

Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

## II. Docketed Proceeding(s)

1. *Docket No(s)*: CP2023–181; *Filing Title*: USPS Notice of Amendment to Priority Mail, First-Class Package Service, Parcel Select & Parcel Return Service Contract 1, Filed Under Seal; *Filing Acceptance Date*: February 5, 2024; *Filing Authority*: 39 CFR 3035.105; *Public Representative*: Cherry Yao; *Comments Due*: February 13, 2024.

2. *Docket No(s)*: MC2024–182 and CP2024–188; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 46 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: February 5, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative*: Alain Brou; *Comments Due*: February 13, 2024.

3. *Docket No(s)*: MC2024–183 and CP2024–189; *Filing Title*: USPS Request to Add Priority Mail & USPS Ground Advantage Contract 184 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: February 5, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative*: Samuel Robinson; *Comments Due*: February 13, 2024.

This Notice will be published in the **Federal Register**.

Jennie L. Jbara,

*Alternate Certifying Officer.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99470; File No. SR–NYSEARCA–2024–09]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Rule 6.62P–O

February 5, 2024.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”)<sup>2</sup> and Rule 19b–4 thereunder,<sup>3</sup>

notice is hereby given that on January 23, 2024, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II 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

The Exchange proposes to modify Rule 6.62P–O (Orders and Modifiers) to adopt electronic Customer Cross Order and Complex Customer Cross Order functionality and to amend Rule 1.1 (Definitions) to clarify the treatment of Professional Customer interest. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.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 those 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 parts 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 modify Rule 6.62P–O (Orders and Modifiers) to adopt electronically-entered Customer Cross (“C2C”) Orders and Complex Customer Cross (“Complex C2C”) Orders (collectively, “Customer Cross Orders”). The Exchange also proposes to amend the definition of “Customer and Professional Customer” (Rule 1.1.) to clarify the treatment of Professional Customer interest.

Proposed Rule 6.62P–O(g)(2): Customer Cross Orders<sup>4</sup>

The Exchange proposes to adopt rules governing electronically-entered

Customer Cross Orders, which rules are substantively identical to the recently-adopted Customer Cross Orders on the Exchange’s affiliate, NYSE American LLC (“NYSE American”).<sup>5</sup>

Proposed Rule 6.62P–O(g)(2) would describe Customer Cross Orders. Proposed Rule 6.62P–O(g)(2)(A) would provide that a C2C Order and a Complex C2C Order must be comprised of a Customer (but not a Professional Customer) order to buy and a Customer (but not a Professional Customer) order to sell at the same price and for the same quantity. The proposal to limit eligible interest to Customer but not Professional Customer interest is substantively identical to the rules of NYSE American.<sup>6</sup> In addition, as proposed, a C2C Order or Complex C2C Order that is not rejected on arrival would immediately trade in full at its limit price.<sup>7</sup> Further, proposed Rule 6.62P–O(g)(2)(A) would provide that C2C Orders and Complex C2C Orders would not route and may be entered with a Minimum Price Variation (“MPV”) of \$0.01 regardless of the MPV of the options series.<sup>8</sup> Finally, the proposed Rule would specify that Commentary .01 to Rule 6.47A–O would apply to Customer Cross Orders, which means that OTP Holders and OTP Firms may not utilize Customer Cross Orders to increase their economic gain without first giving other trading interest on the Exchange an opportunity to participate in the trade or to trade at the transaction price when the OTP Holder or OTP Firm was already bidding or offering at that price.<sup>9</sup> This proposed handling of Customer Cross Orders is substantively identical to the rules on NYSE

Rule 6.62P–O(g) by removing the statement that “[a] Cross Order is a Qualified Contingent Cross (“QCC”) Order” and retaining the title of “Cross Orders”. In addition, the Exchange proposes to update the title of paragraph Rule 6.62P–O (g)(1) to “Qualified Contingent Cross (“QCC”) Orders.” The Exchange believes that these proposed changes would add clarity and transparency to, and improve the accuracy of, the Exchange’s rules. See proposed Rule 6.62P–O(g) and (g)(1).

