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 such filing also will be available for inspection and copying at the principal office of FINRA. 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–FINRA–2020–029 and should be submitted on or before October 20, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

J. Matthew DeLesDernier,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89968; File No. SR–IEX–2020–15]

Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Transaction Fees Pursuant to IEX Rule 15.110 Concerning the CQ Remove Fee

September 23, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 11, 2020, the Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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,[3] and Rule 19b–4 thereunder,[4] IEX is filing with the Commission a proposed rule change, pursuant to IEX Rule 15.110(a) and (c), to remove the Crumbling Quote Remove Fee (''CQ Remove Fee'' or ''CQRF''). Fee changes pursuant to this proposal are effective upon filing,[5] and will be implemented as described herein.

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 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 proposes to amend its fee schedule, pursuant to IEX Rule 15.110 (a) and (c), to eliminate the CQ Remove Fee, which is an additional fee on Members that that execute more than a certain threshold of orders that take liquidity during periods when the IEX crumbling quote indicator (''CQI'') is on for the security in question.

Background

The CQI is a transparent proprietary mathematical calculation (specified in IEX Rule 11.190(g)) designed to predict whether a particular quote is unstable or ''crumbling,'' meaning that the NBB is likely about to decline or the NBO is likely about to increase. The Exchange utilizes real time relative quoting activity of certain Protected Quotations[6] and the proprietary mathematical calculation (the ''quote instability calculation'') to assess the probability of an imminent change to the current Protected NBB to a lower price or Protected NBO to a higher price for a particular security (''quote instability factor''). When the quoting activity meets predefined criteria and the quote instability factor calculated is greater than the Exchange's defined quote instability threshold, the System[7] treats the quote as unstable and the CQI is on. During all other times, the quote is considered stable, and the CQI is off. The System independently assesses the stability of the Protected NBB and Protected NBO for each security. When the System determines that a quote, either the Protected NBB or the Protected NBO, is unstable, the determination remains in effect at that price level for up to two milliseconds.

IEX currently offers two non-displayed order types—Discretionary Peg[8] and primary peg[9]—that each leverage the protective features of the CQI by restricting such orders from exercising price discretion to a more aggressive price when the CQI is on. As described more fully below, the Commission recently approved a new IEX order type—D-Limit—that can be displayed or non-displayed and will also leverage the protective features of the CQI and is pending deployment. Prior to deployment of the D-Limit order type, the CQ Remove Fee has been the only IEX functionality that was designed to leverage the CQI to protect displayed orders.

In the absence of a displayed order type that could leverage the protective features of the CQI, the CQ Remove Fee was designed to incentivize market participants to send orders (including displayed orders) to provide liquidity to IEX by reducing the volume of orders involving latency arbitrage trading strategies that seek to exploit information advantages during narrow time windows when the CQI is on.

The Exchange currently charges the CQ Remove Fee to orders that remove resting liquidity when the CQI is on if such executions exceed the CQRF Threshold.[10] Executions of orders that remove resting liquidity during periods when the CQI is on are assessed a fee of $0.0030 per each incremental share

[26] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(1).

[4] 17 CFR 240.19b–4.

[5] 15 U.S.C. 78s(b)(3)(A)(ii).

[6] Pursuant to IEX Rule 11.190(g), references to ''Protected Quotations'' include quotations from the New York Stock Exchange LLC (''NYSE''); The Nasdaq Stock Market LLC (''Nasdaq''); NYSE Arca, Inc. (''NYSE Arca''); Nasdaq BX, Inc. (''Nasdaq BX''); Cboe BZX Exchange, Inc. (''Cboe BZX''); Cboe BYX Exchange, Inc. (''Cboe BYX''); Cboe EDGX Exchange, Inc. (''EDGX''); and Cboe EDGA Exchange, Inc. (''EDGA'').

[7] *See* IEX Rule 1.160(nn).

[8] *See* IEX Rule 11.190(b)(10). IEX has two other order types that are based on the DPeg order type: The Retail Liquidity Provider order and the Corporate Discretionary Peg order. *See* IEX Rule 11.190(b)(14) and (16).

[9] *See* IEX Rule 11.190(b)(8).

