

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 26

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2024 - * 28

Amendment No. (req. for Amendments *)

Filing by Investors' Exchange LLC

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	Rule <input type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(4) <input type="checkbox"/> 19b-4(f)(2) <input type="checkbox"/> 19b-4(f)(5) <input type="checkbox"/> 19b-4(f)(3) <input checked="" type="checkbox"/> 19b-4(f)(6)		
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Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010
Section 806(e)(1) *

Section 806(e)(2) *

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 3C(b)(2) *

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Proposed Rule Change to Amend the Bylaws of the Exchange's Parent Corporation to Add Provisions Permitting the Board of Directors, in Its Sole Discretion, to Invite One or More Observers to Attend and Participate in Board meetings in a Non-Voting Capacity and to Make a Conforming Change to the Bylaws.

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Nathaniel Last Name * Kolodny

Title * Lead Regulation Counsel

E-mail * nathaniel.kolodny@iextrading.com

Telephone * (646) 343-2034 Fax

Signature

Pursuant to the requirements of the Securities Exchange of 1934, Investors' Exchange LLC has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date 12/03/2024 (Title *)

By Nathaniel Kolodny (Name *) Lead Regulation Counsel

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Nathaniel Kolodny

Digitally signed by Nathaniel Kolodny
Date: 2024.12.03 17:28:52 -05'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EDFS website.

Form 19b-4 Information *

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Board Observer Filing 19b-4 - SEC filin

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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Board Observer Filing Ex 1 - SEC filin

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2- Notices, Written Comments, Transcripts, Other Communications

Add Remove View

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

Add Remove View

Board Observer Filing Ex 5 - SEC filin

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² Investors Exchange LLC (“IEX” or “Exchange”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to amend the bylaws (the “Bylaws”) of IEX Group, Inc. (“Group”), the Exchange’s parent corporation, to add provisions permitting the Group Board of Directors (the “Group Board”), in its sole discretion, to invite one or more observers to attend and participate in Group Board meetings in a non-voting capacity (“Board Observers”) and to make a conforming change to the Bylaws. The Exchange has designated this proposal as non-controversial and provided the Commission with the notice required by Rule 19b-4(f)(6)(iii) under the Act.³

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1. The text of the proposed rule change is attached as Exhibit 5.

(b) The Exchange does not believe that the proposed rule change will have any direct effect, or any significant indirect effect, on any other Exchange rule in effect at the time of this filing.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The Board of Directors of the Exchange (the “Exchange Board”) approved the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6)(iii).

proposed amendments to the Group Bylaws on May 22, 2024. The Group Board approved the proposed amendments to Group Bylaws on June 12, 2024. And the Group shareholders approved the proposed amendment of the Group Bylaws via written consent on July 17, 2024. No further action is required under the Exchange's governing documents, and the Exchange's internal procedures with respect to the proposed rule change are complete.

The persons on the Exchange staff prepared to respond to questions and comments on the proposed rule change are:

Claudia Crowley
Chief Regulatory Officer
Investors Exchange LLC
646-343-2041

Nathaniel Kolodny
Lead Regulation Counsel
Investors Exchange LLC
646-343-2034

3. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

a. Purpose

The Exchange proposes to amend its Group Bylaws⁴ to codify an existing arrangement whereby the Group Board, at its sole discretion, may invite Board Observers to attend meetings of the Group Board in a non-voting capacity. The proposed amendment is intended to set forth and delineate the rights, responsibilities and obligations of Board Observers with respect to such meetings. The Exchange is also proposing to make a non-substantive conforming change to the Group Bylaws, as described below.

The Exchange makes this proposal to codify an existing arrangement in which the

⁴ Group governance documents, including the Group Bylaws, are accessible on the Group website at <https://www.iex.io/legal/governance>. These documents are also accessible on the Exchange's website at <https://www.iexexchange.io/resources/regulation/governance>.

