

Required fields are shown with yellow backgrounds and asterisks.

Filing by Investors' Exchange LLC
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
			Rule		
Pilot	Extension of Time Period for Commission Action *	Date Expires *	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) *	Section 806(e)(2) *
<input type="checkbox"/>	<input type="checkbox"/>
	Section 3C(b)(2) *
	<input type="checkbox"/>

Exhibit 2 Sent As Paper Document	Exhibit 3 Sent As Paper Document
<input type="checkbox"/>	<input type="checkbox"/>

Description

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

Proposed rule change to modify the Investors Exchange LLC Fee Schedule to establish fees for the execution of Retail and Retail Liquidity Provider orders and to eliminate Fee Code N from the Fee Schedule.

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 * Last Name *

Title *

E-mail *

Telephone * Fax

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title *)

Date

By

(Name *)

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

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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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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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 Advance 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, security-based swap submission, or advance notice 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

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Exhibit Sent As Paper Document

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 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

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 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

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 (“Commission”) a proposed rule change to modify its Fee Schedule, pursuant to IEX Rule 15.110(a) and (c), to establish fees for the execution of Retail and Retail Liquidity Provider orders and to eliminate Fee Code N from the Fee Schedule. Changes to the Fee Schedule pursuant to this proposal are effective upon filing,³ and will be implemented as described herein.

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

Senior management has approved the proposed rule change pursuant to authority delegated to it by the Board of the Exchange. No further action is required under the Exchange’s governing documents. Therefore, the Exchange’s internal procedures with respect to the proposed rule change are complete.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

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 I. 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 modify its Fee Schedule, pursuant to IEX Rule 15.110(a) and (c), to establish fees for the execution of Retail and Retail Liquidity Provider orders and to eliminate Fee Code N from the Fee Schedule.

Retail Price Improvement Program Fees

On August 9, 2019, the Commission approved an IEX rule filing to establish a Retail Price Improvement Program ("Retail Program").⁴ IEX now proposes to adopt fees for the launch of its Retail Program.

The Exchange does not propose to charge any fees for the execution of a Retail order⁵ submitted to IEX by a Member approved as a Retail Member Organization ("RMO").⁶ This pricing is referred to as the "Retail Order Fee" on the IEX Fee Schedule with a Fee Code Modifier of R⁷ to be provided by the Exchange on execution reports. In addition, the Exchange proposes to add a new footnote 2 to the IEX Fee Schedule (and

⁴ See Securities Exchange Act Release No. 86619 (August 9, 2019), 84 FR 41769 (August 15, 2019) (SR-IEX-2019-05) (order approving the IEX Retail Program)

⁵ See IEX Rule 11.232(a)(2).

⁶ See IEX Rule 11.232(a)(1).

⁷ Fee Code Modifier R appears in the "Additional Fee Codes" section of the Fee Schedule.

renumber current footnote 2 to be footnote 3) to specify that Fee Code R applies only to a Retail order submitted by an IEX Retail Member Organization that (i) satisfies the criteria set forth in IEX Rules 11.190(b)(15) and 11.232(a)(1) and (ii) is a Discretionary Peg order or Midpoint Peg order with a Time-in-Force of IOC or FOK only eligible to trade at the Midpoint Price.

In addition, the Exchange does not propose to charge any fees for the execution of a Retail Liquidity Provider (“RLP”)⁸ order. This pricing is referred to as the “Retail Liquidity Provider Order Fee” on the IEX Fee Schedule with a Fee Code Modifier of A⁹ to be provided by the Exchange on execution reports. The Exchange is not proposing any changes to the IEX Fee Schedule with respect to orders other than RLP orders that execute against a Retail Order.

