CPs clients. Under the proposed changes, the same discounted rate (*i.e.,* 50%) from ICE Clear Credit's regular Index Option fees would apply to both CP proprietary transactions and transactions cleared on behalf of the CP's clients. These reduced fees are designed to incentivize the clearing of Index Options by CPs and the CPs clients to grow this clearing service.

Moreover, the proposed fee changes will apply equally to all market participants clearing Index Options. The reduced fees for Index Options will be effective until further notice and shall apply to all CPs. ICE Clear Credit's fee schedules will continue to be transparent and to apply equally to market participants clearing indexes, single names, and Index Options at ICE Clear Credit. Therefore, the proposed rule change provides for the equitable allocation of reasonable dues, fees and other charges among participants, within the meaning of Section 17A(b)(3)(D) of the Act.[21] ICE Clear Credit therefore believes that the proposed rule change is consistent with the requirements of Section 17A of the Act [22] and the regulations thereunder applicable to it and is appropriately filed pursuant to Section 19(b)(3)(A) of the Act [23] and paragraph (f)(2) of Rule 19b–4 [24] thereunder.

(B) Clearing Agency's Statement on Burden on Competition

ICE Clear Credit does not believe the proposed rule change would have any impact, or impose any burden, on competition. As discussed above, the proposed changes modify ICE Clear Credit's fee schedules to reduce fees for Index Options and will apply uniformly across all market participants. The implementation of such changes does not preclude other market participants from offering such instruments for clearing or offering incentive programs. ICE Clear Credit does not believe these amendments would affect the costs of clearing or the ability of market participants to access clearing. Therefore, ICE Clear Credit does not believe the proposed rule change imposes any burden on competition that is inappropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICE Clear Credit will notify the Commission of any written comments received by ICE Clear Credit.

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) of the Act [25] and paragraph (f) of Rule 19b–4 [26] 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.

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.* Please include file number SR–ICC–2024–002 on the subject line.

Paper Comments

Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to file number SR–ICC–2024–002. 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 such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's website at *https://www.ice.com/clear-credit/regulation.*

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–ICC–2024–002 and should be submitted on or before March 28, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2024–04794 Filed 3–6–24; 8:45 am]

BILLING CODE 8011–01–P

[21] 15 U.S.C. 78q–1(b)(3)(D).

[22] 15 U.S.C. 78q–1.

[23] 15 U.S.C. 78s(b)(3)(A).

[24] 17 CFR 240.19b–4(f)(2).

[25] 15 U.S.C. 78s(b)(3)(A).

[26] 17 CFR 240.19b–4(f)(2).

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99658; File No. SR–NYSEAMER–2024–13]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the NYSE American Options Fee Schedule

March 1, 2024.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on February 22, 2024, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE American Options Fee Schedule (''Fee Schedule'') to modify the Premium Product Fees. The Exchange proposes to implement the fee change effective February 22, 2024.[4] The proposed rule change is available on the Exchange's website at *www.nyse.com,* 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 self-regulatory organization 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 those 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 parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend the Fee Schedule to (i) update the list of options issues that are subject to the Premium Product Fee (ii) and [sic] the application of the Premium Product Fee to apply to all NYSE American Options Market Makers, including Floor Market Makers. The Exchange proposes to implement the fee change effective February 22, 2024.

In August 2012, the Exchange introduced Premium Product Fees, which are monthly fees charged to NYSE American Options Market Makers transacting in the most active issues trading on the Exchange; provided that this fee is [sic] not assessed on Floor Market Makers who transact at least 75% of their volumes in public outcry.[5] In support of this fee change, the Exchange noted that it does not limit the number of participants who may act as Market Makers, either electronically or in public outcry, and then stated that ''[b]y adopting a Premium Product Issues List, which is comprised of many of the most active issues on the Exchange, and a corresponding monthly fee applicable to NYSE Amex Options Market Makers who transact in any of those names, the Exchange intends to encourage meaningful market maker participation in these names.'' [6] The Exchange updated the initial list in August 2015.[7]