Group Board may, from time to time, invite certain parties, including representatives of some Group shareholders, to attend Group Board meetings as non-voting “Board Observers.” At Group Board meetings, the Board Observers are permitted to contribute to any discussions, in particular discussions about which they have relevant expertise. The Group Board, as appropriate, exercises its discretionary right to exclude these Board Observers from applicable Group Board materials, meetings or specific portions of meetings if the conversation involves attorney-client privileged matters, or matters that are confidential, proprietary, or otherwise concern information deemed by the Group Board to be inappropriate to share with the Board Observers. IEX notes that it is not novel to allow non-voting persons to attend board meetings as observers. For example, BOX Exchange allows observers to attend its board meetings, and MEMX allows certain shareholders to appoint non-voting board observers who may participate in its board meetings.⁵

IEX proposes to codify this arrangement in order to delineate the rights, responsibilities and obligations of Board Observers. Specifically, IEX proposes to amend Article IV, Section 26 as follows:

- Add “(a) General” to the beginning of the existing text to reflect the addition of the proposed new paragraph (b).
- Add paragraph (b) which would read in full: “(b) Board Observers. The Board of Directors may, from time to time and, in its sole discretion, invite one or more observers to attend and participate in meetings of the Board of Directors in a non-voting capacity (“Board Observers”). Board Observers shall hold in confidence any and all information so provided.

⁵ See Section 5.02 of the Bylaws of BOX Exchange LLC, available at <https://boxexchange.com/assets/BOX-Exchange-Bylaws-221004.pdf>; Section 8.13 of Seventh Amended and Restated LLC Agreement of MEMX Holdings LLC (March 17, 2023), available at <https://info.memxtrading.com/wp-content/uploads/2023/03/MEMX-SeventhAmendedandRestatedLLCA-3.17.23.pdf>.

Board Observers may be excluded from access to any material or meeting or portion thereof if the Board of Directors determines in good faith, upon the advice of counsel, that such exclusion is reasonably necessary to preserve the attorney-client privilege, to protect highly confidential proprietary information, or for other similar reasons, including, but not limited to, sensitive regulatory information, regulatory independence or other similar regulatory matters relating to Investors' Exchange LLC or otherwise. The Board of Directors shall, as promptly as practicable, take such actions as are necessary and appropriate to exclude any Board Observer upon the Board of Directors becoming aware that any of the bad actor disqualifying events described in Rule 506(d)(1)(i)-(viii) of the Securities Act of 1933, or any of the statutory disqualifications described in Section 3(a)(39) of the 1934 Act apply to such Board Observer, and such exclusion may be lifted in the event the Board of Directors determines that the applicable bad actor or statutory disqualifications no longer apply to such Board Observer. For so long as the Corporation shall control Investors' Exchange LLC, each Board Observer shall, in connection with such Board Observer's attendance and participation in meetings of the Board of Directors be subject to Article VII of these Bylaws, and in furtherance of the applicability of Article VII to such Board Observers, the Board of Directors may exclude such Board Observer from applicable materials or meetings or portions thereof. Notwithstanding the preceding sentence or anything set forth in these Bylaws to the contrary, nothing in these Bylaws or the applicability of Article VII shall be interpreted to expand the role or position of a Board Observer beyond the scope of attending and participating in meetings at the invitation of the Board of Directors or to otherwise give Board Observers any right or authority to take any action on behalf of the Corporation. No present or past stockholder, employee, beneficiary, agent, customer, creditor, regulatory authority (or member thereof) or other person or entity shall have any rights against any Board Observer under this Section 26(b).

As set forth in the proposed new paragraph (b) of Section 26 of the Group Bylaws, the Group Board may, from time to time and in its sole discretion, invite one or more Board Observers to attend and participate in meetings of the Group Board in a non-voting capacity. Board Observers shall hold in confidence any and all information provided to them at Group Board meetings. Additionally, Board Observers may be excluded from access to any material or meeting or portion thereof if the Group Board determines in good faith, upon the advice of counsel, that such exclusion is reasonably

necessary to preserve the attorney-client privilege, to protect highly confidential proprietary information, or for other similar reasons, including, but not limited to, sensitive regulatory information, regulatory independence or other similar regulatory matters relating to the Exchange or otherwise.