<sup>5</sup> See NYSE American Rule 900.3NYP(g)(2) (describing single-leg and complex Customer Cross Orders). See also Securities Exchange Act Release No. 99231 (December 22, 2023), 88 FR 89783 (December 28, 2023) (SR–NYSEAMER–2023–66) (immediately effective rule change to adopt electronically-entered Customer Cross Orders).

<sup>6</sup> See NYSE American Rule 900.3NYP(g)(2)(A).

<sup>7</sup> See proposed Rule 6.62P–O(g)(2)(A) (providing, in relevant part, that “[a] C2C Order or Complex C2C Order that is not rejected per Rule 6.62P–O(g)(2)(B) [Execution of C2C Orders] or (C) [Execution of Complex C2C Orders], respectively, will immediately trade in full at its limit price”).

<sup>8</sup> Rule 1.1 defines “Minimum Price Variation” or “MPV” as the price variations established by the Exchange, which for quoting and trading options traded on the Exchange are set forth in 6.72–O(a).

<sup>9</sup> See proposed Rule 6.62P–O(g)(2)(A). See also Rule 6.47A–O, Commentary .01.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b–4.

<sup>4</sup> To reflect the addition of Customer Cross Orders, the Exchange proposes to amend current

American regarding the handling of such orders on that exchange.<sup>10</sup>

Proposed Rule 6.62P–O(g)(2)(B) provides that a C2C Order that has one option leg would be rejected if received when the NBBO is crossed or if the C2C would trade at a price that (i) is at the same price as a displayed Customer order on the Consolidated Book and (ii) is not at or between the NBBO and the Exchange BBO. The Exchange believes that the proposal would provide for the efficient entry and execution of C2C Orders while continuing to protect same-priced, displayed Customer interest (*i.e.*, by ensuring that the C2C Order does not trade ahead of displayed Customer interest resting in the Consolidated Book). As noted above, the proposed C2C Orders would operate in a manner that is identical to the handling of single-leg customer cross orders per NYSE American rules.<sup>11</sup>

Proposed Rule 6.62P–O(g)(2)(C) would describe the Exchange's pricing requirements for a Complex C2C Order, which requirements are identical to those set forth in NYSE American Rule 900.3NYP(g)(2)(C). As is the case per NYSE American rules, to validate the price of a Complex C2C Order, the Exchange would rely on the Derived BBO ("DBBO") as described in Rule 6.91P–O(a)(5).<sup>12</sup> If the Exchange is not able to calculate the DBBO for a complex strategy because of one of the circumstances described in Rule 6.91P–O(a)(5)(B)–(C), the Exchange will not execute an order for that strategy until the circumstance is resolved.<sup>13</sup>

<sup>10</sup> See Rule 6.47A–O, Commentary .01 (providing an identical prohibition to the one set forth in NYSE American Rule 935NY, Commentary .01, which prevents order-senders from using the customer crossing mechanism to increase economic gain without first providing an opportunity of eligible interest to trade at the transaction price of the cross order).

<sup>11</sup> See NYSE American Rule 900.3NYP(g)(2)(B).

<sup>12</sup> The DBBO provides for the establishment of a derived (theoretical) bid or offer for a particular complex strategy. See Rule 6.91P–O(a)(5) (defining the DBBO and providing that the bid (offer) price used to calculate the DBBO on each leg will be the Exchange BB (BO) (if available), bound by the maximum allowable Away Market Deviation). The Away Market Deviation, as defined in Rule 6.91P–O(a)(1), ensures that an ECO does not execute too far away from the prevailing market. Rule 6.91P–O(a)(5) also provides for the establishment of the DBBO in the absence of an Exchange BB (BO), or ABB(ABO), or both. The Exchange's definition of DBBO and its use in relation to Complex C2C Orders is identical to how this concept is defined and utilized by NYSE American. Compare Rule 6.91P–O(a)(5) with NYSE American Rule 980NYP(a)(5).