The Exchange also proposes conforming changes to the section of the IEX Fee Schedule entitled “Fee Code Combinations and Associated Fees” to reflect the proposed fees for execution of Retail orders and RLP orders and new Fee Code Modifiers R and A.¹⁰ The following describes the proposed Fee Code Combinations and Associated Fees:

Fee Codes	Description	Fee
IR	Retail order removes non-displayed liquidity	FREE
IA	Retail Liquidity Provider order adds non-displayed liquidity to a Retail order	FREE
LR	Retail order removes displayed liquidity	FREE
ISR	Retail order removes non-displayed liquidity provided by such	FREE

⁸ See IEX Rule 11.232(a)(3).

⁹ Fee Code Modifier A appears in the “Additional Fee Codes” section of the Fee Schedule.

¹⁰ The proposed new Fee Code combinations, as well as Fee Code modifiers R and A, will be provided to Members on execution reports.

	Member	
ISA	Retail Liquidity Provider order adds non-displayed liquidity to a Retail order provided by such Member	FREE
IQR ¹¹	Retail order removes non-displayed liquidity during periods of quote instability	FREE
LSR	Retail order removes displayed liquidity provided by such Member	FREE
LQR ¹²	Retail order removes displayed liquidity during periods of quote instability	FREE
ISQR ¹³	Retail order removes non-displayed liquidity provided by such Member during periods of quote instability	FREE
LSQR ¹⁴	Retail order removes displayed liquidity provided by such Member during periods of quote instability	FREE

Implementation of Retail Price Improvement Program Fees

As set forth in the Retail Program filing, IEX will implement the Retail Program within 90 days of approval and provide at least ten (10) days' notice to Members and market participants of the implementation timeline.¹⁵ Thus, IEX will issue a trading alert at least 10 days before the launch of the Retail Program, informing Members both of the Retail Program's imminent launch and of the new Fee Codes and associated fees set forth in this filing.

Elimination of Fee Code N

IEX is also proposing to delete Fee Code Modifier N from the IEX Fee Schedule.

¹¹ Fee Code combinations that include Fee Code Modifier Q are subject to Footnote 1 of the IEX Fee Schedule which provides as follows:

Crumbling Quote Remove Fee: Executions with Fee Code Q that exceed the CQRF Threshold are subject to the Crumbling Quote Remove Fee identified in the Fee Code Modifiers table. Executions with Fee Code Q that do not exceed the CQRF Threshold are subject to the fees identified in the Fee Codes and Associated Fees table.

¹² See supra note 11.

¹³ See supra note 11.

¹⁴ See supra note 11.

¹⁵ See Securities Exchange Act Release No. 86241 (June 28, 2019) 84 FR 32238 (July 5, 2019) (SR-IEX-2019-05).

On May 1, 2018, the Exchange established the use of Fee Code Modifier N as an “Additional Fee Code” in connection with a reduction of the applicable fee for certain executions that removed non-displayed liquidity with a spread-crossing eligible order.¹⁶ Fee Code Modifier N (and related Fee Code combinations) was added to denote such executions and provided to Members on execution reports. Thereafter, effective August 1, 2018, IEX reverted to the prior fee of \$0.0009 per share for such executions,¹⁷ but did not eliminate the use of Fee Code Modifier N and related Fee Code combinations, which continue to be provided to Members on execution reports, notwithstanding that they no longer impact applicable execution fees because orders that remove non-displayed liquidity with a spread-crossing eligible order are not subject to a different fee than is otherwise assessed because the order was spread-crossing eligible. Thus, Fee Code Modifier N and related Fee Code combinations are duplicative of other Fee Code Modifiers and Fee Code combinations. Accordingly, IEX proposes to delete Fee Code Modifier N and Fee Code combinations that include Fee Code Modifier N from the IEX Fee Schedule. The following describes the basis for each deletion:

- Fee Code Modifier N describes execution of an order that removes liquidity with a spread-crossing eligible order, specifying that the fee for such an execution is \$0.0009 per share. However, as explained in the Fee Schedule, because Fee Code Modifier “N” is an “Additional Fee Code, the rates listed in the Fee Codes and Associated Fees table will apply.” Therefore, Fee Code Modifier N is never the only Fee Code provided to Members on execution reports, and will only be provided to Members on execution reports in the following eight fee code combinations.
- Fee Code combination IN describes execution of an order that removes non-

¹⁶ See Securities Exchange Act Release No. 83147 (May 1, 2018), 83 FR 20118 (May 7, 2018) (SR-IEX-2018-09).