The proposed amendment further provides that the Group Board shall, as promptly as practicable, take such actions as are necessary and appropriate to exclude any Board Observer upon the Group Board becoming aware that any of the “bad actor” disqualifying events described in Rule 506(d)(1)(i)-(viii) under the Securities Act of 1933⁶, or any of the statutory disqualifications described in Section 3(a)(39) of the Act⁷ apply to such Board Observer, with the additional provision that such exclusion may be lifted in the event the Group Board determines that the applicable bad actor events or statutory disqualification no longer apply to such Board Observer.

As proposed, the amended Group Bylaws further provide that, for so long as Group shall control the Exchange, each Board Observer shall, in connection with such Board Observer’s attendance and participation in meetings of the Group Board, be subject to Article VII of the Group Bylaws⁸ and, in furtherance of the applicability of

⁶ 17 CFR 230.506(d)(i-viii).

⁷ 15 U.S.C. 78c(a)(39).

⁸ Article VII of the Group Bylaws, “SRO Functions of Investors’ Exchange LLC,” addresses the obligations of Group and the Group Board with respect to the regulatory independence of the Exchange in its capacity as a self-regulatory organization pursuant to Section 6 of the Act, 15 U.S.C 78f. These include Section 34 (Non-Interference), pertaining to the preservation of the independence of the Exchange’s self-regulatory function; Section 35 (Confidentiality), requiring that Group maintain the confidentiality of all information in its possession pertaining to the Exchange’s self-regulatory functions; Section 36 (Books and Records), requiring Group books and records to be maintained within the United States and deeming any of its books and records to be records of the Exchange to the extent they pertain to the Exchange’s self-regulatory functions and subject to Commission oversight; Section 37 (Cooperation with the Securities and Exchange Commission); Section 38 (Consent to Jurisdiction) requiring consent to the jurisdiction of the

Article VII to such Board Observers, the Group Board may exclude such Board Observer from applicable materials or meetings or portions thereof.⁹ However, notwithstanding the foregoing provision or anything set forth in the Group Bylaws to the contrary, nothing in the Group Bylaws or the applicability of Article VII shall be interpreted to expand the role or position of a Board Observer beyond the scope of attending and participating in meetings at the invitation of the Group Board, or to otherwise give Board Observers any right or authority to take any action on behalf of Group.

Finally, the proposed amendment states that no present or past stockholder, employee, beneficiary, agent, customer, creditor, regulatory authority (or member thereof) or other person or entity shall have any rights against any Board Observer under proposed Section 26(b). This provision is intended to clarify that the proposed amendments do not expand the role or position of a Board Observer beyond the scope of attending and participating in meetings and does not permit present or past stockholders, employees, beneficiaries, agents, customers, creditors, regulatory authorities (or members thereof) or other persons or entities to bring claims against Board Observers.

The Exchange is also proposing to make a non-substantive conforming change to the Group Bylaws to: (i) rename the document by adding “Amended and Restated” to the header and (ii) delete the words “Adopted November 30, 2015” from the header and replace them with the words “Amended December 3, 2024”.

federal courts, the Commission and the Exchange in any action of proceeding involving the activities of the Exchange under the federal securities laws, rules and regulations; and Section 39 (Consent to Application), requiring Group to take reasonable steps to cause its officers, directors, employees and agents to consent in writing to the applicability of Article VII of the Bylaws to their activities related to the Exchange.

⁹ IEX notes that BOX and MEMX similarly require their board observers to meet the same confidentiality requirements that are imposed upon its board members. See supra note 5.

b. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁰ in general, and furthers the objectives of Section 6(b)(1) of the Act in particular,¹¹ in that it continues to assure that the Exchange is so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its Exchange members and persons associated with its Exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

The Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Act¹² in that they are intended to, inter alia, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest. Additionally, the proposed amendment is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As noted in the Purpose section, the proposed amendment to the Group Bylaws is intended to foster clarity and transparency with respect to Board Observers attending Group Board meetings at the Group Board's invitation and sole discretion, and to delineate the roles, responsibilities, and obligations of Board Observers with respect to

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(1).