[10] The threshold is equal to 5% of the sum of a Member's total monthly executions on IEX, measured on a per logical port (*i.e.,* session) per MPID basis. *See* Investors Exchange Fee Schedule, available on the Exchange public website.

executed at or above $1.00 that exceeds the CQ Remove Fee Threshold.[11]

The CQ Remove Fee has resulted in a small incremental reduction in the use of latency arbitrage strategies on IEX. IEX believes the limited impact of the CQ Remove Fee is a result of the fact that the potential profits from the use of such strategies substantially exceed the profits lost from the CQ Remove Fee.[12]

Proposal

IEX proposes to eliminate the CQ Remove Fee, as of October 1, 2020, to coincide with the October 1, 2020 full deployment of the D-Limit order type.[13] As noted above, the CQ Remove Fee has been only minimally effective in reducing the use of latency arbitrage strategies targeting resting orders on IEX at potentially stale prices. With the launch of the D-Limit order type, which is designed to protect both displayed and non-displayed orders from the same type of latency arbitrage strategies as the CQ Remove Fee, market participants seeking protection from such strategies through non-pegged orders, including displayed orders, can use D-Limit orders instead of other limit orders.

Therefore, IEX proposes to amend the IEX Fee Schedule to delete references to the CQ Remove Fee and related references as follows:

• Delete the following lines from the ''Definitions'' in the ''Transaction fees'' section:

○ ''Quote instability'' is defined in IEX Rule 11.190(g).

○ ''CQRF Threshold'' means the Crumbling Quote Remove Fee Threshold. The threshold is equal to 5% of the sum of a Member's total monthly executions on IEX measured on a per logical port (*i.e.,* session) per MPID basis.

• Delete the following row from the ''Fee Code Modifiers'' table:

Q	Crumbling Quote Remove Fee: Removes liquidity during periods of quote instability at or within the NBBO above the CQRF Threshold, measured on an MPID basis.[1]	$0.0030

• Delete the following rows from the ''Fee Code Combinations and Associated Fees'' table:

IQ [1]	Removes non-displayed liquidity during periods of quote instability	$0.0009
LQ [1]	Removes displayed liquidity during periods of quote instability	$0.0003
ISQ [1]	Member removes non-displayed liquidity provided by such Member during periods of quote instability.	FREE
IQR [12]	Retail order removes non-displayed liquidity during periods of quote instability	FREE
LSQ [1]	Member removes displayed liquidity provided by such Member during periods of quote instability	FREE
LQR [12]	Retail order removes displayed liquidity during periods of quote instability	FREE
ISQR [12]	Retail order removes non-displayed liquidity provided by such Member during periods of quote instability.	FREE
LSQR [12]	Retail order removes displayed liquidity provided by such Member during periods of quote instability	FREE

• Delete Footnote 1 (in the ''Transaction fees'' section of the Fee Schedule):

○ [1] *Crumbling Quote Remove Fee:* Executions with Fee Code Q that exceed the CQRF Threshold are subject to the Crumbling Quote Remove Fee identified in the Fee Code Modifiers table. Executions with Fee Code Q that do not exceed the CQRF Threshold are subject to the fees identified in the Fee Codes and Associated Fees table.

IEX also proposes to make conforming changes to the Fee Schedule by renumbering Transaction Fee Footnote ''2'' to Footnote ''1'' and changing all current references to Footnote ''2'' to instead reference Footnote ''1,'' specifically for the following fee codes and fee code combinations.

• ''R'', ''IR'', ''LR'', ''ISR'', and ''LSR.''

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b)[14] of the Act in general, and furthers the objectives of Sections 6(b)(4)[15] of the Act, 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. Additionally, IEX believes that the elimination of the CQ Remove Fee is consistent with the investor protection objectives of Section 6(b)(5)[16] of the Act in particular in that it is designed to promote just and equitable principles of trade, to remove impediments to a free and open market and national market system, and in general to protect investors and the public interest.

