

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-101192; File No. SR-IEX-2024-18)

September 25, 2024

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify a Representation in a Recent Rule Filing Regarding the Planned Migration of its System

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 September 18, 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 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.

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 proposal to modify a representation in a recent rule filing regarding the amount of advance notice IEX will give before implementing that rule filing. The Exchange has designated this proposal as non-controversial and is requesting a waiver of the notice required by Rule 19b-4(f)(6)(iii) under the Act.⁶

There is no rule text for this proposed rule change.

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 17 CFR 240.19b-4(f)(6)(iii).

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

On September 4, 2024, in connection with IEX’s planned migration of its System⁷ from a data center located in Weehawken, New Jersey to a data center located in Secaucus, New Jersey, IEX filed with the Commission an immediately effective proposed rule change.⁸ The Data Center Migration Filing amended IEX Rules 11.190 and 11.510 to remove references to the latency applicable to outbound communications from IEX’s System (“outbound latency”) to its Users⁹ (defined as Members¹⁰ and Sponsored Participants¹¹), Data Recipients¹², and Service Bureaus¹³ (collectively, “Participants”¹⁴); the filing also added Temporary Supplementary

⁷ See IEX Rule 1.160(nn).

⁸ See Securities Exchange Act Release No. 101018 (September 12, 2024), 89 Fed. Reg. 76526 (September 18, 2024) (SR-IEX-2024-17) (“Data Center Migration Filing”).

⁹ See IEX Rule 1.160(qq).

¹⁰ See IEX Rule 1.160(s).

¹¹ See IEX Rule 1.160(ll).

¹² See IEX Rule 11.130(c).

¹³ See IEX Rule 11.130(d).

¹⁴ See IEX Rule 11.130(a).

Material .01 to IEX Rule 11.510(a) to describe the minor temporary change in inbound latency¹⁵ during the data center migration. The Data Center Migration Filing included a representation that IEX would issue a Trading Alert at least 30 days in advance of the migration “describing the transition, schedule, and impact.”¹⁶ For the reasons set forth below, IEX is making this filing to modify the advance notice period in the Data Center Migration Filing from 30 to 28 days.

IEX has issued three Trading Alerts informing market participants about the planned data center migration. The first Trading Alert, issued on August 29, 2024 (“August 29 Alert”), informed Participants of the data center migration planned for the fourth quarter of 2024, described how the migration would reduce the outbound latency from 37 microseconds to a negligible latency, explained that Participants would not need to make any configuration changes to accommodate the data center migration, and provided three Saturday testing dates in September 2024.¹⁷ The second Trading Alert, issued on September 9, 2024 (“September 9 Alert”), provided additional detail about the data center migration planned for the fourth quarter of 2024.¹⁸ In particular, the September 9 Alert detailed the temporary change to IEX’s inbound latency during the migration: from 350 to 387 microseconds for inbound messages and from 350 to 424 microseconds for routable orders.¹⁹ The September 9 Alert also provided an overview of the migration schedule that would entail migrating client gateways, market data feeds, and matching engines on a symbol-by-symbol basis.²⁰

¹⁵ See IEX Rule 11.510(b)(1).

¹⁶ See *supra* note 8.

¹⁷ See IEX Trading Alert #2024-024, <https://iextrading.com/alerts/#/263>. IEX understands that Members that use arrival-time routing strategies may choose to update their routing logic during the migration period.

¹⁸ See IEX Trading Alert #2024-027, <https://iextrading.com/alerts/#/256>.

¹⁹ *Id.*

²⁰ *Id.*

On Monday, September 16, 2024, IEX issued a third Trading Alert (“September 16 Alert”), which announced the October 14, 2024 scheduled commencement of the data center migration and detailed which aspects of the System would be migrated until the October 31, 2024 completion.²¹

IEX waited until September 16 to announce the October 14 migration start date to allow for testing of our fallback mechanisms for the migration, as well as confirmatory testing of connectivity to the CTA SIP conducted over the prior weekend (September 14 and 15). Additionally, IEX wanted to offer Participants an opportunity to connect to and test the new data center, which it did on September 14. While September 16 is 28 days before the migration start date, as noted above, IEX already provided more than 30 days’ notice to market participants of the planned migration before it issued the September 14 Alert. Furthermore, IEX believes 28 days’ advance notice provides sufficient advance notice of the migration schedule to inform Participants who may need to prepare for the migration.

IEX selected Monday, October 14, 2024, as the migration start date for two primary reasons. First, the migration must start on a Monday to allow IEX’s technology team to use the preceding weekend to physically relocate equipment from the Weehawken data center to the Secaucus data center and to test that the equipment is properly installed in the Secaucus data center. Second, IEX determined it would be optimal to start the migration on October 14, for several logistical reasons, including that commencing the migration on October 14 will allow IEX sufficient time to fully decommission or relocate IEX’s equipment currently housed in the Weehawken data center, without causing any undue hardship to the Exchange.

