

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-100265); File No. SR-IEX-2024-10

June 4, 2024

Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend IEX Rule 2.160(p) to Reopen the Period by which Certain Participants in the Maintaining Qualifications Program Will Be Able to Complete Their Prescribed 2022 and 2023 Continuing Education Content.

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 May 22, 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 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

Pursuant to the provisions of Section 19(b)(1) under the Act⁴, and Rule 19b-4 thereunder⁵, the Exchange is filing with the Commission a proposed rule change to amend IEX Rule 2.160(p) to reopen the period by which certain participants in the Maintaining Qualifications Program will be able to complete their prescribed 2022 and 2023 continuing education content. The Exchange has designated this proposal as non-controversial pursuant to

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.

Section 19(b)(3)(A)(iii) of the Act⁶ and provided the Commission with the notice required by Rule 19b-4(f)(6)(iii) 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 the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

IEX is proposing to amend Supplementary Material .01 to IEX Rule 2.160(p)(c) to reopen the period by which certain participants in the Maintaining Qualifications Program (“MQP”) will be able to complete their prescribed 2022 and 2023 continuing education (“CE”) content. This proposed rule change is based on a substantively similar filing made by the Financial Industry Regulatory Authority, Inc. (“FINRA”), which amended FINRA’s equivalent rule, FINRA Rule 1240.01, to reopen the period by which certain participants in the MQP will be able to complete their prescribed 2022 and 2023 CE.⁸

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f)(6)(iii).

⁸ See Securities Exchange Act Release No. 100067 (May 6, 2024) 89 FR 40520 (May 10, 2024) (SR-FINRA-2023-005) (“FINRA MQP Extension Filing”).

FINRA Rule 1240.01, as described in Supplementary Material .01 to IEX Rule 2.160(p)(c), extended the option to participate in the MQP to individuals who: (1) were registered as a representative or principal within two years immediately prior to March 15, 2022 (the implementation date of the MQP); and (2) individuals who were participating in the Financial Services Affiliate Waiver Program (“FSAWP”)⁹ pursuant to Supplementary Material .01 to Rule 2.160(g) immediately prior to March 15, 2022 (collectively, “Look-Back Individuals”).¹⁰ FINRA Rule 1240.01 provided two open enrollment periods for Look-Back Individuals to participate in the MQP (Supplementary Material .01 to IEX Rule 2.160(p)(c) provided one open enrollment period for Look-Back Individuals).¹¹ FINRA and IEX provided all Look-Back Individuals who had enrolled in the MQP until March 31, 2024, to complete any prescribed 2022 and 2023 CE content.¹² Look-Back Individuals who are enrolled in the MQP, similar to other MQP participants, are able to complete any prescribed CE and renew their

⁹ The FSAWP is a waiver program for eligible individuals who have left a member firm to work for a foreign or domestic financial services affiliate of a member firm. FINRA stopped accepting new participants for the FSAWP beginning on March 15, 2022; however, individuals who were already participating in the FSAWP prior to that date had the option of continuing in the FSAWP.

¹⁰ Supplementary Material .01 to IEX Rule 2.160(p)(c) refers to FINRA’s initial enrollment period for “Look-Back Individuals” who were registered in a representative or principal registration category with FINRA within two years immediately preceding March 15, 2022, but that initial enrollment period was not part of IEX’s rule.

¹¹ In March 2023, FINRA amended Rule 1240.01 to provide Look-Back Individuals with a second opportunity to participate in the MQP for eligible persons who elected to participate between March 15, 2023 and December 31, 2023. See Securities Exchange Act Release No. 97184 (March 22, 2023), 88 FR 18359 (March 28, 2023) (SR-FINRA-2023-005). In July 2023, IEX amended Supplementary Material .01 to IEX Rule 2.160(p)(c) to also offer a new enrollment period for eligible persons who elected to participate between July 13, 2023 and December 31, 2023. See Securities Exchange Act Release No. 97980 (July 25, 2023) 88 FR 49542 (July 31, 2023) (SR-IEX-2023-07).

¹² FINRA determined to treat the individuals who enrolled during the first period (between January 31, 2022, and March 15, 2022) the same as those who enrolled during the second period (between March 15, 2023, and December 31, 2023) for purposes of the March 31, 2024, deadline for completion of prescribed 2022 and 2023 CE content. This is because those who had enrolled in the MQP during the first period satisfied all of the eligibility criteria for enrollment during the second period and would have been able to complete their prescribed CE content by March 31, 2024, had they chosen to enroll during the second period instead of enrolling during the first period.

annual MQP participation through their FINRA Financial Professional Gateway (“FinPro”) accounts.

On March 16, 2024, FINRA on its own behalf and on behalf of IEX, sent an email to Look-Back Individuals who had enrolled in the MQP but had not completed their prescribed CE to remind them of the March 31, 2024, deadline.¹³ In the week leading up to the deadline, however, FINRA noticed that several thousand of those individuals were renewing their participation in the MQP for 2024 instead of completing their prescribed CE.¹⁴ FINRA believes that some of those individuals may have been confused by the layout of their FinPro accounts.¹⁵ Specifically, if they selected the 2024 renewal banner, which was prominently displayed on their FinPro accounts, and completed the renewal process, they would not have been automatically redirected to complete any prescribed CE. Therefore, individuals may have inadvertently assumed that completion of the renewal process alone would have satisfied all of the necessary requirements to continue their participation in the MQP.¹⁶

For these reasons, FINRA amended Rule 1240.01 to reopen the period by which certain participants in the MQP will be able to complete their prescribed 2022 and 2023 CE.¹⁷ IEX now

¹³ As noted in the FINRA MQP Extension Filing, FINRA had sent multiple reminders prior to March 16, 2024, but the March 16, 2024, email was the last reminder that was sent prior to the March 31, 2024, deadline for completion of any prescribed 2022 and 2023 CE content.