¹² 15 U.S.C. 78f(b)(5).

such meetings. The proposed amendment contains detailed provisions to that effect, and also provides for instances where Board Observers' participation in a particular meeting may be limited, or disallowed, as well as exclusion of an individual subject to a "bad actor" or statutory disqualification as described in the Purpose section. The Exchange believes that the inclusion of Board Observers, at the Group Board's sole discretion and at its invitation, provides a valuable opportunity for other constituencies to participate in the work of the Group Board in a manner that safeguards the Exchange's regulatory independence and its operation as a self-regulatory organization. The Exchange believes that the proposed amendments thereby fulfill the goals of Section 6(b) of the Act¹³ in that they are designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and national market system, and in general operate to protect investors and the public interest.

Additionally, as noted in the Purpose section, allowing board observers to attend holding company board meetings is not novel.¹⁴ Thus, this proposed rule change does not raise any new or novel issues that have not already been considered by the Commission.

Finally, IEX believes that the proposed non-substantive conforming changes to the header of the Bylaws further the purposes of the Act because they provide greater clarity and consistency to the Bylaws thereby reducing the potential for confusion by market participants.

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

¹³ 15 U.S.C. 78f(b).

¹⁴ See supra note 5.

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 Exchange Act. The proposed amendments relate to the rights, responsibilities and obligations of Board Observers at Group Board meetings and, as such, are concerned solely with the corporate governance of Group, the Exchange's parent corporation, and do not present any issues that impact competition.

5. 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.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act¹⁵ and paragraph (f)(6) of Rule 19b-4 thereunder.¹⁶ The Exchange believes that the proposed rule change: (1) will not significantly affect the protection of investors or the public interest, (2) will not impose any significant burden on competition, (3) and will not become operative for 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. In addition, the Exchange provided the Commission with 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

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(f)(6).

date of filing.¹⁷

The Exchange believes that the proposed rule change would not adversely affect investors or the public interest. In fact, the Exchange believes that the proposed amendments to the Group Bylaws operate to enhance investor protection and the public interest by providing clarity and transparency into the roles, responsibilities and obligations of Board Observers. The proposed amendments thus fulfill the purposes of Section 6(b)(1) of the Act, which requires that "... [s]uch exchange is so organized and has the capacity to be able to carry out the purposes of this chapter and to comply, and (subject to any rule or order of the Commission pursuant to section 78q(d) or 78s(g)(2) of this title) to enforce compliance by its members and persons associated with its members, with the provisions of this chapter, the rules and regulations thereunder, and the rules of the exchange."¹⁸ Additionally, as discussed in the Purpose and Statutory Basis sections, this rule change proposal is not novel; at least two other exchanges, BOX and MEMX, also allow non-voting board observers to participate in board meetings, subject to similar confidentiality requirements to IEX's proposal.¹⁹

The Exchange further believes that the proposed rule change would not impose a burden on competition because it is not intended to address competitive issues but rather is concerned solely with the corporate governance of Group, the Exchange's parent corporation.

Accordingly, for the foregoing reasons, this rule filing qualifies for immediate

¹⁷ 17 CFR 240.19b-4(f)(6)(iii).

¹⁸ 15 U.S.C. 78f(b)(1).

¹⁹ See supra note 5.

effectiveness as a “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4.²⁰

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 to determine whether the proposed rule should be approved or disapproved.

8. Proposed Rule Change Based on the Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule change is not based on the rules of another self-regulatory organization or of the Commission.

9. Security-Based Swap Submissions Filed Pursuant to Section 3 C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1 – Form of Notice of the Proposed Rule Change for Publication in the Federal Register.

Exhibit 5 – Text of Proposed Rule Change.

