

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-100391; File No. SR-IEX-2024-12)

June 20, 2024

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Exchange's Fee Schedule Pursuant to IEX Rule 15.110(a) and (c)

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the "Act")² and Rule 19b-4 thereunder,³ notice is hereby given that on June 12, 2024, the Investors Exchange LLC ("IEX" 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 self-regulatory organization. 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

Pursuant to the provisions of Section 19(b)(1) under the Act⁴, and Rule 19b-4 thereunder⁵, the Exchange is filing with the Commission a proposed rule change to amend the Exchange's fee schedule applicable to Members⁶ (the "Fee Schedule") pursuant to IEX Rule 15.110(a) and (c) to clarify the fees associated with two fee code combinations. Changes to the Fee Schedule pursuant to this proposal are effective upon filing.⁷

The text of the proposed rule change is available at the Exchange's website at

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ 15 U.S.C. 78s(b)(1).

⁵ 17 CFR 240.19b-4.

⁶ See IEX Rule 1.160(s).

⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

www.iextrading.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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 recently filed a fee change proposal that increased the rebate paid for executions of displayed liquidity adding orders in Tape A and C securities with an execution price of \$1.00 per share or more from \$0.0004 to \$0.0014 per share, increased the fee for executions of displayed liquidity removing orders in Tape A or C securities from \$0.0010 to \$0.0020 per share (unless a lower fee applies), and updated the fee codes in the Fee Schedule to reflect these changes.⁸ The Tape A & C Fee Filing took effect on June 1, 2024.⁹

The Tape A & C Fee Filing updated all the relevant fee code combinations in the Fee Code Combinations and Associated Fees table of the Transaction Fees section of the Fee Schedule. In particular, the filing updated Fee Code Combination “ML”, which applies to an order that adds displayed liquidity in a Tape A or C security, to raise the rebate from \$0.0004 to

⁸ See Securities Exchange Act Release No. 100257 (May 31, 2024), 89 FR 48458 (June 6, 2024) (SR-IEX-2024-09) (“Tape A & C Fee Filing”). All of the fee changes in the Tape A & C Filing, and in this fee filing, apply to transactions with an execution price of \$1.00 per share or more.

⁹ See supra note 8.

\$0.0014 per share. And the filing updated Fee Code Combination “TL”, which applies to an order that removes displayed liquidity in a Tape A or C security, to raise the fee from \$0.0010 per share to \$0.0020 per share.

Fee codes ML and TL also appear in the “Base Rates” table in the Transaction Fees section of the Fee Schedule, where they still reflect the prior fees for adding and removing displayed liquidity in Tape A and C securities (a \$0.0004 rebate and \$0.0010 fee respectively). However, the Fee Schedule specifies that the rates “listed in the Base Rates table apply unless a Member’s transaction is assigned a Fee Code other than a Base Fee Code (an “Additional Fee Code”). If a Member’s transaction is assigned an Additional Fee Code, the rates listed in the Fee Code Combinations and Associated Fees table will apply.”¹⁰ Because both Fee Codes ML and TL appear in the Fee Code Combinations and Associated Fees table, the fees listed in that table apply to any order assigned those fee codes, and therefore, any order with Fee Code Combination ML will receive a rebate of \$0.0014 per share and any order with Fee Code Combination TL will be charged a fee of \$0.0020 per share.

Nevertheless, as of June 1, 2024, the fees listed in the Base Rates table for Base Fee Codes ML and TL are no longer correct, and IEX is making this filing to update and clarify the fees listed in the Base Rates table to make them consistent with the fees listed in the Fee Code Combinations and Associated Fees table and avoid any confusion regarding the applicable fees. Specifically, IEX proposes to change the Base Rate for Base Fee Code ML for executions at or above \$1.00 from a \$0.0004 rebate to a \$0.0014 rebate. And IEX proposes to change the Base Rate for Base Fee Code TL for executions at or above \$1.00 from a fee of \$0.0010 per share to a

¹⁰ See the third instruction bullet in the Transaction Fees section of the IEX Fee Schedule, available at <https://www.iexexchange.io/resources/trading/fee-schedule#transaction-fees>.

fee of \$0.0020 per share.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act¹¹, in general, and furthers the objectives of Section 6(b)(5)¹², in particular, in that it would remove impediments to and perfect the mechanism of a free and open market and a national market system because it is designed to enforce compliance by the Exchange's Members and the public with the provisions of the rules of the Exchange. In particular, the Exchange believes that the proposed rule change will provide greater clarity to Members and the public regarding the fees charged by the Exchange by eliminating any possible confusion caused by the inadvertent discrepancy between the fees listed for codes ML and TL in the Base Rates table and the fees listed for codes ML and TL in the Fee Code Combinations and Associated Fees table.

This rule filing does not propose any substantive changes to the fees the Exchange charges, but rather simply clarifies the base rebates and fees for adding and removing displayed liquidity. Therefore, the Exchange does not believe that these proposed changes raise any new or novel issues not already considered by the Commission. IEX also believes that the proposed rule change is nondiscriminatory since it charges the same fees for Fee Code Combinations ML and TL to all Members.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. As

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

described in the Purpose, this rule filing merely proposes to clarify the fees associated with Base Fee Codes ML and TL. This proposal is not designed to address any competitive issues.

Because the proposal does not substantively modify system functionality or processes on the Exchange, the proposed changes will not impose any burden on competition.

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

Written comments were neither solicited nor received.

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)¹³ of the Act.

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 under Section 19(b)(2)(B)¹⁴ 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:

¹³ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁴ 15 U.S.C. 78s(b)(2)(B).

- 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-IEX-2024-12 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-IEX-2024-12. 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-IEX-2024-12 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.¹⁵

Sherry R. Haywood,
Assistant Secretary.

¹⁵ 17 CFR 200.30-3(a)(12).