LICENSE AMENDMENT ISSUANCE—EXIGENT/EMERGENCY CIRCUMSTANCES—Continued

Brief Description of Amendment(s)	The amendment revised Susquehanna Steam Electric Station, Unit 2, TS 3.1.3, "Control Rod OPERABILITY," 3.1.6, "Rod Pattern Control," and 3.3.2.1, "Control Rod Block Instrumentation," by adding references to the analyzed rod position sequence to temporarily allow for greater flexibility in rod manipulation during various stages of reactor power operation. In its application, the licensee requested that the NRC process the proposed amendment under emergency circumstances to support restarting the plant after a maintenance outage. The license amendment was issued under emergency circumstances as provided in the provisions of 10 CFR 50.91(a)(5) because of the time critical nature of the amendment.
Local Media Notice (Yes/No)	No.
Public Comments Requested as to Proposed NSHC (Yes/No).	No.

Dated: February 13, 2023.

For the Nuclear Regulatory Commission.

Jamie M. Heisserer,

Deputy Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2023–03494 Filed 2–17–23; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96911; File No. SR–CboeBZX–2023–007]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

February 14, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 2, 2023, Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") 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 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

Cboe BZX Exchange, Inc. (the "Exchange" or "BZX Options") proposes to amend its fee schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, 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 Exchange 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 Exchange 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 to (1) reduce the standard fee for Customer and Firm/BD/JBO orders that remove liquidity in Penny Securities; (2) update the Market Maker Penny Add Volume Tiers; (3) update the criteria for the Customer, Firm, Broker Dealer and Joint Back Office Penny Take Volume Tiers; and (4) delete the NBBO Setter Tiers. The Exchange proposes to implement these changes effective February 1, 2023.[3]

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 options venues to which market participants may direct their order flow. Based on publicly available information, no single options exchange has more than 17% of the market share and currently the Exchange represents only approximately 5% of the market share.[4] Thus, in such a low-concentrated and highly competitive market, no single options exchange, including the Exchange, possesses significant pricing power in the execution of option order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

The Exchange's Fees Schedule sets forth standard rebates and rates applied per contract. For example, the Exchange assesses a standard fee of $0.50 per contract for Customer and Firm/BD/JBO orders that remove liquidity in Penny Securities. The Fee Codes and Associated Fees section of the Fees Schedule also provide for certain fee codes associated with certain order types and market participants that provide for various other fees or rebates. Additionally, the Fee Schedule offers tiered pricing which provides Members[5] opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. In response to the competitive environment, the Exchange also offers tiered pricing, which provides Members with opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

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

[2] 17 CFR 240.19b–4.

[3] The Exchange initially filed the proposed fee changes on February 1, 2023 (SR–CboeBZX–2023–006). On February 2, 2023 the Exchange withdrew that filing and submitted this filing.

[4] *See* Cboe Global Markets U.S. Options Market Monthly Volume Summary (January 30, 2023), available at *https://www.cboe.com/us/options/market_statistics/*.

[5] *See* Exchange Rule 1.5(n).

First, the Exchange proposes to reduce the standard fee for Customer and Firm/BD/JBO orders (*i.e.,* yield fee codes PC and PD, respectively) that remove liquidity in Penny Securities from $0.50 to $0.48.[6]

Second, the Exchange proposes to update the Market Maker Penny Add Volume Tiers (*i.e.,* applicable to orders yielding fee code PM) set forth in footnote 6. The Exchange currently provides opportunities for rebates per contract to add liquidity in Penny Securities as follows:

