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Dated: January 4, 2024.

Stacy Murphy,

Deputy Chief Operations Officer/Security Officer.

[FR Doc. 2024-00298 Filed 1-9-24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-99274; File No. SR-~~IEX-2023-14~~]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Correct Six Typographical Citation and Cross-Reference Errors in the IEX Rule Book

January 4, 2024.

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 December 22, 2023, 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 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,⁴ and Rule 19b-4 thereunder,⁵ IEX is filing with the Commission a proposed rule change to correct six typographical citation and cross-reference errors in the IEX Rule Book. The Exchange has designated this rule change as “non-controversial” under Section 19(b)(3)(A) of the Act⁶ 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.

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 makes this filing to correct six typographical citation and cross-reference errors in the IEX Rule Book. Specifically, the Exchange proposes to update external citations to subsections of Rule 600(b) of Regulation NMS under the Act in IEX Rules 10.160(f), 11.210(a)(2), 11.230(b), 11.610(y), and 11.610(qq) (“Regulation NMS citations”); the Exchange also proposes to update an internal cross-reference error attributable to a recent rule change.

With respect to the Regulation NMS citations, IEX notes that in 2021, the Commission amended Regulation NMS in connection with the adoption of the Market Data Infrastructure Rules.⁸ As part of that initiative, the Commission

adopted new definitions in Rule 600(b) of Regulation NMS and renumbered the remaining definitions. The Exchange accordingly proposes to update the relevant citations to Regulation NMS in the IEX Rule Book as follows:

- The citation to the Regulation NMS definition of Intermarket Sweep Order in IEX Rule 10.160(f) would be changed from Rule 600(b)(30) to Rule 600(b)(38);
- The citation to the Regulation NMS definition of NMS Stock in IEX Rule 11.210(a)(2) would be changed from Rule 600(b)(46)⁹ to Rule 600(b)(55);
- The citation to the Regulation NMS definition of Protected Quotation in IEX Rule 11.230(b) would be changed from Rule 600(b)(58) to Rule 600(b)(71);
- The citation to the Regulation NMS definition of Listed Option in IEX Rule 11.610(y) would be changed from Rule 600(b)(35) to Rule 600(b)(43);
- The citation to the Regulation NMS definition of NMS Stock in IEX Rule 11.610(y) would be changed from Rule 600(b)(47) to Rule 600(b)(55);

With respect to the internal cross-reference, IEX Rule 11.190(b)(2)(G) cross-references IEX Rule 11.190(b)(7)(E)(v), when it should cross-reference IEX Rule 11.190(b)(7)(F)(v). This cross-reference error stems from a recent rule filing that renumbered IEX Rule 11.190(b)(7) without updating the cross-reference contained in IEX Rule 11.190(b)(2)(G).¹⁰ IEX therefore proposes to amend IEX Rule 11.190(b)(2)(G) to cross-reference IEX Rule 11.190(b)(7)(F)(v) instead of 11.190(b)(7)(E)(v).

IEX notes that both the proposed changes to the Regulation NMS citations and the internal cross-reference do not substantively modify system functionality or processes on the Exchange, but solely correct outdated cross-references.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b)¹¹ of the Act in general, and furthers the objectives of Section 6(b)(1) of the Act¹² in particular, in that it is designed to enforce compliance by the Exchange’s Members¹³ and persons

⁹ IEX Rule 11.210(a)(2), which reads in relevant part “the security is an NMS stock pursuant to Commission Rule 600(b)(46)” contains a typographical error; the rule should have referred to Rule 600(b)(47), not 600(b)(46). This proposed rule change corrects this typographical error.

¹⁰ See Securities Exchange Act Release No. 96611 (January 9, 2023), 88 FR 2379, 2380 (January 13, 2023) (SR-~~IEX-2022-10~~).

¹¹ 15 U.S.C. 78f.

¹² 15 U.S.C. 78f(b)(1).

¹³ See IEX Rule 1.160(s).

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.

⁸ See Securities Exchange Act Release No. 90610, 86 FR 18596 (April 9, 2021) (S7-03-20).

associated with its Members, with the provisions of the rules of the Exchange.

The Exchange believes that the proposed changes to the Regulation NMS citations would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed changes are designed to update external and internal rule references. The Exchange believes that Members would benefit from the increased clarity, thereby reducing potential confusion and ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the Exchange's rules.

The Exchange also believes that the proposed rule change is consistent with the public interest and the protection of investors because it will provide increased clarity in the Exchange's rules, thereby reducing potential confusion, as described above.

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. As described in the Purpose and Statutory Basis sections, this rule filing merely proposes to correct five external citations and one internal cross-reference. The proposed rule change is not intended to address competitive issues but rather would modify Exchange rules to update citations to Regulation NMS and an internal cross-reference. Since the proposal does not substantively modify system functionality or processes on the Exchange, the proposed changes will not impose any burden on competition.