<sup>13</sup> See proposed Rule 6.62P–O(g)(2)(C). See also Rule 6.91P–O(a)(5)(B) (providing that, "[i]f, for a leg of a complex strategy, there is neither an Exchange BBO nor an ABBO, the Exchange will not allow the complex strategy to trade until, for that leg, there is either an Exchange BB or BO, or an ABB or ABO, on at least one side of the market") and (a)(5)(C)

Consistent with this handling, the Exchange proposes that it would reject a Complex C2C Order if the Exchange is unable to calculate the DBBO for a leg of the Complex C2C Order per Rule 6.91P–O(a)(5)(B) or (a)(5)(C).<sup>14</sup>

In addition, proposed Rule 6.62P–O(g)(2)(C) provides that no option leg of a Complex C2C Order will trade at a price worse than the Exchange BBO and such order would be rejected if it fails to meet the following requirements:

- the transaction price must be at or between the DBBO and may not equal the DBBO if the DBBO is calculated using the Exchange BBO and the Exchange BBO of any component of the complex strategy on either side of the market includes displayed Customer interest. If the DBB (DBO) includes displayed Customer interest on the Exchange, the transaction price must improve the DBB (DBO) by at least one cent (\$0.01) (per proposed Rule 6.62P–O(g)(2)(C)(i)); and

- the transaction price must be at or between the best-priced Complex Orders to buy and sell in the complex strategy and may not equal the price of a resting Customer Complex Order (per proposed Rule 6.62P–O(g)(2)(C)(ii)).

As noted above the pricing requirements for the proposed Complex C2C Orders are identical to NYSE American's requirement for such orders.<sup>15</sup>

The Exchange also proposes a conforming change to Rule 6.91P–O(b)(1) to include Complex Customer Cross Orders among the type of Electronic Complex Orders available for trading on the Exchange, which change would add clarity, transparency, and internal consistency to the Exchange's rules.<sup>16</sup>

#### Rule 1.1: Definitions of Customer and Professional Customer

The Exchange proposes to modify the definition of "Customer" to provide that, "unless otherwise specified", the

(providing, in relevant part that, "[i]f the best bid and offer prices (when not based solely on the Exchange BBO) for a component leg of the complex strategy are locked or crossed, the Exchange will not allow an ECO for that strategy to execute against another ECO until this condition resolves"). This proposed handling of Complex C2C Orders is identical to the handling of such orders on NYSE American. Compare proposed Rule 6.62P–O(g)(2)(C) with NYSE American Rule 900.3NYP(g)(2)(C).

<sup>14</sup> See proposed Rule 6.62P–O(g)(2)(B). See also NYSE American Rule 900.3NYP(g)(2)(B).

<sup>15</sup> See NYSE American Rule 900.3NYP(g)(2)(C)(i)–(ii).

<sup>16</sup> See proposed Rule 6.91P–O(b)(1) (providing that Electronic Complex Orders "may be entered as Limit Orders, Limit Orders designated as Complex Only Orders, Complex QCCs, or as Complex Customer Cross Orders) (emphasis added). See also NYSE American Rule 980NYP(b)(1).

definition of "Customer" includes a "Professional Customer", as described below.<sup>17</sup>

