

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-86408; File No. SR-IEX-2019-06)

July 18, 2019

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to IEX's Fee Schedule to Correct Two Fee Code Combinations

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on July 15, 2019, 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 Act,<sup>4</sup> and Rule 19b-4 thereunder,<sup>5</sup> IEX is filing with the Commission a proposed rule change to modify its Fee Schedule, pursuant to IEX Rule 15.110(a) and (c), to correct two minor Fee Code combination to conform each to the applicable fee. The Exchange proposes to implement the change immediately upon filing, pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>6</sup>

The text of the proposed rule change is available at the Exchange's website at [www.iextrading.com](http://www.iextrading.com), at the principal office of the Exchange, and at the Commission's Public

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> 15 U.S.C. 78s(b)(1).

<sup>5</sup> 17 CFR 240.19b-4.

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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 statement 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify its Fee Schedule, pursuant to IEX Rule 15.110(a) and (c), to correct two minor Fee Code combination descriptions to conform each to the applicable fee. Specifically, the Exchange proposes to change the words “non-displayed” to “displayed” in the descriptions of fee codes LSN and LSQN. As discussed below, neither descriptive error had any impact on IEX Members because the applicable fees were correctly applied.

Effective July 1, 2018, IEX modified the structure of its Fee Schedule in order to provide more clarity to market participants regarding the fees assessed for executions on the Exchange (“Fee Schedule Update”).<sup>7</sup> Among other changes, the Fee Schedule Update added a table of all possible Fee Code combinations, a description of each combination, and the applicable fee.

The Exchange recently identified that the descriptions for the LSN and LSQN Fee Code combinations are inaccurate. Each description incorrectly states that the execution involves

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<sup>7</sup> See Securities Exchange Act Release No. 83582 (July 2, 2018) 83 FR 31828 (July 9, 2018) (SR-IEX-2018-11).

removing non-displayed liquidity rather than displayed liquidity.<sup>8</sup> As described in the Fee Schedule Update, IEX uses a Fee Code of “L” to designate executions that provide or take resting interest with displayed priority, and a Fee Code of “P” to designate executions that provide or take resting interest with non-displayed priority.<sup>9</sup> Thus, Fee Code “L” is accurately defined in the Fee Schedule as relating to the adding or removing of displayed liquidity, and a Fee Code combination that includes “L” should reference displayed liquidity. Notwithstanding these errors, the table correctly specifies that both Fee Code combinations are free of charge.<sup>10</sup> This is because each includes Fee Code “S” pursuant to which a Member’s order that executes against resting liquidity provided by the same Member is free of charge.<sup>11</sup> Thus, although the Fee Code descriptions for LSN and LSQN inaccurately state that they apply to removal of non-displayed interest, IEX has correctly billed all executions pursuant to each Fee Code combination.<sup>12</sup> In addition, Fee Code combinations ISN and ISQN apply to an execution in which a Member removes non-displayed liquidity provided with a spread-crossing eligible order or a Member removes non-displayed liquidity provided by such Member during periods of quote instability with a spread-crossing eligible order, respectively.

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<sup>8</sup> The IEX Fee Schedule currently describes Fee Code LSN as “Member removes non-displayed liquidity provided by such Member with a spread-crossing eligible order” and Fee Code LSQN as “Member removes non-displayed liquidity provided by such Member during periods of quote instability with a spread-crossing eligible order.”

<sup>9</sup> See Fee Schedule Update, Note 7, at 5.

<sup>10</sup> Under some circumstances, executions that receive the LSQN Fee Code combination are not free to the liquidity remover. Specifically, executions that include Fee Code “Q” are subject to footnote 1 of the Fee Schedule which specifies when the Crumbling Quote Remove Fee identified in the Fee Code Modifiers table applies.

<sup>11</sup> Id.

<sup>12</sup> Notably, other lines in the Fee Code Combinations and Associated Fees table correctly indicate that Fee Code combinations containing Fee Code “L” apply to the removal of displayed liquidity. See, e.g., Fee Codes LS, LQ, LN, and LSQ.

Accordingly, the Exchange proposes to correct the IEX Fee Schedule to reflect that Fee Codes LSN and LSQN apply to the removal of displayed liquidity, not non-displayed liquidity.

IEX notes, as suggested by the May 21, 2019 Staff Guidance on SRO Rule Filings Relating to Fees (“Guidance”),<sup>13</sup> that these proposed corrections to the descriptions of two Fee Codes do not involve any new or changed fees, because IEX will continue to charge Members no fee for executions that remove displayed liquidity from the same Member with a spread-crossing eligible order. Additionally, IEX is not proposing any new product, service, or fee change. While, the Guidance does not suggest that IEX provide an analysis of any impact this proposal will have on market participants, IEX notes that this proposed rule change will have no impact on market participants because it merely corrects descriptive text in the Fee Schedule.

## 2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b)<sup>14</sup> of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>15</sup> [sic] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that it is consistent with the Act to correct the Fee Schedule so that the Fee Schedule is accurate, avoiding any potential confusion among Members. The Exchange further believes that the correction to the Fee Schedule is reasonable, equitable, and not unfairly discriminatory because all Members will be subject to the same fee structure.

As described in the Purpose section above, this proposed rule change does not change

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<sup>13</sup> See Staff Guidance on SRO Rule Filings Relating to Fees (May 21, 2019) available at <https://www.sec.gov/tm/staff-guidance-sro-rule-filings-fees>.

<sup>14</sup> 15 U.S.C. 78f.

<sup>15</sup> 15 U.S.C. 78f(b)(5).

any fees charged by IEX, but rather corrects inaccurate descriptions of two Fee Code combinations. Thus, the proposed fee change will provide clarity to market participants regarding the meaning of Fee Codes LSN and LSQN, therefore making the Exchange's Fee Schedule clearer and more deterministic to the benefit of all market participants.

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 intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to correct an inadvertent error rather than a competitive issue.

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)<sup>16</sup> 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)<sup>17</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

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<sup>16</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>17</sup> 15 U.S.C. 78s(b)(2)(B).

#### 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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-IEX-2019-06 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 No. SR-IEX-2019-06. 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/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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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 available publicly. All submissions should refer to File No. SR-IEX-2019-06, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

Jill M. Peterson  
Assistant Secretary

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<sup>18</sup> 17 CFR 200.30-3(a)(12).