

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** 2:00 p.m. on Thursday, April 6, 2023.

**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: March 30, 2023.

**J. Matthew DeLesDernier,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-97210; File No. SR-MEMX-2023-06]

### Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend and Restate the Limited Liability Company Agreement of MEMX Holdings LLC

March 28, 2023.

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 March 17, 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 and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 and restate the Sixth Amended and Restated Limited Liability Company Agreement (the "Sixth Amended LLC Agreement") of MEMX Holdings LLC ("Holdco") as the Seventh Amended and Restated Limited Liability Company Agreement of Holdco (the "Seventh Amended LLC Agreement") to reflect certain amendments, as further described below. Holdco is the parent company of the Exchange and directly or indirectly owns all of the limited liability company membership interests in the Exchange. 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 Exchange proposes to amend and restate the Holdco LLC Agreement<sup>5</sup> to reflect: (i) amendments related to the creation of the Class D Units<sup>6</sup> in connection with the sale by Holdco of Class D Units to certain new and existing Members<sup>7</sup> in a capital raise transaction (the "Transaction"); (ii) amendments related to certain changes with respect to the Holdco Board in connection with the Transaction; (iii) an amendment to the definition of "Company Related Party"; (iv) an amendment to the provision relating to the preparation and delivery of Holdco's annual budget; and (v) various clarifying, updating, conforming, and other non-substantive amendments. Each of these amendments is discussed below.

##### Background

The primary purpose of the Exchange's proposal to amend and restate the Holdco LLC Agreement is to create a new class of membership interest in Holdco, the Class D Units, which are the exact same type of membership interest (*i.e.*, have the same privileges, preference, duties, liabilities, obligations and rights) as the existing Class C Units except for the original purchase price of such Units, and

<sup>5</sup> References herein to the "Holdco LLC Agreement" refer to the Sixth Amended LLC Agreement or the Seventh Amended LLC Agreement, as appropriate in the context. All section references herein are to sections of the Holdco LLC Agreement unless indicated otherwise. Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Holdco LLC Agreement.

<sup>6</sup> As proposed, the term "Class D Units" means the Class D-1 Units and the Class D-2 Units; the term "Class D-1 Units" means the Units having the privileges, preference, duties, liabilities, obligations and rights specified with respect to "Class D-1 Units" in the Holdco LLC Agreement; and the term "Class D-2 Units" means the Units having the privileges, preference, duties, liabilities, obligations and rights specified with respect to "Class D-2 Units" in the Holdco LLC Agreement. The term "Unit" means a unit representing a fractional part of the membership interests of the members of Holdco. See Section 1.1 for the full definition of Unit.

<sup>7</sup> The term "Member" refers to a person (*i.e.*, an individual or entity) that owns one or more Units and is admitted as a limited liability company member of Holdco.

<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. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).