²⁰ 17 CFR 240.19b-4(f)(6).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34 - ; File No. SR-IEX-2024-28)

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Bylaws of the Exchange's Parent Corporation to Add Provisions Permitting the Board of Directors, in Its Sole Discretion, to Invite One or More Observers to Attend and Participate in Board meetings in a Non-Voting Capacity and to Make a Conforming Change to the Bylaws

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 (date), the Investors Exchange LLC ("IEX" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Act,⁴ and Rule 19b-4 thereunder,⁵ the Exchange is filing with the Commission a proposed rule change to amend the bylaws (the "Bylaws") of IEX Group, Inc. ("Group"), the Exchange's parent corporation, to add provisions permitting the Group Board of Directors (the "Group Board"), in its sole discretion, to invite one or more observers to attend and participate in Group Board meetings in a non-voting

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.

capacity (“Board Observers”) and to make a conforming change to the Bylaws. The Exchange has designated this proposal as non-controversial and provided the Commission with 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 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 Group Bylaws⁷ to codify an existing arrangement whereby the Group Board, at its sole discretion, may invite Board Observers to attend meetings of the Group Board in a non-voting capacity. The proposed amendment is intended to set forth and delineate the rights, responsibilities and obligations of Board Observers with respect to such meetings. The Exchange is also proposing to make a non-substantive conforming change to the

⁶ 17 CFR 240.19b-4(f)(6)(iii).

⁷ Group governance documents, including the Group Bylaws, are accessible on the Group website at <https://www.iex.io/legal/governance>. These documents are also accessible on the Exchange’s website at <https://www.iexexchange.io/resources/regulation/governance>.

Group Bylaws, as described below.

The Exchange makes this proposal to codify an existing arrangement in which the Group Board may, from time to time, invite certain parties, including representatives of some Group shareholders, to attend Group Board meetings as non-voting “Board Observers.” At Group Board meetings, the Board Observers are permitted to contribute to any discussions, in particular discussions about which they have relevant expertise. The Group Board, as appropriate, exercises its discretionary right to exclude these Board Observers from applicable Group Board materials, meetings or specific portions of meetings if the conversation involves attorney-client privileged matters, or matters that are confidential, proprietary, or otherwise concern information deemed by the Group Board to be inappropriate to share with the Board Observers. IEX notes that it is not novel to allow non-voting persons to attend board meetings as observers. For example, BOX Exchange allows observers to attend its board meetings, and MEMX allows certain shareholders to appoint non-voting board observers who may participate in its board meetings.⁸

IEX proposes to codify this arrangement in order to delineate the rights, responsibilities and obligations of Board Observers. Specifically, IEX proposes to amend Article IV, Section 26 as follows:

- Add “(a) General” to the beginning of the existing text to reflect the addition of the proposed new paragraph (b).
- Add paragraph (b) which would read in full: “(b) Board Observers. The Board of Directors may, from time to time and, in its sole discretion, invite one or more observers to attend and participate in meetings of the Board of Directors in a non-voting capacity (“Board Observers”). Board Observers shall hold in confidence

⁸ See Section 5.02 of the Bylaws of BOX Exchange LLC, available at <https://boxexchange.com/assets/BOX-Exchange-Bylaws-221004.pdf>; Section 8.13 of Seventh Amended and Restated LLC Agreement of MEMX Holdings LLC (March 17, 2023), available at <https://info.memxtrading.com/wp-content/uploads/2023/03/MEMX-SeventhAmendedandRestatedLLCA-3.17.23.pdf>.