Section III.D. of the Fee Schedule sets forth the (current) list of 10 Premium Products, which are as follows: SPY, AAPL, IWM, QQQ, BABA, BAC, EEM, META, USO, and VXX. Subject to the exception for qualifying Floor Market Makers, NYSE American Options Marker Makers that transact in these issues are subject to a monthly fee of $1,000 per product traded with a monthly cap of $7,000.[8]

The Exchange proposes to amend the list of Premium Products to reflect the most actively-traded securities on the Exchange today, which have changed since the fees were last updated.[9] Specifically, the Exchange proposes to remove BABA, BAC, EEM, and USO from the list of Premium Products and to replace them with TSLA, AMZN, NVDA, and AMD.[10] The Exchange believes that the proposed change would continue to encourage meaningful Market Maker participation in the option issues that are currently the most actively-traded on the Exchange.

Next, the Exchange proposes to amend the Premium Product Fee to discontinue the exemption afforded to Floor Market Makers who transact at least 75% of their volumes in public outcry (the ''FMM carve out''). In the Premium Products Filing, at the same time the Exchange adopted the FMM carve out it also introduced discounted ATP Fees for Floor Market Makers that transacted at least 75% of their monthly volume in open outcry from the Trading Floor (the ''FMM ATP Fees'').[11] The rationale for the FMM ATP Fees was that ''the Exchange believes that open or public outcry markets serve an important role in the price discovery process that benefits all participants on the Exchange and in the marketplace.'' [12] Consistent with this rationale, the Exchange stated that the FMM carve out was ''in keeping with the Exchange's stated goals of continuing to foster price discovery through public outcry while at the same time reducing the instances of 'less meaningful' electronic quotes in the more liquid names that comprise the Premium Product Issues List.'' [13]

The Exchange no longer believes that the FMM carve out is necessary and therefore proposes to remove it from the Fee Schedule.[14] The landscape for options trading generally, and open outcry options trading specifically, has changed in the last decade since the FMM carve out was adopted. The volume of options traded on the Exchange (including in open outcry) has increased significantly. As was the case in 2012, the Exchange still does not limit the number of participants who may act as Market Makers, either electronically or in public outcry. This fact taken together with the increase in options trading (including in open outcry) renders the favorable treatment afforded by the FMM carve out no longer necessary to encourage Floor Market Makers to participate in open outcry trading. The Exchange does not believe that the discontinuation would function as a disincentive to Floor Market Makers to transact open outcry.

[4] On January 31, 2024, the Exchange originally filed to amend the Fee Schedule, effective February 1, 2024 (NYSEARCA–2024–08) [sic] and withdrew such filing on February 7, 2024 (NYSEARCA–2024–09) [sic], which latter filing the Exchange withdrew on February 22, 2024.

[5] *See* Securities Exchange Act Release No. 67634 (August 9, 2012), 77 FR 49038 (August 15, 2012) (SR–NYSEMKT–2012–33) (''Premium Product Filing'') (setting forth the original list of Premium Products, which included SPY, AAPL, IWM, QQQ, BAC, EEM, GLD, JPM, XLF, and VXX, transactions in which Products carried a monthly fee of $1,000 per product traded with a monthly cap of $7,000). Per the Premium Product Filing, the Premium Product Fee applies solely to NYSE American Options Market Makers ''other than NYSE American Options Floor Market Makers as described in note 1 to Section III.A.'' of the Fee Schedule (Monthly ATP Fees) (*i.e.,* Floor Market Makers who transact at least 75% of their volumes in public outcry). *See id.*

[6] *See* Premium Product Filing, 77 FR at 49039–40 (including an example of a ''less meaningful'' quote (*i.e.,* one that has an extremely low probability of ever being executed against) that the Exchange nonetheless would be required to process).

[7] *See* Securities Exchange Act Release No. 75614 (August 5, 2015), 80 FR 48129 (August 11, 2015) (SR–NYSEMKT–2015–62) (revising the list of Premium Products to remove GLD, JPM, and XLF and to add BABA, META, and USO).