Per Rule 1.1, for options traded on the Exchange, the terms "Customer" and "Professional Customer" do not include a broker or dealer.<sup>18</sup> When the Exchange adopted its definition of Professional Customer nearly a decade ago, it noted that its definition was "similar to designations that have been adopted by all other options exchanges."<sup>19</sup> At that time, however, the Exchange explicitly stated that it was not proposing "to revise any order execution or processing rules, including its priority rules, to change the treatment of Professional Customers" but noted instead that "Professional Customer orders will be treated as Customer orders under Exchange rules for all purposes, except those related to order marking."<sup>20</sup> The Exchange further noted that "[a]s the only options Exchange to have not yet adopted the Professional Customer definition, the Exchange's proposal will allow OTP Holders to mark their Professional Customer orders similarly regardless of whether the order is placed on the Exchange or another options exchange" and that adopting the Professional Customer designation would "facilitate cross-market initiatives (such as harmonizing rules relating to Obvious Errors)."<sup>21</sup> Although the Exchange was clear as to its intent when it adopted the Professional Customer designation, it did not modify its definition of "Customer" to reflect this intention. Thus, for avoidance of doubt and consistent with the Exchange's previously stated intent, the Exchange proposes to modify the definition of Customer to include

<sup>17</sup> See proposed Rule (emphasis added). See also NYSE American Rule 980NYP(b)(1).

<sup>18</sup> See Rule 1.1 (defining Customer and Professional Customer). For order counting purposes, the term "Professional Customer" applies to an individual or organization that "places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s)." See *id.*

<sup>19</sup> See Securities Exchange Act Release No. 73665 (November 21, 2014), 79 FR 70907, 70908 at n. 7 (November 28, 2014) (SR–NYSEARCA–2014–133) (immediately effective rule change to adopt the definition of Professional Customer) (the "2014 Proposal"). See *id.*, 79 FR, at 70908 at n. 7 (citing other options markets that had already adopted the Professional Customer designation).

<sup>20</sup> See *id.*, 79 FR at 70908, n. 8 (specifying that, at that time, at least two other options exchanges had adopted a definition of Professional Customer that was the "same" as the Exchange's then-proposed definition and that those exchanges likewise did "not treat Professional Customers differently than Customers for purposes of execution or processing"). Thus, from inception, the treatment of market participants designated as Professional Customers differed among options exchanges.

<sup>21</sup> See *id.*, 79 FR at 70908.

Professional Customer, “unless otherwise specified” in Exchange rules.<sup>22</sup> The Exchange believes this rule change would add clarity and transparency to the Exchange’s rules, making them easier to navigate and understand.

#### Implementation

Because of the technology changes associated with this proposed rule change, the Exchange will announce the implementation date by Trader Update, which, subject to effectiveness of this proposed rule change, is anticipated to be in the first quarter of 2024.

#### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934,<sup>23</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>24</sup> in particular, because it is 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 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.

The Exchange believes that the proposed Customer Cross Orders (for single-leg and complex interest) would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rules would allow OTP Holders and OTP Firms to electronically trade these types of crossing orders on the Exchange. The proposed functionality would benefit investors and the public interest because it would enhance and automate each order entry firms’ ability to submit two-sided Customer orders—*i.e.*, Customer Cross Orders (both single-leg and complex). As such, the proposed rule change would provide OTP Holders and OTP Firms with an efficient means of executing their Customer orders. In addition, the proposed Customer Cross Orders would remove impediments to and perfect the mechanism of a free and open market and a national market

system because OTP Holders and OTP Firms would be given an additional way to execute single-leg and Complex Orders on the Exchange. As noted herein, the proposed Customer Cross Orders functionality is identical to functionality described in the rules of the Exchange’s affiliate, NYSE American.<sup>25</sup> With this proposal, OTP Holders and OTP Firms would likewise have an additional venue on which to execute two-sided Customer orders electronically—*i.e.*, Customer Cross Orders. As such, the proposed order types may attract additional Customer order flow (both two-sided and single-sided) to the Exchange, which may, in turn, result in greater liquidity available for trading on the Exchange.