¹⁷ See Securities Exchange Act Release No. 83820 (August 10, 2018), 83 FR 40800 (August 16, 2018) (SR-IEX-2018-17).

displayed liquidity with a spread-crossing eligible order, specifying that the fee for such an execution is \$0.0009 per share. Such executions are also described by Fee Code I which describes an execution of an order that adds or removes non-displayed liquidity and is also subject to a fee of \$0.0009 per share. Consequently, Fee Code combination IN is duplicative of Fee Code I.

- Fee Code combination LN describes execution of an order that removes displayed liquidity with a spread-crossing eligible order, specifying that the fee for such execution is \$0.0003 per share. Such executions are also described by Fee Code L which describes an execution of an order that adds or removes displayed liquidity and is also subject to a fee of \$0.0003 per share. Consequently, Fee Code combination LN is duplicative of Fee Code L.
- Fee Code combination ISN describes execution of an order that removes non-displayed liquidity provided by such Member with a spread-crossing eligible order, specifying that such executions are free. Such executions are also described by Fee Code combination IS which describes execution of an order that executes against resting non-displayed liquidity provided by such Member and is also free. Consequently, Fee Code combination ISN is duplicative of Fee Code Combination IS.
- Fee Code combination IQN describes execution of an order that removes non-displayed liquidity during periods of quote instability with a spread-crossing eligible order, specifying that the fee for such execution is \$0.0009 per share. Such executions are also described by Fee Code combination IQ which describes execution of an order that removes non-displayed liquidity during periods of quote instability and is also subject to a fee of \$0.0009 per share. Consequently, Fee Code combination IQN is duplicative of Fee Code Combination IQ.
- Fee Code combination LSN describes execution of an order that removes displayed liquidity provided by such Member with a spread-crossing eligible order, specifying that such executions are free. Such executions are also described by Fee Code combination LS which describes execution of an order against resting displayed liquidity provided by such Member and is also free. Consequently, Fee Code combination LSN is duplicative of Fee Code combination LS.
- Fee Code combination LQN describes execution of an order that removes displayed liquidity during periods of quote instability with a spread-crossing eligible order, specifying that the fee for such an execution is \$0.0003 per share. Such executions are also described by Fee Code LQ which describes an execution of an order that removes displayed liquidity during periods of quote instability and is also subject to a fee of \$0.0003 per share. Consequently, Fee Code combination LQN is duplicative of Fee Code LQ.
- Fee Code combination ISQN describes execution of an order that removes non-displayed liquidity provided by such Member during periods of quote instability

with a spread-crossing eligible order, specifying that such executions are free. Such executions are also described by Fee Code combination ISQ which describes execution of an order that removes non-displayed liquidity provided by such Member during periods of quote instability and is also free. Consequently, Fee Code combination ISQN is duplicative of Fee Code combination ISQ.

- Fee Code combination LSQN describes execution of an order that displayed liquidity provided by such Member during periods of quote instability with a spread-crossing eligible order, specifying that such executions are free. Such executions are also described by Fee Code combination LSQ which describes execution of an order that removes displayed liquidity provided by such Member during periods of quote instability and is also free. Consequently, Fee Code combination LSQN is duplicative of Fee Code combination LSQ.