Tier	Rebate per contract to add	Required criteria
Tier 1	($0.33)	Member has an ADAV[7] in Market Maker orders ≥0.10% of average OCV.[8]
Tier 2	(0.40)	Member has an ADAV in Market Maker orders ≥0.20% of average OCV.
Tier 3	(0.41)	Member has an ADAV in Market Maker orders ≥0.30% of average OCV.
Tier 4	(0.42)	(1) Member has a Step-Up ADAV in Market Maker orders from March 2021 ≥0.15% of average SPY/IWM/QQQ OCV; and (2) Member is an LMM in at least 85 LMM Securities on BZX Equities.
Tier 5	(0.42)	Member has an ADAV in Market Maker orders ≥0.45% of average OCV.
Tier 6	(0.44)	(1) Member has a Step-Up ADAV in Market Maker orders from March 2021 ≥0.25% of average SPY/IWM/QQQ OCV; and (2) Member is an LMM in at least 85 LMM Securities on BZX Equities.
Tier 7	(0.46)	Member has an ADAV in Market Maker orders ≥0.75% of average OCV.
Tier 8	(0.48)	Member has an ADAV in Market Maker orders ≥1.50% of average OCV.

The Exchange proposes to amend these tiers as follows: [9]

- modify Tier 1 to reduce the rebate from $0.33 to $0.31 per contract to add liquidity and require the Member to have an ADAV in Market Makers greater than or equal to 0.15%, increased from 0.10%, of average OCV to qualify for the rebate;
- modify Tier 2 to reduce the rebate from $0.40 to $0.38 per contract to add liquidity and require the Member to have an ADAV in Market Maker orders greater than or equal to 0.25%, increased from 0.20%, of average OCV to qualify for the rebate;
- modify Tier 3 to reduce the rebate from $0.41 to $0.39 per contract to add liquidity and require the Member to have an ADAV in Market Makers orders greater than or equal to 0.40%, increased from 0.30%, of average OCV to qualify for the rebate;
- delete current Tiers 4 through 8;
- add new Tier 4 to provide an enhanced rebate of $0.40 per contract to add liquidity if a Member has (1) an ADAV in Market Makers orders greater than or equal to 0.45% of average OCV and (2) a Step-Up ADRV[10] in Customer orders greater than or equal to 0.05% of OCV from December 2022;
- add new Tier 5 to provide an enhanced rebate of $0.43 per contract to add liquidity if a Member has an ADAV in Market Maker orders greater than or equal to 0.60% of average OCV; and
- add new Tier 6 to provide an enhanced rebate of $0.44 per contract to add liquidity if a Member has (1) an ADAV in Market Maker orders greater than or equal to 0.75% of average OCV and (2) an ADRV in Customer orders greater than or equal to 0.50% of average OCV.

Third, the Exchange proposes to update the criteria required to qualify for the Customer, Firm, Broker Dealer and Joint Back Office Penny Take Volume Tiers (*i.e.,* applicable to orders yielding fee codes PC and PD) set forth in Footnote 14. Currently, the Exchange offers an additional rebate of (1) $0.01 per contract to remove liquidity if a Member has a Step-Up ADRV in (a) Customer orders from March 2021 greater than or equal to 35,000 contracts and (b) Firm/BD/JBO orders from March 2021 greater than or equal to 10,000 contracts (Tier 1); and (2) $0.02 per contract to remove liquidity if a Member has a Step-Up ADRV in (a) Customer orders from March 2021 greater than or equal to 70,000 contracts and (b) Firm/BD/JBO orders from March 2021 greater than or equal to 20,000 contracts (Tier 2). The proposed rule change updates the criteria to qualify for the Tier 1 additional rebate of $0.01 and for the Tier 2 additional rebate of $0.02 to require a Member to have an ADRV in Customer orders greater than or equal to 0.30% or 0.50%, respectively, of average OCV. Additionally, the proposed rule change reframes the rebates as reduced fees. Members that achieve Tier 1 will pay a reduced fee of $0.47 (rather than the standard rate of $0.48), which is equivalent to a rebate of $0.01, and Members that achieve Tier 2 will pay a reduced fee of $0.46 (rather than the standard rate of $0.48), which is equivalent to a rebate of $0.02. This is merely a change in terminology.[11]