Regarding the proposed single-leg C2C Order type, the Exchange believes that the adoption of this order type would provide for the efficient entry and execution of C2C Orders while continuing to protect same-priced, displayed Customer interest (*i.e.*, by ensuring that the C2C Order does not trade ahead of displayed Customer interest resting in the Consolidated Book). Further, as noted herein, the proposed order type is not new or novel because each C2C Order would operate in a manner that is identical to the handling of single-leg customer cross orders per the rules of NYSE American.<sup>26</sup>

The proposed Complex C2C Order would protect investors and the public interest by assuring that these orders comply with the existing priority and allocation rules applicable to the processing and execution of Complex Orders per Rule 6.91P–O. In particular, the proposed Complex C2C Orders would continue to protect same-priced, displayed Customer interest and would ensure that Complex C2C Orders do not trade ahead of such displayed Customer interest, whether in the leg markets or as Customer Complex Orders. The Exchange believes the proposed Complex C2C Orders would promote just and equitable principles of trade because (as discussed herein) the proposed orders—which are not new or novel—would operate in a manner that is identical to the handling of complex customer cross orders per the rules of NYSE American.<sup>27</sup>

The Exchange believes the proposed amendment to the Rule 1.1 definition of Customer and Professional Customer would remove impediments to and perfect the mechanism of a free and open market and a national market

system because it would add clarity and transparency to—and improve the accuracy of—the Exchange’s rules making them easier to comprehend to the benefit of all market participants.

Finally, the proposed conforming changes to Rules 6.62P–O(g) and 6.91P–O(b)(1) to accommodate the adoption of single-leg and Complex Customer Cross Orders on the Exchange would remove impediments to and perfect the mechanism of a free and open market and a national market system because the rule changes would add clarity and transparency to—and improve the accuracy of—the Exchange’s rules making them easier to comprehend to the benefit of all market participants.

#### *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. Specifically, the Exchange’s proposal to adopt a new electronically-entered crossing order type (*i.e.*, the Customer Cross Order) would not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed change would not impose a burden on intra-market competition because the proposed order types would provide OTP Holders and OTP Firms with the option of utilizing another means of executing two-sided Customer interest—both single-leg and Complex Orders on the Exchange. The proposed change would also benefit investors by providing another venue (*i.e.*, in addition to NYSE American) on which Customer Cross Orders may be submitted electronically.

The Exchange believes that the proposed change would enhance intermarket competition. The Exchange believes that adopting Customer Cross Orders would promote competition as it would afford OTP Holders and OTP Firms another venue on which to execute two-sided Customer orders for single-leg and complex trading interest. Further, the Exchange anticipates that this proposal will create new opportunities for the Exchange to attract new business to the Exchange. As such, the Exchange believes that this proposal does not create an undue burden on intermarket competition. Rather, the Exchange believes that the proposed rule would bolster intermarket competition by promoting fair competition among individual markets.

The Exchange does not believe the proposed amendment to the Rule 1.1

<sup>22</sup> See proposed Rule 1.1 (providing that “[f]or options traded on the Exchange, the term ‘Customer’ does not include a broker or dealer and, unless otherwise specified, includes a ‘Professional Customer’”(emphasis added) See, e.g., proposed Rule 6.62P–O(g)(2) (specifying that Customer Cross Orders “must be comprised of a Customer (but not a Professional Customer) order to buy and a Customer (but not a Professional Customer) order to sell at the same price and for the same quantity”).

<sup>23</sup> 15 U.S.C. 78f(b).

<sup>24</sup> 15 U.S.C. 78f(b)(5).

<sup>25</sup> See NYSE American Rule 900.3NYP(g)(2).

<sup>26</sup> See NYSE American Rule 900.3NYP(g)(2)(B).

<sup>27</sup> See NYSE American Rule 900.3NYP(g)(2)(C).

definition of Customer and Professional Customer would impose any undue burden on intra-market or intermarket competition as all market participants on the Exchange would be subject to the updated definition. In addition, the proposal to limit the availability of the proposed Customer Cross Orders to interest submitted on behalf of Customers would align the Exchange with the rules of NYSE American, which has the same limitation.<sup>28</sup>

In addition, the proposed conforming changes to Rules 6.62P–O(g) and 6.91P–O(b)(1) to accommodate the addition of single-leg and Complex Customer Cross Orders would not impose an undue burden on intra-market or intermarket competition but would instead add clarity, transparency, and internal consistency to the Exchange’s rules.