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 Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) ¹⁴ of the Act and Rule 19b-4(f)(6) ¹⁵ thereunder. Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on

competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.¹⁶

The Exchange believes that the proposed rule change meets the criteria of subparagraph (f)(6) of Rule 19b-4 ¹⁷ because it would not significantly affect the protection of investors or the public interest, nor does it impose any burden on competition because it merely corrects six typographical errors in existing rule provisions without substantively changing such provisions. This rule filing does not substantively modify system functionality or processes on the Exchange. Accordingly, the Exchange believes that the proposed rule change is noncontroversial and satisfies the requirements of Rule 19b-4(f)(6).¹⁸

A proposed rule change filed under Rule 19b-4(f)(6) ¹⁹ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),²⁰ 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, because this rule filing merely corrects typographical errors for which the rest of the rule is otherwise clear. Therefore, IEX believes there is no need to delay implementation of this rule change, so that the Exchange may promptly correct these typographical errors and avoid any potential confusion during such time period on the part of market participants.

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) ²¹ 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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-IEX-2023-14 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-2023-14. 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-2023-14 and should be submitted on or before January 30, 2024.

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(6).

¹⁶ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁷ 17 CFR 240.19b-4(f)(6).

¹⁸ 17 CFR 240.19b-4(f)(6).

¹⁹ 17 CFR 240.19b-4(f)(6).

²⁰ 17 CFR 240.19b-4(f)(6)(iii).

²¹ 15 U.S.C. 78s(b)(2)(B).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024-00285 Filed 1-9-24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-99275; File No. SR-MEMX-2023-39]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Fee Schedule To Adopt Connectivity and Application Session Fees for MEMX Options

January 4, 2024.

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 December 21, 2023, MEMX LLC ("MEMX" 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 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

The Exchange is filing a proposal to amend the Fee Schedule to: (i) apply the Exchange's current Connectivity and Application Session fees to MEMX Options Users, (ii) implement a waiver of Connectivity and Application Session fees solely related to participation on MEMX Options until February 1, 2024, and (iii) make an organizational change to its existing fee schedule for the Exchange's pre-existing equities market ("MEMX Equities"), in order to create a separate fee schedule for Connectivity Fees (for both MEMX Equities and MEMX Options). The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal immediately. The text of the proposed rule change is provided in Exhibit 5.

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

Background

The Exchange is filing a proposal to amend the Fee Schedule to: (i) apply the Exchange's current Connectivity and Application Session fees to MEMX Options Users, (ii) implement a waiver of Connectivity and Application Session fees solely related to participation on MEMX Options until February 1, 2024, and (iii) make an organizational change to its existing fee schedule for the Exchange's pre-existing equities market ("MEMX Equities"), in order to create a separate fee schedule for Connectivity Fees (for both MEMX Equities and MEMX Options). The Exchange believes that these changes will provide greater transparency to Members about how the Exchange assesses fees, as well as allowing Members to more easily validate their bills on a monthly basis. The Exchange notes that none of these changes amend any existing fee applicable to MEMX Equities. The Exchange is proposing to implement the proposal immediately. The Exchange previously filed the proposal on October 24, 2023 (SR-MEMX-2023-29) (the "Initial Proposal"). The Exchange has withdrawn the Initial Proposal and replaced the proposal with the current filing (SR-MEMX-2023-39).

As set forth below, the Exchange believes that its proposal provides a great deal of transparency regarding the cost of providing connectivity services and anticipated revenue and that the proposal is consistent with the Act and associated guidance. The Exchange is re-filing this proposal promptly following the withdrawal of the Initial Proposal in order to provide additional details not contained in the Initial Proposal and modify the original proposed Options Connectivity and

Application Session fee waiver end date from January 1, 2024, to February 1, 2024.

(i) Fees for Connectivity to MEMX Options

As noted above, the Exchange is proposing to apply the current fees it charges to Members and non-Members³ for physical connectivity to the Exchange and for application sessions (otherwise known as "logical ports") that a Member utilizes in connection with their participation on the Exchange (together with physical connectivity, collectively referred to in this proposal as "connectivity services", as described in greater detail below) to both Users of MEMX Equities and MEMX Options.⁴ Specifically, the Exchange will continue to charge \$6,000 per month for a physical connection in the data center where the Exchange primarily operates under normal market conditions ("Primary Data Center"), and \$3,000 per month for a physical connection at the geographically diverse data center, which is operated for backup and disaster recovery purposes ("Secondary Data Center"). These physical connections can be used to access both platforms, accordingly, a firm that is a Member of both MEMX Equities and MEMX Options may use a single physical connection to access its application sessions at both MEMX Equities and MEMX Options. This differs from application sessions in that a firm that is a Member of both MEMX Equities and MEMX Options would need to purchase separate application sessions for each trading platform in order to access each such trading platform. These application session fees will continue to be \$450 per month for an application session used for order entry ("Order Entry Port") and \$450 per month for an application session for receipt of drop copies ("Drop Copy Port"), to the extent such ports are in the Primary Data Center. As is true today for MEMX Equities, the Exchange will not charge for Order Entry Ports or Drop Copy Ports in the Secondary Data Center. The Exchange's proposal to apply the same fees to Equities and Options stems from the same cost analysis it conducted in adopting those

³ Types of market participants that obtain connectivity services from the Exchange but are not Members include service bureaus and extranets. Service bureaus offer technology-based services to other companies for a fee, including order entry services to Members, and thus, may access application sessions on behalf of one or more Members. Extranets offer physical connectivity services to Members and non-Members.

⁴ MEMX Options launched on September 27, 2023.

²² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.