

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-101481; File No. SR-IEX-2024-22)

October 30, 2024

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify the Implementation Timeline for its Planned Data Center Migration, Which Was Set Forth in a Recent Rule Filing

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 October 16, 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 proposal to modify the implementation timeline for its planned data center migration, which was set forth in a recent rule filing. The Exchange has designated this proposal as non-controversial and is requesting a waiver of the notice required by Rule 19b-4(f)(6)(iii) under the Act.⁶

The text of the proposed rule change is available at the Exchange’s website at

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 17 CFR 240.19b-4(f)(6)(iii).

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

On September 4, 2024, in connection with IEX’s planned migration of its System⁷ from a data center located in Weehawken, New Jersey to a data center located in Secaucus, New Jersey, IEX filed with the Commission an immediately effective proposed rule change.⁸ The Data Center Migration Filing provided that IEX would implement the data center migration through a phased approach over several weeks. The Data Center Migration Filing amended IEX Rules 11.190 and 11.510 to remove references to the latency applicable to outbound communications from IEX’s System (“outbound latency”) to its Users⁹ (defined as Members¹⁰ and Sponsored

⁷ See IEX Rule 1.160(nn).

⁸ See Securities Exchange Act Release No. 101018 (September 12, 2024), 89 Fed. Reg. 76526 (September 18, 2024) (SR-IEX-2024-17) (“Data Center Migration Filing”).

⁹ See IEX Rule 1.160(qq).

¹⁰ See IEX Rule 1.160(s).

Participants¹¹), Data Recipients¹², and Service Bureaus¹³ (collectively, “Participants”¹⁴); the filing also added Temporary Supplementary Material .01 to IEX Rule 11.510(a) to describe the minor temporary change in inbound latency¹⁵ during the data center migration. The Data Center Migration Filing included a representation that IEX would issue a Trading Alert at least 30 days in advance of the migration “describing the transition, schedule, and impact.”¹⁶

On September 18, 2024, IEX filed with the Commission an immediately effective proposed rule change that specified that the data center migration start date would be October 14, 2024, and also relatedly modified the advance notice period in the Data Center Migration Filing from 30 to 28 days.¹⁷ The Updated Data Center Migration Filing also provided that if, for an unforeseen reason, IEX must further delay the data center migration start date, IEX will issue an additional Trading Alert providing at least 10 days’ notice of the new start date for the migration.¹⁸

IEX issued several Trading Alerts informing market participants about the planned data center migration – the first three Trading Alerts, issued on August 29, 2024, September 9, 2024, and September 16, 2024, provided relevant information about the data center migration that was scheduled to occur on a phased basis beginning on October 14, 2024 and concluding on October 31, 2024.¹⁹ The September 16, 2024 Trading Alert provided the requisite 28 days’ prior notice

¹¹ See IEX Rule 1.160(II).

¹² See IEX Rule 11.130(c).

¹³ See IEX Rule 11.130(d).

¹⁴ See IEX Rule 11.130(a).

¹⁵ See IEX Rule 11.510(b)(1).

¹⁶ See supra note 8.

¹⁷ See Securities Exchange Act Release No. 101192 (September 25, 2024), 89 Fed. Reg. 79988 (October 1, 2024) (SR-IEX-2024-18) (“Updated Data Center Migration Filing”).

¹⁸ Id.

¹⁹ See IEX Trading Alert #2024 – 024, <https://iextrading.com/alerts/#/263>; IEX Trading Alert #2024-027,

of the planned October 14, 2024 migration start date.²⁰

IEX has been conducting ongoing testing in preparation for the data center migration, and recently determined that it would be optimal for the full migration to occur on a single day, following robust weekend preparation, rather than on a phased basis over several weeks. IEX believes that this approach will streamline the data center migration transition and thereby reduce burdens on Members and market participants as well as reduce any potential risks thereto. It will also eliminate the temporary minor increase in inbound latency that would have been in effect during the phased migration, as described in the Data Center Migration Filing and Temporary Supplementary Material .01 to IEX Rule 11.510(a).

On October 4, 2024, IEX issued a fourth Trading Alert announcing that the migration would occur on Monday, October 21, 2024²¹, following preparation over the preceding weekend. However, in order to provide time for additional testing and optimization, IEX now proposes to extend the migration date beyond October 21, 2024. The Exchange will announce the new migration date by Trading Alert with at least 10 days' notice (consistent with the Updated Data Center Migration Filing). The Exchange plans to announce the new migration date as soon as possible, thereby providing more than 10 days' notice of the scheduled migration date to market participants.

