

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-88134; File No. SR-IEX-2020-02)

February 6, 2020

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees Pursuant to Rule 15.110

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 4, 2020, the Investors Exchange LLC (“IEX” or the “Exchange”) filed with the Securities and Exchange Commission (“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,⁴ and Rule 19b-4 thereunder,⁵ IEX is filing with the Commission proposed changes to eliminate the IEX Enhanced Market Maker (“IEMM”) program set forth in IEX Rule 11.170 and make conforming changes to its Fee Schedule, pursuant to IEX Rule 15.110(a) and (c), to eliminate the IEMM fee discounts.

The text of the proposed rule change is available at the Exchange’s website at www.iextrading.com, at the principal office of the Exchange, and at the Commission’s Public

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.

Reference Room.

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

1. Purpose

The Exchange is proposing to eliminate the IEX Enhanced Market Maker ("IEMM") program set forth in IEX Rule 11.170 and to make conforming changes to its Fee Schedule, pursuant to IEX Rule 15.110(a) and (c), to eliminate the IEMM fee discounts.

Background

IEX launched the IEMM program on February 1, 2018.⁶ The IEMM program provides a fee discount to incentivize Members⁷ to quote at and/or near the NBBO⁸ in IEX Listed Securities⁹ for a significant portion of the day. As specified in IEX Rule 11.170, a Member

⁶ See Securities Exchange Act Release No. 82636 (February 6, 2018), 83 FR 6059 (February 12, 2018) (SR-IEX-2018-02).

⁷ See IEX Rule 1.160(s).

⁸ The term "NBBO" means the national best bid or offer, as set forth in Rule 600(b) of Regulation NMS under the Act, determined as set forth in IEX Rule 11.410(b). See IEX Rule 1.160(u).

⁹ See IEX Rule 14.002(19).

registered as an IEX Market Maker pursuant to Rule 11.150 in all securities listed on IEX¹⁰ may be designated as an IEMM by meeting the monthly quoting criteria for the Inside Tier, the Depth Tier, or both.¹¹ Members designated as IEMMs qualify for a lower per-share rate charged for both displayed and non-displayed executions subject to either the Reduced or Standard Match Fees on the Exchange in securities priced at or above \$1.00, as set forth in IEX Rule 11.170(a)(3) and the IEX Fee Schedule.

There are no longer any IEX Listed Securities, and it is thus not possible for any Member to qualify for designation as an IEMM and the applicable transaction fee discount.¹² Therefore, the Exchange is proposing to eliminate the IEMM program and delete IEX Rule 11.170 (designating it as “Reserved”) and remove all references to the IEMM fee discounts from the IEX Fee Schedule. IEX believes this proposed rule change will eliminate any possible confusion about whether Members can qualify for the IEMM discounts.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act¹³ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the

¹⁰ Supplementary Material .01 to Rule 11.170 provides a limited exception to the requirement that a Member must be a registered IEX Market Maker in all securities listed on IEX if (i) a Member does not act as a market maker in one or more IEX-listed securities on any other national securities exchange, and (ii) the Market Maker provides documentation, satisfactory to IEX Regulation, substantiating that such Member is unable to act as a market maker in one or more particular securities listed on IEX (a) in order to comply with specified legal or regulatory requirements, or (b) operational restrictions not exceeding 90 calendar days from the date the security first lists on the Exchange.

¹¹ See IEX Rule 11.170.

¹² IEX announced its listing business exit on September 23, 2019, which was effective on October 7, 2019. See IEX Trading Alert #2019-029 available at: <https://iextrading.com/alerts/#/85>.

¹³ 15 U.S.C. 78f.

Act,¹⁴ 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 the Exchange's facilities; and to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that the proposed rule change is consistent with these principles because it will remove obsolete rule text and fee provisions, thereby avoiding any potential confusion among Members. As noted in the Purpose section, there are no longer any IEX Listed Securities, and it is thus not possible for any Member to qualify for designation as an IEMM and the applicable transaction fee discount. The Exchange further believes that the proposed rule change is reasonable, equitable, and not unfairly discriminatory because the changes will apply equally to all Members.

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

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but simply to remove obsolete rule text and fee provisions to avoid any potential confusion among Members.

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.

¹⁴ 15 U.S.C. 78f(b)(4)-(5).

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)¹⁵ 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)¹⁶ 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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-IEX-2020-02 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.

¹⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁶ 15 U.S.C. 78s(b)(2)(B).

All submissions should refer to File Number SR-IEX-2020-02. 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, D.C. 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 Number SR-IEX-2020-02 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.¹⁷

J. Matthew DeLesDernier
Assistant Secretary

¹⁷ 17 CFR 200.30-3(a)(12).