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

No written comments were solicited or received with respect to the proposed rule change.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>29</sup> and Rule 19b–4(f)(6) thereunder.<sup>30</sup> 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.<sup>31</sup>

A proposed rule change filed under Rule 19b–4(f)(6)<sup>32</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),<sup>33</sup> 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 so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the operative delay will provide market participants with an additional venue for executing two-sided single-leg and complex Customer orders electronically. In addition, the proposed change to the definition of “Customer” is designed to reflect the Exchange’s intention when it adopted the definition of definition of Professional Customer in 2014, as described above.

The proposed C2C and Complex C2C Orders are substantively identical to order types adopted by the Exchange’s affiliate, NYSE American.<sup>34</sup> Among other things, the proposed rules protect the priority of displayed Customer interest on the Exchange by providing that a C2C Order with one option leg will be rejected if it would trade at the same price as a displayed Customer order on the Exchange’s Consolidated Book.<sup>35</sup> In addition, a Complex C2C Order must trade at a price that is (i) better than the DBB (DBO) if the DBB (DBO) includes displayed Customer interest on the Exchange, and (ii) better than a resting Customer Complex Order on the Exchange.<sup>36</sup> Consistent with the rules of other options exchanges that offer customer cross orders, the proposed Customer Cross Orders are limited to Customer orders.<sup>37</sup> The proposed change to the definition of Customer is designed to ensure that the definition reflects the Exchange’s intention, as described in the 2014 Proposal, to treat Professional Customers as Customers, unless otherwise specified. The proposed conforming changes to Exchange Rules 6.62P–O(g)(1) and 6.91P–O(b)(1) will update the Exchange’s rules to reflect the addition of Customer Cross Orders. The proposal, which does not raise new or novel regulatory issues, will provide market participants with an additional venue for crossing single-leg and complex Customer Cross Orders electronically. Accordingly, the Commission hereby waives the 30-day operative delay and designates the

proposed rule change operative upon filing.<sup>38</sup>

At any time within 60 days of the filing of such 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.

### 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](mailto:rule-comments@sec.gov). Please include file number SR–NYSEARCA–2024–09 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–NYSEARCA–2024–09. 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

<sup>28</sup> See NYSE American Rule 900.3NYP(g)(2).

<sup>29</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>30</sup> 17 CFR 240.19b–4(f)(6).

<sup>31</sup> *Id.* In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of 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.

<sup>32</sup> 17 CFR 240.19b–4(f)(6).

<sup>33</sup> 17 CFR 240.19b–4(f)(6)(iii).

<sup>34</sup> See NYSE American Rule 900.3NYP(g)(2) and note 5, *supra*.

<sup>35</sup> See proposed Exchange Rule 6.62P–O(g)(2)(B)(i).

<sup>36</sup> See proposed Exchange Rule 6.62P–O(g)(2)(C).

<sup>37</sup> See proposed Exchange Rule 6.62P–O(g)(2)(A) and NYSE American Rule 900.3NYP(g)(2)(A). See also Cboe Rule 5.38(f).

<sup>38</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-NYSEARCA-2024-09 and should be submitted on or before March 1, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>39</sup>

**Sherry R. Haywood,**  
Assistant Secretary.

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-99471; File No. SR-IEX-2024-04]

**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**

February 5, 2024.