For the reasons stated above, IEX also proposes to modify the description of the migration set forth in the Data Center Migration Filing, to clarify that the full data center migration will occur on a single day following preparation during the preceding weekend. Thus, IEX also proposes to delete Temporary Supplementary Material .01 to IEX Rule 11.510(a)

<https://iextrading.com/alerts/#/256>; IEX Trading Alert #2024-028, <https://iextrading.com/alerts/#/266>.

²⁰ See IEX Trading Alert #2024-028, <https://iextrading.com/alerts/#/266>.

²¹ See IEX Trading Alert #2024-031, <https://iextrading.com/alerts/#/269>.

which describes the minor temporary change in inbound latency that would have occurred during the previously planned phased data center migration.

2. Statutory Basis

IEX believes that its proposal is consistent with the provisions of Section 6(b) of the Act²² in general, and with Section 6(b)(5) of the Act²³, 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. Specifically, the proposal is consistent with the Act because it is designed to streamline the data center migration transition and thereby reduce burdens on Members and market participants as well as reduce any potential risks thereto, as described in the Purpose section, while providing appropriate transparency and clarity to market participants and the Commission regarding the data center migration and the related rule changes.

As noted in the Data Center Migration Filing and Updated Data Center Migration Filing, Participants will not need to make any configuration changes to accommodate the reduction in IEX's outbound latency set forth in the Data Center Migration Filing or other aspects of the migration. Nevertheless, IEX understands that Members that use arrival-time routing strategies may choose to update their routing logic to account for the reduction in IEX's outbound latency following the migration. IEX believes that the notices already provided regarding the migration, combined with the pending Trading Alert that will provide greater than 10 days' advance notice of the migration date, collectively provide sufficient notice to remove impediments to and perfect the mechanism of a free and open market and to protect investors and the public interest.

²² 15 U.S.C. 78f(b).

²³ 15 U.S.C. 78f(b)(5).

Furthermore, IEX believes that the revised migration approach is consistent with the Act because it enables IEX to conduct an orderly migration during a single weekend, and thus without impacting normal trading. Moreover, as described in the Updated Data Center Migration Filing, IEX has already provided, and will continue to provide, market participants with sufficient time to fully test the data center migration before IEX announces the migration start date. Thus, this approach is designed to allow IEX to maintain a functioning market without interruption prior to and after the migration, which is consistent with the requirements of the Act that a rule change should remove impediments to and perfect the mechanism of a free and open market and protect investors.

Finally, IEX believes that conducting the migration over a single weekend, with no transitional period while the Exchange is open for trading, will minimize any potential impact on Members that use arrival-time routing strategies, because they will no longer need to consider updating their routing logic to reflect the temporary changes to IEX's inbound latencies that would have applied during any trading days while the data center migration was in progress. Thus, IEX believes this rule change is consistent with the Act, because it should remove impediments to and perfect the mechanism of a free and open market and protect investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX does not believe that the proposal will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. As explained above, the purpose of this proposal is to modify the manner in which IEX will migrate its data center, as described in the Data Center Migration Filing. As described in the Purpose and Statutory Basis section, the Exchange does not believe that this change will place any burden on competition and will reduce burdens on Members and market participants. Moreover, the proposed change is not designed for any competitive purpose.

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)²⁴ of the Act and Rule 19b-4(f)(6)²⁵ 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. The Exchange has requested the Commission waive the five-day prefiling requirement for this filing to enable IEX to conduct an orderly migration of its data center in the coming weeks, while providing a minimum of 10 days' notice of the migration date. Further, and as described in the Purpose and Statutory Basis sections, the proposal is designed to streamline the data center migration and thereby reduce burdens on Members and market participants as well as reduce any potential risks thereto, while providing appropriate transparency and clarity to market participants and the Commission regarding the data center migration and the related rule changes.

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-

²⁴ 15 U.S.C. 78s(b)(3)(A).

²⁵ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to give the Commission written notice of the self-regulatory organization's 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).

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 to enable the proposed rule change to become operative upon filing. Waiving the 30-day delay in this manner would permit the Exchange to implement the proposed rule change during the weekend prior to the migration date, and thus without impacting normal trading.

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)²⁸ 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-2024-22 on the subject line.

²⁷ 17 CFR 240.19b-4(f)(6)(iii).

²⁸ 15 U.S.C. 78s(b)(2)(B).

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-IEEX-2024-22. 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-2024-22 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.²⁹

Sherry R. Haywood,

Assistant Secretary.

²⁹ 17 CFR 200.30-3(a)(12).