¹⁴ Look-Back Individuals who enrolled in the MQP have until December 31, 2024, to renew their participation in the MQP for 2024, provided that they complete their prescribed CE by the stated deadline.

¹⁵ See supra note 8.

¹⁶ A number of these individuals contacted FINRA to confirm whether they were required to satisfy any additional requirements other than completing the 2024 renewal. To provide FINRA with additional time to assess the situation, FINRA temporarily changed the March 31, 2024, due date for CE completion in its systems. This may have compounded the confusion because any Look-Back Individual who may have logged into their FinPro account during this time would have seen an interim CE completion date and would have been able to complete their prescribed CE content based on that interim CE completion date.

¹⁷ In the FINRA MQP Extension Filing, FINRA described its plans to reach out to all impacted individuals and inform them of the new CE completion period. Additionally, FINRA made changes, and is also considering future changes, to the layout of FinPro to more effectively communicate the necessary steps that individuals must take to satisfy their MQP obligations.

proposes to amend Supplementary Material .01 to IEX Rule 2.160(p)(c) to implement the reopening of the MQP completion period close in time with FINRA. Specifically, IEX is proposing to provide Look-Back Individuals enrolled in the MQP in both 2022 and 2023 who did not complete their prescribed 2022 and 2023 CE content as of March 31, 2024, the opportunity to complete such content between the effective date of filing, and July 1, 2024, to be eligible to continue their participation in the MQP. IEX is also proposing to amend the rule to provide that any such individuals who will have completed their prescribed 2022 and 2023 CE content between March 31, 2024, and the effective date of filing, will be deemed to have completed such content by July 1, 2024, for purposes of the rule.

IEX has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the 30-day operative delay. The operative date will be the date of the filing of the proposed rule change if the Commission grants the waiver.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of Sections 6(b)¹⁸ and 6(b)(5) of the Act,¹⁹ in particular, in that it is designed to promote just and equitable principles of trade, 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. IEX, like FINRA, believes that reopening the period by which Look-Back Individuals will be able to complete their prescribed 2022 and 2023 CE content is appropriate under the circumstances. IEX, like FINRA, believes that Look-Back Individuals who had enrolled in the MQP in 2022 and 2023 but had not completed their prescribed 2022 and 2023 CE content by the March 31, 2024, deadline may have been confused, as described above. IEX, like FINRA,

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(5).

continues to believe that participation in the MQP reduces unnecessary impediments to requalification without diminishing investor protection.²⁰ In addition, the MQP promotes other goals, such as diversity and inclusion in the securities industry by attracting and retaining a broader and diverse group of professionals. The MQP also allows the industry to retain expertise from skilled individuals, providing investors with the advantage of greater experience among the individuals working in the industry. IEX, like FINRA, believes that reopening the CE completion period, as proposed, will further these goals and objectives.

The Exchange believes the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,²¹ which requires, among other things, that Exchange Rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 6(c)(3) of the Act,²² which authorizes the Exchange to prescribe standards of training, experience and competence for persons associated with Exchange.

Finally, as described in the Purpose section, the proposed rule change seeks to align the Exchange Rules with changes to FINRA rules which have been allowed to take effect by the Commission.²³ Thus, this rule change raises no novel issues that have not already been considered by and accepted 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 that is not necessary or appropriate in furtherance of the purposes of the Act. The

²⁰ As of April 15, 2024, approximately 31,000 individuals, including approximately 20,000 Look-Back Individuals, have enrolled in the MQP, of which approximately 1,400 individuals have used the MQP to return to the industry without having to go through requalification.

²¹ 15 U.S.C. 78f(b)(5).

²² 15 U.S.C. 78f(c)(3).

²³ See supra note 8.

Exchange believes that the proposed rule change, which harmonizes its rules with rule changes adopted by FINRA, will reduce the regulatory burden placed on market participants engaged in trading activities across different markets.

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

Because the foregoing 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 Act²⁴ and Rule 19b-4(f)(6) thereunder.²⁵

A proposed rule change filed under Rule 19b-4(f)(6)²⁶ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),²⁷ 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 proposed rule change may become operative upon filing. IEX, like FINRA, requests that the proposed rule change become operative as quickly as possible so that FINRA, on behalf of IEX, can communicate the rule change to impacted

²⁴ 15 U.S.C. 78s(b)(3)(A).

²⁵ 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, 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. IEX has satisfied this requirement.

²⁶ 17 CFR 240.19b-4(f)(6).

²⁷ 17 CFR 240.19b-4(f)(6)(iii).

individuals in a timely manner. Waiver of the 30-day operative delay would also allow the Exchange to implement the reopening of the MQP completion period in time with FINRA, thereby substantially eliminating the existence of a regulatory gap between the FINRA and Exchange rules, providing more uniform standards across the securities industry, and helping to provide clarity and avoid ongoing confusion for Exchange Members²⁸ that are also FINRA members. For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.²⁹

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)³⁰ 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

²⁸ See IEX Rule 1.160(s).

²⁹ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

³⁰ 15 U.S.C. 78s(b)(2)(B).

- Send an email to rule-comments@sec.gov. Please include file number SR-IEX-2024-10 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-2024-10. 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 10:00 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. 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-2024-10 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³¹

Sherry R. Haywood,
Assistant Secretary.

³¹ 17 CFR 200.30-3(a)(12).