Fourth, the proposed rule change deletes the NBBO Setter Tiers applicable to fee codes PM and PN that establish a new national best bid and offer (''NBBO''). Currently, the Exchange provides opportunities for additional rebates per contract to add liquidity of $0.01 and $0.02 if a Member has an ADAV in Firm/Market Maker/Away MM orders that establish a new NBBO greater than or equal to 0.25% or 0.45%, respectively of average OCV. The Exchange no longer wishes to maintain this rebate and proposes to eliminate the NBBO Setting Tiers from its Fee Schedule (and eliminate corresponding references to footnote 4 in the Fee Codes and Associated Fees table). The Exchange would rather redirect future resources and funding into other programs and tiers intended to incentivize increased order flow.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of

[6] In connection with the proposed fee changes, the Exchange also proposes to update the corresponding listed fee of $0.50 for fee codes PC and PD in the Fee Codes and Associated Fees table to the proposed new rate of $0.48.

[7] ''ADAV'' means average daily added volume calculated as the number of contracts added.

[8] ''OCC Customer Volume'' or ''OCV'' means the total equity and ETF options volume that clears in the Customer range at the Options Clearing Corporation (''OCC'') for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close.

[9] The Exchange proposes to amend these tiers as described in the table in Footnote 6 and amend the amounts of the rebates in the Standard Rates table.

[10] ''ADRV'' means average daily removed volume calculated as the number of contracts removed.

[11] Because the proposed rule change reframes these rebates as reduced fees, the proposed rule change also adds the amounts of the reduced fees ($0.47 and $0.46) to the Standard Rates table in addition to updating the amounts in the table in Footnote 14.

Section 6(b) of the Act.[12] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [13] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [14] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As described above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule change reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members. Additionally, competing exchanges offer similar tiered pricing structures, including schedules of rebates and fees that apply based upon similarly situated members achieving certain volume and/or growth thresholds, as well as assess similar fees or rebates for similar types of orders, to that of the Exchange.

The Exchange believes the proposed rule change to reduce the standard fee for Customer and Firm/BD/JBO orders that remove liquidity in Penny Securities is reasonable because it is a modest decrease in this transaction rate for these orders and continue to be in line with the standard fee for orders of other market participants that remove liquidity in Penny Securities on the Exchange.[15] Additionally, the reduced fee is in line with (and in fact lower than in some cases) fees assessed for similar transactions at other exchanges.[16] The Exchange believes the proposed change is equitable and not unfairly discriminatory because it applies uniformly to all Members and, as previously noted, the reduced fee is in line with the standard fee for orders submitted for other market participants that remove liquidity in Penny Securities on the Exchange.

The Exchange believes the proposed reduced rebates offered under the revised Market Maker Penny Add Volume Tiers are reasonable because Members are still eligible to receive rebates for meeting the corresponding criteria, albeit at lower amounts then before. While the Market Maker Penny Add Volume Tiers, as proposed, will provide lower rebates than those currently offered (ranging from $0.31 to $0.44 rather than $0.33 to $0.48) and while the proposed changes to the criteria under the proposed tiers may make them more difficult to attain, the Exchange still believes that the changes are reasonable as the tiers, even as amended, will continue to incentivize Members to send additional Market Maker orders to the Exchange. An overall increase in add activity may provide for deeper, more liquid markets and execution opportunities at improved prices, which ultimately offers additional cost savings, supports the quality of price discovery, promotes market transparency and improves market quality for all investors. Moreover, the Exchange is not required to maintain these tiers nor provide rebates. The Exchange believes the proposed changes to the rebates offered under these tiers still remain commensurate with the corresponding criteria under the respective tiers.

The Exchange believes the proposed change is also equitable and not unfairly discriminatory because it applies uniformly to all Members, who will have the opportunity to meet the tiers' criteria and receive the corresponding enhanced rebate for each tier if such criteria is met. Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether these proposed changes would definitely result in any Members qualifying for the proposed rebates. While the Exchange has no way of predicting with certainty how the proposed changes will impact Member activity, based on trading activity from the prior months, the Exchange anticipates that up to two Members will achieve Tier 1, up to two Members will achieve Tier 2, up to three Members will achieve Tier 3, up to two Members will achieve Tier 4, up to one Member will achieve Tier 5, and up to one Member will achieve Tier 6. Additionally, all Members are able to increase their Market Maker order flow to attempt to achieve these tiers. Should a Member not meet the proposed new criteria, the Member will merely not receive that corresponding enhanced rebate.

