

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Sherry R. Haywood,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100086; File No. SR-ISE-2024-12]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Designation of Longer Period for Commission Action on a Proposed Rule Change To Adopt Rules To List and Trade FLEX Options

May 9, 2024.

On March 11, 2024, Nasdaq ISE, LLC (“ISE” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) ¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt rules that will govern the listing and trading of flexible exchange options (“FLEX Options”). The proposed rule change was published for comment in the **Federal Register** on March 29, 2024.³

Section 19(b)(2) of the Act⁴ provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is May 13, 2024. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,⁵ designates June 27, 2024, as the date by which the

Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-ISE-2024-12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

Sherry R. Haywood,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100085; File No. SR-IEX-2024-08]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Pursuant to IEX Rule 15.110 To Amend IEX’s Fee Schedule To Adopt a Physical Connectivity Fee and Increase Certain Port Fees

May 9, 2024.

Pursuant to Section 19(b)(1) ¹ of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”) ² and Rule 19b-4 thereunder,³ notice is hereby given that, on May 2, 2024, the Investors Exchange LLC (“IEX” or “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 the Exchange is filing with the Commission a proposed rule change to modify its Fee Schedule, pursuant to IEX Rules 15.110(a) and (c), to amend certain connectivity fees. IEX will implement the proposed fees beginning on June 1, 2024.

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 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

IEX is proposing to modify its Fee Schedule, pursuant to IEX Rules 15.110(a) and (c), to add a new fee for physical connections to its Primary Data Center,⁶ Disaster Recovery Data Center⁷ and the IEX Testing Facility (“ITF”) (“physical connectivity fees”),⁸ and increase fees for logical order entry ports (also referred to as “Order Entry Ports”)⁹ in excess of five per subscriber (“port fees”). IEX has not previously imposed any physical connectivity fees but has charged port fees since October 1, 2019.¹⁰ The Exchange has not changed the port fees since they were implemented, but since that time, the Exchange has experienced increases in related operational expenses including significant upgrades to its trading platform infrastructure. As discussed more fully below, the Exchange recently calculated its aggregate annual costs of \$12,904,100 for providing physical

⁶ All connections to the IEX Primary Data Center (including for order entry and market data receipt) are made through IEX’s point-of-presence (“IEX POP”) in Secaucus, NJ. From the IEX POP, messages travel to IEX’s Primary Data Center.

⁷ The Disaster Recovery Data Center, also known as the “Secondary Data Center”, is the physical location of IEX’s backup trading platform. It is located in Chicago, Illinois.

⁸ The only connections offered to the Primary Data Center are 10 gigabit (“10G”) physical port connections. The Exchange offers both 10G and 1 gigabit (“1G”) physical port connections to the ITF, for which it incurs physical connectivity-related costs; however, as discussed below, the Exchange is not proposing to charge for the connections to the ITF itself.

⁹ Order Entry Ports are used for sending and receiving order messages. Other uses for logical ports, which are not subject to the fees proposed herein, include drop copy ports and market data ports.

¹⁰ See Securities Exchange Act Release No. 86626 (August 9, 2019), 84 FR 41793 (August 15, 2019) (SR-IEX-2019-07) (“Port Fee Filing”).

²⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 99825 (March 21, 2024), 89 FR 22294.

⁴ 15 U.S.C. 78s(b)(2).

⁵ *Id.*

⁶ 17 CFR 200.30-3(a)(31).

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.