[8] *See* Fee Schedule, Section III.D. (NYSE American Options Market Maker Monthly Premium Product Fee). The Exchange is not proposing to alter the amount of the monthly Premium Product Fee or the associated monthly fee cap.

[9] The Exchange represented in the Premium Product Filing that ''any change to the list of Premium Products would be done through a fee filing.'' *See* Premium Product Filing, 77 FR at 49038.

[10] *See* proposed Fee Schedule, Section III.D. (NYSE American Options Market Maker Monthly Premium Product Fee)

[11] *See generally* Premium Product Filing.

[12] *See id.,* 77 FR at 49039.

[13] *See id.,* 77 FR at 49040.

[14] *See* proposed Fee Schedule, Section III.D. (NYSE American Options Market Maker Monthly Premium Product Fee) (removing the proviso that the Premium Product Fee applied to NYSE American Options Markt Makers ''other than a Market Maker that qualifies as an NYSE American Options Floor Market Maker as described in note 1 to Section III.A.,'' which Section III.A. sets forth the Monthly ATP Fees and offers the discounted ATP rates to Floor Market Makers who transact at least 75% of their volumes in public outcry).

Specifically, qualifying Floor Market Makers would still be entitled to reduced ATP fees which carry the same minimum monthly open outcry trading requirement. The Exchange believes that the pricing incentive afforded by the Floor Market Maker ATP Fees is sufficient to incentivize open outcry trading to foster price discovery. The Exchange therefore does not believe there is a need to keep both pricing incentives in place. The Exchange believes that removing the FMM carve out would further the Exchange's stated goal for adopting the Premium Products Fee over a decade ago: to encourage meaningful Market Maker participation in the most actively-traded option issues. With this change, the Exchange's intention to encourage meaningful participation would apply to *all* Market Makers transacting in the most liquid option issues currently traded on the Exchange, regardless of open outcry volume.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[15] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[16] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed modification of the list of Premium Products is reasonable, equitable, and not unfairly discriminatory for the following reasons. First, this proposal merely revises and updates the Fee Schedule to apply the Premium Products Fee to the option issues that are currently the most-actively traded on the Exchange. The proposed change is reasonably designed to apply the Premium Product Fee solely to the most liquid issues that provide the greatest opportunities for options trading on the Exchange. In this regard, by removing certain option issues from the list (*i.e.,* BABA, BAC, EEM, and USO), the proposed rule change would ensure the Exchange continues to assess the Premium Product Fee solely on the most-actively traded option issues. By updating the list of option issues subject to the Premium Product Fees, the Exchange intends to continue to encourage meaningful market maker participation in these names. To the extent that Market Makers maintain or increase their level of meaningful quoting activity in these option issues, all market participants stand to benefit from increased trading opportunities. Further, the Exchange believes the proposal is an equitable and not unfairly discriminatory because the updated list, and the associated fees, would apply to all similarly-situated market participants on equal and non-discriminatory basis.

The Exchange believes that the proposal to discontinue the FMM carve out is reasonable, equitable, and not unfairly discriminatory for the following reasons. First, the Exchange no longer believes that the FMM carve out is necessary. Over the last decade, since the FMM carve out was adopted, the landscape for options trading, including open outcry options trading, has changed. The volume of options traded on the Exchange (including in open outcry) has increased significantly. As was the case in 2012, the Exchange does not limit the number of participants who may act as Market Makers, either electronically or in public outcry. The Exchange believes that this fact taken together with the increase in options trading (including in open outcry) renders the favorable treatment afforded by the FMM carve out no longer necessary. As such, the Exchange believes the proposal to remove the FMM carve out is reasonable. The Exchange does not believe that the proposed discontinuation would act as a disincentive to Floor Market Makers to transact [sic] open outcry. Specifically, qualifying Floor Market Makers would still be entitled to reduced ATP fees which carry the same minimum monthly open outcry trading requirement. The Exchange believes that the pricing incentive afforded by the Floor Market Maker ATP Fees is sufficient to incentivize open outcry trading to foster price discovery. The Exchange therefore does not believe there is a need to keep both pricing incentives in place. The Exchange believes that removing the FMM carve out would further the Exchange's stated goal for adopting the Premium Products Fee over a decade ago: to encourage meaningful Market Maker participation in the most actively-traded option issues. With this change, the Exchange's intention to encourage meaningful participation would apply to *all* Market Makers transacting in the most liquid option issues currently traded on the Exchange, regardless of open outcry volume. As such, this proposal is equitable and not unfairly discriminatory because it would apply to all similarly-situated market participants on an equal and non-discriminatory basis.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

