exchange Director Nominating Member” as defined in Article 1.1 of the Third Amended and Restated LLC Agreement of MEMX Holdings. See also Exhibit J (Exchange Director Nomination Rotation) to the Third Amended and Restated LLC Agreement of MEMX Holdings.

⁶ See Article VIII, Section 8.6 of the Third Amended and Restated LLC Agreement of MEMX Holdings.

function. MEMX would not maintain a physical trading floor. Liquidity would be derived from orders to buy and orders to sell submitted to MEMX electronically by its registered broker-dealer members from remote locations. MEMX would have one class of membership open to registered broker-dealers, and also would allow members to register under MEMX rules as market makers on MEMX and be subject to certain specified requirements and obligations set forth in MEMX's proposed rules.

According to the Applicant, it "intends for its System to be relatively simple, without many of the complex order types or instructions available on other national securities exchanges."⁷ While MEMX's proposed rulebook generally conforms to the rules of other exchanges,⁸ one novel feature of MEMX's proposed trading rules is an optional feature on random replenishment for reserve orders that would vary the time intervals of each replenishment.⁹

A more detailed description of the manner of operation of MEMX's proposed system can be found in Exhibit E to the Applicant's Form 1 application. The proposed rulebook for the proposed exchange can be found in Exhibit B to MEMX's Form 1 application. A complete set of forms concerning membership and access can be found in Exhibit F to MEMX's Form 1 application.

MEMX's Form 1 application, including all of the Exhibits referenced above, is available online at www.sec.gov/rules/other.shtml as well as in the Commission's Public Reference Room.

⁷ Form 1, Exhibit E at 16.

⁸ See, e.g., Rulebook of Cboe EDGX Exchange, Inc., available at https://cdn.cboe.com/resources/regulation/rule_book/EDGX_Rulebook.pdf.

⁹ See Proposed MEMX Rule 11.6(k)(1)(A).

Interested persons are invited to submit written data, views, and arguments concerning the Applicant's Form 1, including whether the application is consistent with the Exchange 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. Please include File Number 10-237 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 10-237. 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/other.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to MEMX's Form 1 filed with the Commission, and all written communications relating to the application 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. 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 publicly available. All submissions should refer to File Number 10-237 and should be submitted on or before **[INSERT DATE 45 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER]**.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Jill M. Peterson,

Assistant Secretary.

¹⁰ 17 CFR 200.30-3(a)(71)(i).