Thus, for the reasons set forth above, IEX is filing this proposal to modify the 30 days’

²¹ See IEX Trading Alert #2024-028, <https://iextrading.com/alerts/#/266>.

advance notice requirement to 28 days' advance notice. With this filing, the September 16 Alert will be deemed to provide timely notice of the migration. If, for an unforeseen reason, IEX must delay the October 14, 2024 data center migration start date, IEX will issue an additional Trading Alert providing at least 10 days' notice of the new start date for the migration.

2. Statutory Basis

IEX believes that its proposal is consistent with the provisions of Section 6(b) of the Act²² in general, and with Section 6(b)(5) of the Act²³, in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. Specifically, the proposal is consistent with the Act because the three Trading Alerts described in the Purpose section provided appropriate transparency and clarity to market participants and the Commission regarding the data center migration and the related rule changes.

As noted in the Purpose section, Participants will not need to make any configuration changes to accommodate the reduction in IEX's outbound latency set forth in the Data Center Migration Filing. Participants also will not need to make any configuration changes to accommodate the temporary increases to IEX's inbound latency set forth in the Data Center Migration Filing. Nevertheless, IEX understands that Members that use arrival-time routing strategies may choose to update their routing logic during the migration period. Thus, IEX believes it is consistent with the Act to provide at least 28 days' notice of the start date of the data center migration, and that the advance notice IEX provided of its data center migration is

²² 15 U.S.C. 78f(b).

²³ 15 U.S.C. 78f(b)(5).

more than sufficient notice to remove impediments to and perfect the mechanism of a free and open market and to protect investors and the public interest.

Additionally, as described in the Purpose section, reducing from 30 to 28 days the amount of advance notice IEX must give to Participants of the data center migration schedule allowed IEX sufficient time to fully test the data center migration before announcing the start date (including allowing Participants a testing date on September 14), and allows enough time for IEX to conduct an orderly migration and to properly decommission its Weehawken data center. Thus, this slightly reduced notice period is designed to allow IEX to maintain a functioning market without interruption during the migration, which is consistent with the requirements of the Act that a rule change should remove impediments to and perfect the mechanism of a free and open market and protect investors.

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

IEX does not believe that the proposal will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. As explained above, the purpose of this proposal is to modify from 30 to 28 days the amount of advance notice IEX must give to Participants of the data migration schedule. This modest reduction in the amount of advance notice IEX must give of the migration start date will impact all market participants equally. The Exchange does not expect the slightly shorter notice period to place any burden on competition. Rather, the change to the notice period will allow the Exchange to implement the data center migration in a thorough and risk averse manner and is not designed for any competitive purpose.

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)(iii)²⁴ of the Act and Rule 19b-4(f)(6) thereunder²⁵ in that it effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

A proposed rule change filed under Rule 19b-4(f)(6)²⁶ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii)²⁷, the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay contained in Rule 19b-4(f)(6)(iii).²⁸ The Exchange stated that waiver of the 30-day delay would permit the Exchange to promptly notify market participants of the data center migration schedule without any confusion as to whether IEX has provided sufficient advance notice of the migration, thereby allowing market participants sufficient time to test the new data center configuration and update any routing logic to account for the temporary changes to IEX's inbound latency during the migration. In the filing, IEX confirmed that it

²⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

²⁵ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange requested waiver of the five-day pre-filing requirement for this proposal for the reasons stated in its filing, which the Commission hereby grants.

²⁶ 17 CFR 240.19b-4(f)(6).

²⁷ 17 CFR 240.19b-4(f)(6)(iii).

²⁸ 17 CFR 240.19b-4(f)(6)(iii).

issued a Trading Alert on September 16 with details on the migration from the Weehawken data center to the Secaucus data center at least 28 days prior to starting the migration, which is currently planned for October 14. IEX further represented that it provided Participants one round of testing before issuing the September 16 Trading Alert. The proposed modification of the duration of the notice by IEX to its members of the data center migration from 30 days to 28 days to account for an intervening weekend during which IEX allowed participants to connect to and test the new data center does not raise any novel issues and provides sufficient clarification of IEX's previously-announced intentions regarding the timing of the migration, especially in light of the two prior Trading Alerts that IEX issued on August 29 and September 9, and therefore waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.²⁹

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)³⁰ of the Act to determine whether the proposed rule change should be approved or disapproved.

²⁹ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

³⁰ 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 (<https://www.sec.gov/rules/sro.shtml>);
or
- Send an email to rule-comments@sec.gov. Please include file number SR-IEX-2024-18 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-2024-18. 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-2024-18 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.³¹

Vanessa A. Countryman,

Secretary.

³¹ 17 CFR 200.30-3(a)(12) and (59).