any and all information so provided. Board Observers may be excluded from access to any material or meeting or portion thereof if the Board of Directors determines in good faith, upon the advice of counsel, that such exclusion is reasonably necessary to preserve the attorney-client privilege, to protect highly confidential proprietary information, or for other similar reasons, including, but not limited to, sensitive regulatory information, regulatory independence or other similar regulatory matters relating to Investors' Exchange LLC or otherwise. The Board of Directors shall, as promptly as practicable, take such actions as are necessary and appropriate to exclude any Board Observer upon the Board of Directors becoming aware that any of the bad actor disqualifying events described in Rule 506(d)(1)(i)-(viii) of the Securities Act of 1933, or any of the statutory disqualifications described in Section 3(a)(39) of the 1934 Act apply to such Board Observer, and such exclusion may be lifted in the event the Board of Directors determines that the applicable bad actor or statutory disqualifications no longer apply to such Board Observer. For so long as the Corporation shall control Investors' Exchange LLC, each Board Observer shall, in connection with such Board Observer's attendance and participation in meetings of the Board of Directors be subject to Article VII of these Bylaws, and in furtherance of the applicability of Article VII to such Board Observers, the Board of Directors may exclude such Board Observer from applicable materials or meetings or portions thereof. Notwithstanding the preceding sentence or anything set forth in these Bylaws to the contrary, nothing in these Bylaws or the applicability of Article VII shall be interpreted to expand the role or position of a Board Observer beyond the scope of attending and participating in meetings at the invitation of the Board of Directors or to otherwise give Board Observers any right or authority to take any action on behalf of the Corporation. No present or past stockholder, employee, beneficiary, agent, customer, creditor, regulatory authority (or member thereof) or other person or entity shall have any rights against any Board Observer under this Section 26(b).

As set forth in the proposed new paragraph (b) of Section 26 of the Group Bylaws, the Group Board may, from time to time and in its sole discretion, invite one or more Board Observers to attend and participate in meetings of the Group Board in a non-voting capacity. Board Observers shall hold in confidence any and all information provided to them at Group Board meetings. Additionally, Board Observers may be excluded from access to any material or meeting or portion thereof if the Group Board determines in good faith, upon the advice of counsel, that such exclusion is reasonably necessary to preserve the attorney-client privilege, to protect highly confidential proprietary information, or for other similar reasons, including, but

not limited to, sensitive regulatory information, regulatory independence or other similar regulatory matters relating to the Exchange or otherwise.

The proposed amendment further provides that the Group Board shall, as promptly as practicable, take such actions as are necessary and appropriate to exclude any Board Observer upon the Group Board becoming aware that any of the “bad actor” disqualifying events described in Rule 506(d)(1)(i)-(viii) under the Securities Act of 1933⁹, or any of the statutory disqualifications described in Section 3(a)(39) of the Act¹⁰ apply to such Board Observer, with the additional provision that such exclusion may be lifted in the event the Group Board determines that the applicable bad actor events or statutory disqualification no longer apply to such Board Observer.

As proposed, the amended Group Bylaws further provide that, for so long as Group shall control the Exchange, each Board Observer shall, in connection with such Board Observer’s attendance and participation in meetings of the Group Board, be subject to Article VII of the Group Bylaws¹¹ and, in furtherance of the applicability of Article VII to such Board Observers, the Group Board may exclude such Board Observer from applicable materials or meetings or

⁹ 17 CFR 230.506(d)(i-viii).

¹⁰ 15 U.S.C. 78c(a)(39).

¹¹ Article VII of the Group Bylaws, “SRO Functions of Investors’ Exchange LLC,” addresses the obligations of Group and the Group Board with respect to the regulatory independence of the Exchange in its capacity as a self-regulatory organization pursuant to Section 6 of the Act, 15 U.S.C 78f. These include Section 34 (Non-Interference), pertaining to the preservation of the independence of the Exchange’s self-regulatory function; Section 35 (Confidentiality), requiring that Group maintain the confidentiality of all information in its possession pertaining to the Exchange’s self-regulatory functions; Section 36 (Books and Records), requiring Group books and records to be maintained within the United States and deeming any of its books and records to be records of the Exchange to the extent they pertain to the Exchange’s self-regulatory functions and subject to Commission oversight; Section 37 (Cooperation with the Securities and Exchange Commission); Section 38 (Consent to Jurisdiction) requiring consent to the jurisdiction of the federal courts, the Commission and the Exchange in any action of proceeding involving the activities of the Exchange under the federal securities laws, rules and regulations; and Section 39 (Consent to Application), requiring Group to take reasonable steps to cause its officers, directors, employees and agents to consent in writing to the applicability of Article VII of the Bylaws to their activities related to the Exchange.

portions thereof.¹² However, notwithstanding the foregoing provision or anything set forth in the Group Bylaws to the contrary, nothing in the Group Bylaws or the applicability of Article VII shall be interpreted to expand the role or position of a Board Observer beyond the scope of attending and participating in meetings at the invitation of the Group Board, or to otherwise give Board Observers any right or authority to take any action on behalf of Group.