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

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition. The Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal to update the list of option issues subject to the Premium Product Fee would apply to all similarly-situated market participants on an equal and non-discriminatory basis. As noted herein, the Exchange is not proposing to alter the amount of the monthly Premium Product Fee or the associated monthly fee cap, but instead is updating the Premium Product list to reflect the most liquid option issues currently trading on the Exchange.

The Exchange believes that the proposal to discontinue the FMM carve out does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it would result in all Market Makers, including Floor Market Makers who execute at least 75% of monthly volume in open outcry, being subject to the Premium Product Fees. As a result, the Exchange's goal of encouraging meaningful participation in the most liquid option issues currently traded on the Exchange, would apply to *all* Market Makers transacting in these issues—regardless of open outcry volume. The Exchange does not believe this proposal would impose an undue burden on Floor Market Makers who previously qualified for the FMM carve out because the Exchange will continue to offer discounted ATP fees to Floor Market Makers who execute the same minimum monthly volume (*i.e.,* 75%) in open outcry. Therefore, such participants are still eligible to receive special pricing that is not available to non-Floor Market Makers.

Intermarket Competition. The Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(4) and (5).

of the purposes of the Act. The Exchange operates in a highly competitive market in which market participants can readily favor one of the 16 competing option exchanges if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange.[17]

Because competitors are free to modify their own fees, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which this proposal may impose any burden on competition is extremely limited. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[18] of the Act and subparagraph (f)(2) of Rule 19b–4[19] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such 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 under Section 19(b)(2)(B)[20] of the Act 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.* Please include file number SR–NYSEAMER–2024–13 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–NYSEAMER–2024–13. 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–NYSEAMER–2024–13 and should be submitted on or before March 29, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2024–04796 Filed 3–6–24; 8:45 am]

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[17] For example, based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of ETF-based options, no single exchange has more than 16% of market share and, the Exchange's market share in equity-based options for the month of December 2023 was approximately 8%. See *https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics* (publication by OCC of options and futures volume in a variety of formats, including daily and monthly volume by exchange).

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(2).

[20] 15 U.S.C. 78s(b)(2)(B).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99653; File No. SR–MEMX–2023–39]

Self-Regulatory Organizations; MEMX LLC; Notice of Withdrawal of a Proposed Rule Change To Amend the Exchange's Fee Schedule To Adopt Connectivity and Application Session Fees for MEMX Options

March 1, 2024.

On December 21, 2023, MEMX LLC (''MEMX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change (File No. SR–MEMX–2023–39) to adopt connectivity and application session fees for MEMX Options.[3] The proposed rule change was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[4] The proposed rule change was published for comment in the **Federal Register** on January 10, 2024.[5] On February 15, 2024, the Exchange withdrew the proposed rule change (SR–MEMX–2023–39).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2024–04797 Filed 3–6–24; 8:45 am]

BILLING CODE 8011–01–P

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 99275 (January 4, 2024), 89 FR 1606 (January 10, 2024) (''Notice'').

[4] 15 U.S.C. 78s(b)(3)(A). A proposed rule change may take effect upon filing with the Commission if it is designated by the exchange as ''establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization.'' 15 U.S.C. 78s(b)(3)(A)(ii).

[5] *See* Notice, *supra* note 3.

[6] 17 CFR 200.30–3(a)(12).