The Exchange believes the proposed rule change to modify the criteria required to qualify for the Customer, Firm, Broker Dealer and Joint Back Office Penny Take Volume Tiers is reasonable because the proposed cri. The Exchange proposes no changes to the amounts of the rebates (which the Exchange proposes to reframe as reduced fees), and the Exchange believes the proposed criteria remain commensurate with the corresponding reduced fees. The Exchange believes the revised criteria will continue to encourage Members to send additional Customer, Firm, Broker Dealer and JBO orders to the Exchange. Greater remove volume order flow may increase transactions on the Exchange, which the Exchange believes incentivizes liquidity providers to submit additional liquidity and execution opportunities. An overall increase in activity deepens the Exchange's liquidity pool, offers additional cost savings, supports the quality of price discovery, promotes market transparency and improves market quality for all investors.

The Exchange believes the proposed change is also equitable and not unfairly discriminatory because it applies uniformly to all Members, who will have the opportunity to meet the tiers' criteria and receive the corresponding enhanced rebate for each tier if such criteria is met. Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether these proposed changes would definitely result in any Members qualifying for the proposed rebates. While the Exchange has no way of predicting with certainty how the proposed changes will impact Member activity, based on trading activity from the prior months, the Exchange anticipates that up to three Members will achieve Tier 1 and up to one Member will achieve Tier 2. Additionally, all Members are able to increase their Customer/Firm/BD/JBO order flow to attempt to achieve these tiers. Should a Member not meet the proposed new criteria, the Member will merely not receive that corresponding enhanced rebate.

---

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] *Id.*

[15] As set forth in the Fee Schedule, the standard fee for orders that remove liquidity in Penny Securities is between $0.47 and $0.50 for Professional, Market Maker, and Away MM orders.

[16] *See, e.g.,* NYSE Arca Fee Schedule, Transaction Fee for Electronic Executions—Per Contract, which provides that Firms and Broker Dealers that remove liquidity are assessed $0.50 per contract in Penny Issues and Customers that remove liquidity are assessed $0.49 per contract. *See also* Cboe EDGX Options Fees Schedule, which provides Away Market Makers, Broker Dealers, JBOs, and Professionals that remove liquidity are assessed $0.48 per contract in Penny Program Securities.

The Exchange believes eliminating the NBBO Setter Tiers under Footnote 4 is reasonable because the Exchange is not required to maintain this program or provide additional rebates. Members may still have other opportunities to obtain enhanced rebates for orders in Penny Securities, such as via the Penny Add Volume Tiers (via Footnotes 1, 2 and 6 of the Fee Schedule). The Exchange believes that eliminating the NBBO Setter Tiers is equitable and not unfairly discriminatory because it applies uniformly to all Members. The Exchange also notes no Member has achieved either of these tiers in the last two months and no longer wishes to maintain this program. Further, the Exchange notes that the proposed changes will not adversely impact any Member's ability to otherwise qualify for reduced fees or enhanced rebates offered under other programs in the Fee Schedule.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the Exchange believes the proposal to reduce the standard fee for Customer and Firm/BD/JBO orders that remove liquidity in Penny Securities will not impose any burden on intramarket competition because it will apply uniformly to all Members. All Members that submit orders yielding fee codes PD and PC will pay this same reduced fee.