Finally, the proposed amendment states that no present or past stockholder, employee, beneficiary, agent, customer, creditor, regulatory authority (or member thereof) or other person or entity shall have any rights against any Board Observer under proposed Section 26(b). This provision is intended to clarify that the proposed amendments do not expand the role or position of a Board Observer beyond the scope of attending and participating in meetings and does not permit present or past stockholders, employees, beneficiaries, agents, customers, creditors, regulatory authorities (or members thereof) or other persons or entities to bring claims against Board Observers.

The Exchange is also proposing to make a non-substantive conforming change to the Group Bylaws to: (i) rename the document by adding “Amended and Restated” to the header and (ii) delete the words “Adopted November 30, 2015” from the header and replace them with the words “Amended December 3, 2024”.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹³ in general, and furthers the objectives of Section 6(b)(1) of the Act in particular,¹⁴ in

¹² IEX notes that BOX and MEMX similarly require their board observers to meet the same confidentiality requirements that are imposed upon its board members. See supra note 8.

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(1).

that it continues to assure that the Exchange is so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its Exchange members and persons associated with its Exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

The Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Act¹⁵ in that they are intended to, inter alia, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest. Additionally, the proposed amendment is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As noted in the Purpose section, the proposed amendment to the Group Bylaws is intended to foster clarity and transparency with respect to Board Observers attending Group Board meetings at the Group Board's invitation and sole discretion, and to delineate the roles, responsibilities, and obligations of Board Observers with respect to such meetings. The proposed amendment contains detailed provisions to that effect, and also provides for instances where Board Observers' participation in a particular meeting may be limited, or disallowed, as well as exclusion of an individual subject to a "bad actor" or statutory disqualification as described in the Purpose section. The Exchange believes that the inclusion of Board Observers, at the Group Board's sole discretion and at its invitation, provides a valuable opportunity for other constituencies to participate in the work of the Group Board in a manner that safeguards

¹⁵ 15 U.S.C. 78f(b)(5).

the Exchange's regulatory independence and its operation as a self-regulatory organization. The Exchange believes that the proposed amendments thereby fulfill the goals of Section 6(b) of the Act.¹⁶ in that they are designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and national market system, and in general operate to protect investors and the public interest.

Additionally, as noted in the Purpose section, allowing board observers to attend holding company board meetings is not novel.¹⁷ Thus, this proposed rule change does not raise any new or novel issues that have not already been considered by the Commission.

Finally, IEX believes that the proposed non-substantive conforming changes to the header of the Bylaws further the purposes of the Act because they provide greater clarity and consistency to the Bylaws thereby reducing the potential for confusion by 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 Exchange Act. The proposed amendments relate to the rights, responsibilities and obligations of Board Observers at Group Board meetings and, as such, are concerned solely with the corporate governance of Group, the Exchange's parent corporation, and do not present any issues that impact 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

¹⁶ 15 U.S.C. 78f(b).

¹⁷ See supra note 8.

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A)¹⁸ of the Act and Rule 19b-4(f)(6)¹⁹ 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 believes that the proposed rule change would not adversely affect investors or the public interest. In fact, the Exchange believes that the proposed amendments to the Group Bylaws operate to enhance investor protection and the public interest by providing clarity and transparency into the roles, responsibilities and obligations of Board Observers. The proposed amendments thus fulfill the purposes of Section 6(b)(1) of the Act, which requires that "... [s]uch exchange is so organized and has the capacity to be able to carry out the purposes of this chapter and to comply, and (subject to any rule or order of the Commission pursuant to section 78q(d) or 78s(g)(2) of this title) to enforce compliance by its members and persons associated with its members, with the provisions of this chapter, the rules and regulations thereunder, and the rules of the exchange." Additionally, as discussed in the Purpose and Statutory Basis sections, this rule change proposal is not novel; at least two other exchanges, BOX and MEMX, also allow non-voting board observers to participate in board meetings, subject to similar confidentiality requirements to IEX's proposal.