As discussed in the Purpose Section, the CQ Remove Fee was designed to incentivize market participants to send orders (including displayed orders) to provide liquidity to IEX by reducing the volume of orders involving latency arbitrage trading strategies that seek to exploit information advantages during narrow time windows when the CQI is on. As discussed above, the CQ Remove Fee resulted in only a minimal reduction in the use of such latency arbitrage strategies, and with the launch of the D-Limit order type, which is designed to protect both displayed and non-displayed orders from the same type of latency arbitrage strategies as the CQ Remove Fee, market participants seeking protection from such strategies through non-pegged orders (including displayed orders) can use D-Limit orders. IEX believes that use of D-Limit orders, as compared to the CQ Remove Fee, will provide a more direct and effective means for market participants to obtain such protection. Therefore, the Exchange believes the proposal to eliminate the CQ Remove Fee is reasonable because, as discussed above, the CQ Remove Fee has been only modestly successful in achieving its intended purpose of disincentivizing latency arbitrage trading strategies that

[11] Executions below $1.00 are assessed a fee of 0.30% of the total dollar value (''TDV'') of the execution unless the Fee Code Combination results in a free execution. *See* Investors Exchange Fee Schedule, available on the Exchange public website.

[12] The Exchange is effectively limited in setting the CQ Remove Fee by Rule 610(c) of Regulation NMS. 17 CFR 242.610(c).

[13] Deployment of the D-Limit order type is scheduled to begin in test symbols on Friday, September 25, 2020 and conclude in all symbols on Thursday, October 1, 2020. *See* IEX Trading Alert #2020–024 (Discretionary Limit (D-Limit) Order Type Launch) issued on August 28, 2020, available at *https://iextrading.com/alerts/#/121.*

[14] 15 U.S.C. 78f.

[15] 15 U.S.C. 78f(b)(4).

[16] 15 U.S.C. 78f(b)(5).

seek to exploit information advantages during narrow time windows when the CQI is on. The Exchange has limited resources available to it to devote to the operation of pricing disincentives such as the CQ Remove Fee and as such, it is reasonable and equitable for the Exchange to reallocate those resources away from programs that are less effective. The Exchange also believes that proposed change is equitable and not unfairly discriminatory because elimination of the CQ Remove Fee will apply to all Members in the same manner.

Moreover, the Exchange notes that eliminating the CQ Remove Fee will mean that orders that take liquidity during periods of quote instability above the CQRF Threshold will be assessed the same fees that were assessed by the Exchange prior to the introduction of the CQ Remove Fee, pursuant to the IEX Fee Schedule that was filed with the Commission pursuant to the Act.[17] Thus, the Exchange believes the proposed change does not present any unique or novel issues under the Act that have not already been considered by the Commission.

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 not necessary or appropriate in furtherance of the purposes of the Act. With regard to intra-market competition, the Exchange notes that the removal of the CQ Remove Fee will apply equally to all Members. While the CQ Remove Fee was designed to disincentivize certain latency arbitrage trading strategies, as described in the Purpose and Statutory Basis sections, the Exchange believes that the new D-Limit order type will provide more direct and effective protection to Members and other market participants from such strategies. Consequently, the Exchange does not believe that elimination of the CQ Remove Fee will impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act.

With regard to inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and alternative trading systems. Because competitors are free to modify their own fees in response, subject to the SEC rule filing process as applicable, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which IEX fee changes could impose any burden on inter-market competition is extremely limited.

Further, as discussed in the Statutory Basis section, the elimination of the CQ Remove Fee will mean that orders that take liquidity during periods of quote instability above the CQRF Threshold will be assessed the same fees that were assessed by the Exchange prior to the introduction of the CQ Remove Fee, pursuant to the IEX Fee Schedule that was filed with the Commission pursuant to the Act.[18] Thus, the Exchange believes the proposed change does not present any unique or novel issues under the Act that have not already been considered by the Commission.

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)[19] 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)[20] 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 email to *rule-comments@sec.gov.* Please include File Number SR–IEX–2020–15 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–2020–15. 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 (*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 offices 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–2020–15, and should be submitted on or before October 20, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

J. Matthew DeLesDernier,

Assistant Secretary.

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[17] *See* Securities Exchange Act Release No. 78550 (August 11, 2016), 81 FR 54873 (August 17, 2016) (SR–IEX–2016–09).

[18] *See* Securities Exchange Act Release No. 78550 (August 11, 2016), 81 FR 54873 (August 17, 2016) (SR–IEX–2016–09).

[19] 15 U.S.C. 78s(b)(3)(A)(ii).

[20] 15 U.S.C. 78s(b)(2)(B).

[21] 17 CFR 200.30–3(a)(12).