The Exchange believes the proposals to amend the Market Maker Penny Add Volume Tiers and the Customer, Firm, Broker Dealer and Joint Back Office Penny Take Volume Tiers also not impose any burden on intramarket competition, as they will also apply to all Members. All Members will continue to have an opportunity to receive rebates under various tiers in both programs. Market Maker Volume Add Tiers 1 through 6 are generally designed to increase the competitiveness of BZX and incentivize participants to increase their order flow on the Exchange, providing for additional execution opportunities for market participants and improved price transparency. An overall increase in add activity may provide for deeper, more liquid markets and execution opportunities at improved prices. Customer Volume Take Tiers 1 and 2 are generally designed to attract customer order flow. Greater remove volume order flow may increase transactions on the Exchange, which the Exchange believes incentivizes liquidity providers to submit additional liquidity and execution opportunities. An overall increase in activity deepens the Exchange's liquidity pool, offers additional cost savings, supports the quality of price discovery, promotes market transparency and improves market quality for all investors. Furthermore, greater overall order flow, trading opportunities, and pricing transparency benefit all market participants on the Exchange by enhancing market quality and continuing to encourage Members to send orders, thereby contributing towards a robust and well-balanced market ecosystem.

Additionally, the Exchange believes the proposal to eliminate the NBBO Setter Tiers will not impose any burden on intramarket competition because it will no longer be available to any Members. No Member has qualified for either tier in the last two months, and Members may still have other opportunities to obtain enhanced rebates for orders in Penny Securities, such as via the Penny Add Volume Tiers (via Footnotes 1, 2 and 6 of the Fee Schedule).

The Exchange does not believe that the proposed changes represent a significant departure from pricing currently offered by the Exchange or pricing offered by other options exchanges. Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

The Exchange also believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues they may participate on and direct their order flow, including 15 other options exchanges. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single options exchange has more than 17% of the market share. Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchanges if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' The fact that this market is competitive has also long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''. Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

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) of the Act [17] and Rule 19b–4(f)(2) [18] thereunder.

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

[17] 15 U.S.C. 78s(b)(3)(A)(ii).

[18] 17 CFR 240.19b–4(f)(2).

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–CboeBZX–2023–007 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–CboeBZX–2023–007. 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 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–CboeBZX–2023–007 and should be submitted on or before March 14, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–03474 Filed 2–17–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96915; File No. SR–IEX–2023–03]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend IEX Rule 1.160

February 14, 2023.

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 February 7, 2023, 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,[4] and Rule 19b–4 thereunder,[5] IEX is filing with the Commission a proposed rule change to amend IEX Rule 1.160.

The Exchange has designated this proposed rule change as ''non-controversial'' under Section 19(b)(3)(A) of the Act[6] and provided the Commission with the notice required by Rule 19b–4(f)(6) thereunder.[7]

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.

[19] 17 CFR 200.30–3(a)(12).

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

[7] 17 CFR 240.19b–4.

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 amend IEX Rule 1.160(y) ''Person Associated with a Member or Associated Person of a Member,'' to align those terms to the definition of the same terms in FINRA's By-Laws[8] with respect to Statutory Disqualifications.[9] Currently, IEX Rule 1.160(y) defines the terms ''Person Associated with a Member'' or ''Associated Person of a Member'' as

> any partner, officer, director, or branch manager of a Member (or person occupying a similar status or performing similar functions), *any person directly or indirectly controlling, controlled by, or under common control with such Member,* or any employee of such Member, except that any person associated with a Member whose functions are solely clerical or ministerial shall not be included in the meaning of such term for purposes of these Rules.[10]

Therefore, under IEX's current rules, an entity that is under common control of a Member is considered a Person Associated with a Member or Associated Person of a Member. Because IEX requires Members to submit a MC–400A application for continuance as a member if any Person Associated with the Member becomes subject to a Statutory Disqualification[11], IEX's current rules require Members to file MC–400A applications for affiliates under common control that would be subject to Statutory Disqualification under the securities laws.

By contrast, FINRA does not define ''Person Associated with a Member'' or ''Associated Person of a Member'' as

[8] *See* FINRA Regulation, Inc. By-laws, Article I, paragraph (ee).

[9] The term ''Statutory Disqualification'' means any statutory disqualification as defined in Section 3(a)(39) of the Act. *See* IEX Rule 1.160(mm).

[10] *See* IEX Rule 1.160(y) (emphasis added).

[11] *See* IEX Rule 9.522(b)(1)(B).