



SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-98388; File No. 4-443]

Joint Industry Plan; Notice of Filing and Immediate Effectiveness of Amendment to the Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options to Add MEMX LLC as a Plan Sponsor

September 14, 2023.

Pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 608 thereunder,² notice is hereby given that on August 29, 2023, MEMX LLC (“MEMX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) an amendment to the Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options (“OLPP” or “Plan”).³ The Commission approved the application of MEMX to register as a national securities exchange on

¹ 15 U.S.C. 78k-1(a)(3).

² 17 CFR 242.608.

³ On July 6, 2001, the Commission approved the OLPP, which was proposed by the American Stock Exchange LLC (“Amex”) (n/k/a NYSE American, LLC (“NYSE American”)), Chicago Board Options Exchange, Incorporated (“Cboe”), International Securities Exchange LLC (“ISE”) (n/k/a Nasdaq ISE, LLC (“Nasdaq ISE”)), Options Clearing Corporation (“OCC”), Philadelphia Stock Exchange, Inc. (“Phlx”) (n/k/a Nasdaq Phlx LLC (Nasdaq Phlx)), and Pacific Exchange, Inc. (“PCX”) (n/k/a NYSE Arca, Inc. (“NYSE Arca”)). See Securities Exchange Act Release No. 44521, 66 FR 36809 (July 13, 2001). See also Securities Exchange Act Release Nos. 49199 (February 5, 2004), 69 FR 7030 (February 12, 2004) (adding Boston Stock Exchange, Inc. as a Sponsor to the OLPP); 57546 (March 21, 2008), 73 FR 16393 (March 27, 2008) (adding Nasdaq Stock Market, LLC (“Nasdaq”) as a Sponsor to the OLPP); 61528 (February 17, 2010), 75 FR 8415 (February 24, 2010) (adding BATS Exchange, Inc. (“BATS”) (n/k/a Cboe BZX Exchange, Inc. (“Cboe BZX”)) as a Sponsor to the OLPP); 63162 (October 22, 2010), 75 FR 66401 (October 28, 2010) (adding C2 Options Exchange Incorporated (“C2”) (n/k/a Cboe C2 Exchange, Inc. (“Cboe C2”)) as a sponsor to the OLPP); 66952 (May 9, 2012), 77 FR 28641 (May 15, 2012) (adding BOX Options Exchange LLC (“BOX”) as a Sponsor to the OLPP); 67327 (June 29, 2012), 77 FR 40125 (July 6, 2012) (adding Nasdaq OMX BX, Inc. (“BX”) (n/k/a Nasdaq BX, Inc. (“Nasdaq BX”)) as a Sponsor to the OLPP); 70765 (October 28, 2013), 78 FR 65739 (November 1, 2013) (adding Topaz Exchange, LLC as a Sponsor to the OLPP (“Topaz”) (n/k/a Nasdaq GEMX, LLC (“Nasdaq GEMX”)); 70764 (October 28, 2013), 78 FR 65733 (November 1, 2013) (adding Miami International Securities Exchange, LLC (“MIAX”) as a Sponsor to the OLPP); 76822 (January 1, 2016), 81 FR 1251 (January 11, 2016) (adding EDGX Exchange, Inc. (“EDGX”) (n/k/a Cboe EDGX Exchange, Inc. (“Cboe EDGX”)) as a Sponsor to the OLPP); 77323 (March 8, 2016), 81 FR 13433 (March 14, 2016) (adding ISE Mercury, LLC (“ISE Mercury”) (n/k/a Nasdaq MRX, LLC (“Nasdaq MRX”)) as a Sponsor to the OLPP); 79897 (January 30, 2017), 82 FR 9263 (February 3, 2017) (adding MIAX PEARL, LLC (“MIAX PEARL”) as a Sponsor to the OLPP) and 85228 (March 1, 2019), 84 FR 8355 (March 7, 2019) (adding MIAX Emerald, LLC (“MIAX Emerald”) as a Sponsor to the OLPP).

May 4, 2020.⁴ The Commission subsequently approved MEMX’s proposal to adopt rules to govern the trading of options on the Exchange for a new facility called MEMX Options.⁵ One of the conditions of the Commission’s approval of MEMX Options was the requirement for MEMX to join the OLPP.⁶ The amendment adds MEMX as a Plan Sponsor⁷ of the OLPP.⁸ The Commission is publishing this notice to solicit comments on the amendment from interested persons.