The Exchange further believes that the proposed rule change would not impose a burden on competition because it is not intended to address competitive issues but rather is concerned

¹⁸ 15 U.S.C. 78s(b)(3)(A).

¹⁹ 17 CFR 240.19b-4(f)(6).

solely with the corporate governance of Group, the Exchange's parent corporation. Accordingly, for the foregoing reasons, this rule filing qualifies for immediate effectiveness as a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4.

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)²⁰ 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-IEEX-2024-28 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-IEEX-2024-28. This file number should

²⁰ 15 U.S.C. 78s(b)(2)(B).

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 will also 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-2024-28 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.²¹

Sherry R. Haywood,

Assistant Secretary.

²¹ 17 CFR 200.30-3(a)(12).

Exhibit 5 – Text of Proposed Rule Change

Proposed new language is underlined; proposed deletions are in brackets.

AMENDED AND RESTATED BYLAWS OF IEX GROUP, INC. (A DELAWARE CORPORATION) [ADOPTED NOVEMBER 30, 2015] AMENDED DECEMBER 3, 2024

ARTICLE IV

DIRECTORS

Section 26. Organization

(a) General. At every meeting of the directors, the Chairman of the Board of Directors, or, if a Chairman has not been appointed or is absent, the Chief Executive Officer (if a director), or if the Chief Executive Officer is not a director or is absent the President (if a director) or if the President is not a director or is absent, the most senior Vice President (if a director) or, in the absence of any such person, a chairman of the meeting chosen by a majority of the directors present, shall preside over the meeting. The Secretary, or in his absence, any Assistant Secretary directed to do so by the Chief Executive Officer or President, shall act as secretary of the meeting.

(b) Board Observers. The Board of Directors may, from time to time and, in its sole discretion, invite one or more observers to attend and participate in meetings of the Board of Directors in a non-voting capacity (“Board Observers”). Board Observers shall hold in confidence any and all information so provided. Board Observers may be excluded from access to any material or meeting or portion thereof if the Board of Directors determines in good faith, upon the advice of counsel, that such exclusion is reasonably necessary to preserve the attorney-client privilege, to protect highly confidential proprietary information, or for other similar reasons, including, but not limited to, sensitive regulatory information, regulatory independence or other similar regulatory matters relating to Investors’ Exchange LLC or otherwise. The Board of Directors shall, as promptly as practicable, take such actions as are necessary and appropriate to exclude any Board Observer upon the Board of Directors becoming aware that any of the bad actor disqualifying events described in Rule 506(d)(1)(i)-(viii) of the Securities Act of 1933, or any of the statutory disqualifications described in Section 3(a)(39) of the 1934 Act apply to such Board Observer, and such exclusion may be lifted in the event the Board of Directors determines that the applicable bad actor or statutory disqualifications no longer apply to such Board Observer. For so long as the Corporation shall control Investors’ Exchange LLC, each Board Observer shall, in connection with such Board

Observer's attendance and participation in meetings of the Board of Directors be subject to Article VII of these Bylaws, and in furtherance of the applicability of Article VII to such Board Observers, the Board of Directors may exclude such Board Observer from applicable materials or meetings or portions thereof. Notwithstanding the preceding sentence or anything set forth in these Bylaws to the contrary, nothing in these Bylaws or the applicability of Article VII shall be interpreted to expand the role or position of a Board Observer beyond the scope of attending and participating in meetings at the invitation of the Board of Directors or to otherwise give Board Observers any right or authority to take any action on behalf of the Corporation. No present or past stockholder, employee, beneficiary, agent, customer, creditor, regulatory authority (or member thereof) or other person or entity shall have any rights against any Board Observer under this Section 26(b).