Pursuant to Section 19(b)(1) <sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”) <sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on January 24, 2024, 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,<sup>4</sup> and Rule 19b-

4 thereunder,<sup>5</sup> the Exchange is filing with the Commission a proposed rule change to amend its Fee Schedule,<sup>6</sup> pursuant to IEX Rule 15.110(a) and (c) (the “Fee Schedule”), to revise the Fee Codes <sup>7</sup> applicable to transactions that involve a Post Only order that executes on entry. Changes to the Fee Schedule pursuant to this proposal are effective upon filing,<sup>8</sup> and the Exchange plans to implement the changes on February 15, 2024.

The text of the proposed rule change is available at the Exchange’s website at [www.iextrading.com](http://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

The Exchange proposes to amend its Fee Schedule, pursuant to IEX Rule 15.110(a) and (c), to revise the Fee Codes applicable to transactions that involve a Post Only order that executes on entry. IEX recently filed a rule change to introduce a Post Only order parameter instruction and a Trade Now instruction.<sup>9</sup> The Post Only Filing was effective on filing but will not be implemented until February 15, 2024.<sup>10</sup>

As described in the Post Only Filing, Members<sup>11</sup> may attach a Post Only parameter instruction to any displayable, non-routable order priced at or above \$1.00 per share (*i.e.*, a Post Only order).<sup>12</sup> A Post Only order will not remove contra-side liquidity from the IEX Order Book<sup>13</sup> on entry (and will rest on the Order Book as a displayed liquidity adding order), except in two specific circumstances: (i) if the value of such execution when removing liquidity equals or exceeds the value of such execution if the order instead posted to the IEX Order Book and subsequently provided liquidity, including the applicable fees charged or rebates provided (the “Sum of Fees”), or (ii) if the contra-side resting order with which the incoming order could match is a non-displayed order with a “Trade Now” instruction.<sup>14</sup> When an incoming Post Only order matches a resting order with a Trade Now instruction, the resting order converts into an executable order that removes liquidity against the incoming Post Only order, and the incoming Post Only order becomes the liquidity adding order.

Fee Schedule Changes

IEX proposes to introduce two new Fee Codes, to specify (1) when a Post Only order executed on entry, and (2) when a resting non-displayed order with a Trade Now instruction removed liquidity from a Post Only order that executed on entry. Specifically, as proposed, Fee Code Y will be included on any execution report for a Post Only order that executes on entry, and Fee Code W will be included on any execution report for a resting order with a Trade Now instruction that removes liquidity against an incoming liquidity-adding Post Only order. IEX proposes to add these Fee Codes to the Fee Code Modifiers table on the IEX Fee Schedule as follows:

Additional Fee Codes	Description	Fee
Y .....	Post Only order executes on entry .....	See Relevant Fee Code Combinations Below.
W .....	Resting order removes against Post Only order .....	See Relevant Fee Code Combinations Below.

<sup>39</sup> 17 CFR 200.30-3(a)(12), (59).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> 15 U.S.C. 78s(b)(1).

<sup>5</sup> 17 CFR 240.19b-4.

<sup>6</sup> See Fee Schedule at <https://www.iexexchange.io/resources/trading/fee-schedule>

for the complete list of fee code combinations and their corresponding fees.

<sup>7</sup> Fee Codes are identified on each execution report message from the Exchange in the Trade Liquidity Indicator (FIX tag 9730) field. See “Transaction Fees/Definitions” on the Fee Schedule.

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>9</sup> See Securities Exchange Act Release No. 98988 (November 20, 2023), 88 FR 82926 (November 27, 2023) (SR-IEX-2023-13) (“Post Only Filing”).

<sup>10</sup> See IEX Trading Alert 2024-003, available at <https://iextrading.com/alerts/#/239>.

<sup>11</sup> See IEX Rule 1.160(s).

<sup>12</sup> If a Member submits a Post Only order that is priced below \$1.00 per share, the Exchange will disregard the Post Only instruction. See IEX Rule 11.190(b)(20)(A).

<sup>13</sup> See IEX Rule 1.160(p).

<sup>14</sup> See IEX Rule 11.190(b)(21).