I. Description and Purpose of the Amendment

The OLPP establishes procedures designed to facilitate the listing and trading of standardized options contracts on the options exchanges. The amendment to the OLPP adds MEMX as a Sponsor. The other OLPP Sponsors are BOX, Cboe, Cboe BZX, Cboe C2, Cboe EDGX, Nasdaq BX, MIAX, MIAX Emerald, MIAX PEARL, Nasdaq, Nasdaq GEMX, Nasdaq ISE, Nasdaq MRX, Nasdaq Phlx, NYSE American, NYSE Arca, and OCC. MEMX has submitted an executed copy of the OLPP to the Commission in accordance with the procedures set forth in the OLPP regarding new Plan Sponsors. Section 7 of the OLPP provides for the entry of new Plan Sponsors to the OLPP. Specifically, Section 7 of the OLPP provides that an Eligible Exchange⁹ may become a Plan Sponsor of the OLPP by: (i) executing a copy of the OLPP, as then in effect; (ii) providing each then-current Plan Sponsor with a copy of such

⁴ See Securities and Exchange Act Release No. 88806 (May 4, 2020), 85 FR 27451 (May 8, 2020) (File No. 10-237).

⁵ See Securities and Exchange Act Release No. 95445 (August 8, 2022), 87 FR 49894 (August 12, 2022) (File No. SR-MEMX-2022-10).

⁶ See *id.* at 49907.

⁷ A “Plan Sponsor” is an Eligible Exchange whose participation in the OLPP has become effective pursuant to Section 7 of the OLPP.

⁸ See Letter from Anders Franzon, General Counsel, MEMX, to Vanessa Countryman, Secretary, Commission, dated August 29, 2023 (“Amendment”).

⁹ The OLPP defines an “Eligible Exchange” as a national securities exchange registered with the Commission pursuant to Section 6(a) of the Act, 15 U.S.C. 78f(a), that (1) has effective rules for the trading of options contracts issued and cleared by the OCC approved in accordance with the provisions of the Act and the rules and regulations thereunder and (2) is a party to the Plan for Reporting Consolidated Options Last Sale Reports and Quotation Information (the “OPRA Plan”). MEMX has represented that it has met both the requirements for being considered an Eligible Exchange. See Amendment, *supra* note 8 (Section 7(i) of the OLPP).

executed OLPP; and (iii) effecting an amendment to the OLPP, as specified in Section 7(ii) of the OLPP.¹⁰

Section 7(ii) of the OLPP sets forth the process by which an Eligible Exchange may effect an amendment to the OLPP to become a Plan Sponsor. Specifically, an Eligible Exchange must: (a) execute a copy of the OLPP as then in effect with the only change being the addition of the new Plan Sponsor's name in Section 9 of the OLPP;¹¹ and (b) submit the executed OLPP to the Commission. The OLPP then provides that such an amendment will be effective when the amendment is approved by the Commission or otherwise becomes effective pursuant to Section 11A of the Act and Rule 608 thereunder.

II. Effectiveness of the OLPP Amendment

The foregoing OLPP amendment has become effective pursuant to Rule 608(b)(3)(iii)¹² because it has been designated by the sponsors as involving solely technical or ministerial matters. At any time within sixty days of the filing of the amendment, the Commission may summarily abrogate the amendment and require that it be refiled pursuant to paragraph (a)(1) of Rule 608,¹³ if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the amendment is consistent with the Act and the rules thereunder. Comments may be submitted by any of the following methods:

¹⁰ MEMX has represented that it has executed a copy of the current Plan, amended to include MEMX as a Plan Sponsor in Section 9 of the Plan, and has provided each current Plan Sponsor with a copy of the executed and amended Plan. See Amendment, *supra* note 8.

¹¹ The list of Plan Sponsors is set forth in Section 9 of the OLPP.

¹² 17 CFR 242.608(b)(3)(iii).

¹³ 17 CFR 242.608(a)(1).

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. Please include file number 4-443 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 4-443. 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 plan that are filed with the Commission, and all written communications relating to the plan 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 4-443 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Sherry R. Haywood,

Assistant Secretary.

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¹⁴ 17 CFR 200.30-3(a)(85).