Implementation of the Elimination of Fee Code N

The elimination of Fee Code N will be operative beginning on August 28, 2019, as described in a trading alert issued on August 15, 2019.¹⁸

(b) Statutory Basis

Retail Program Fees

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁹ in general, and furthers the objectives of Section 6(b)(4)²⁰ of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable fees among IEX members and persons using its facilities. Additionally, IEX believes that the proposed fees are consistent with the investor protection objectives of Section 6(b)(5)²¹ of the Act, in particular, in that they are 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

¹⁸ See IEX Trading Alert #2019 – 022 “Upcoming Elimination of Fee Code N” available at <https://iextrading.com/alerts/#/79>.

¹⁹ 15 U.S.C. 78f(b).

²⁰ 15 U.S.C. 78f(b)(4).

²¹ 15 U.S.C. 78f(b)(5).

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; and are not designed to permit unfair discrimination between customers, brokers, or dealers.

Specifically, the Exchange's proposal not to charge fees for the execution of Retail orders and RLP orders is designed to maximize participation for the launch of the IEX Retail Program by incentivizing market participants to submit such orders to IEX, thereby enhancing IEX's ability to compete with competing exchange and non-exchange venues that offer programs for the execution of the orders of retail customers. This fee structure is designed to attract the orders of retail customers (and counterparties that wish to trade with retail customers) to the Exchange, thereby supporting the competitiveness of the Exchange's Retail Program. IEX understands that Members wishing to participate in the Retail Program will need to modify and test their order entry systems in order to do so, and free pricing is designed to provide a meaningful economic incentive for such efforts.

The Retail Program is designed to offer the potential for meaningful price improvement to orders of retail investors, including through incentivizing market participants to provide additional liquidity to execute against the orders of retail investors.²² Offering free execution of Retail orders and RLP orders is designed to provide further incentives to send such orders to IEX.

The Exchange believes that providing free executions to Retail orders will incentivize Members and other market participants that handle orders on behalf of retail customers to route such orders to the Exchange. While the Retail Program offers the

²² See supra note 4.

opportunity for Retail orders to obtain meaningful price improvement at the Midpoint Price, which should operate as a sufficient incentive to route such orders to IEX, the Exchange believes that free pricing will enhance such incentive. The Exchange also believes that increasing the volume of Retail orders routed to IEX will not only benefit such orders (in the form of the opportunity for meaningful price improvement), but will also incentivize and benefit the orders of contra-side liquidity providers that execute against Retail orders that view interacting with orders of retail investors as desirable.

Further, the Exchange understands that a large majority of orders from retail investors are executed in the OTC market across different wholesalers and dark pools, and exchange retail programs have not attracted a significant volume.²³ While there are likely a variety of reasons for this, providing free pricing for Retail orders and RLP orders is designed to provide a meaningful pricing incentives for Members to send orders of retail investors to IEX as well as for market participants to provide liquidity to Retail orders through RLP orders. The Exchange believes that the proposed pricing incentives will help to support the competitiveness of the IEX Retail Program, by maximizing participation for its launch, to the benefit of the retail investor.

IEX also believes that it is equitable and not unfairly discriminatory to provide free executions to Retail orders notwithstanding that not all Members handle Retail orders. There is ample precedent for differentiation of retail order flow in the retail

²³ See Securities Exchange Act Release No. 85160 (February 15, 2019), 84 FR 5754, 5762 (February 22, 2019) (SR-NYSE-2018-28) (approving NYSE RLP on a permanent basis) (“Although the Program provides the opportunity to achieve significant price improvement, the Program has not generated significant activity.... The Program’s share of NYSE volume during [in 2016-17] was below 0.4%”).

programs of other exchanges and the Retail Program.²⁴ Further, other exchanges provide pricing incentives to retail orders in the form of lower fees and/or higher rebates.²⁵

Consequently, the Exchange does not believe that providing free executions for Retail orders raises any new or novel issues not already considered by the Commission.

Similarly, the Exchange believes that providing free executions to RLP orders will incentivize Exchange members and other market participants to submit such orders to IEX. While the Exchange believes that the Retail Program provides significant incentives to send such orders to IEX, specifically the ability to interact only with Retail orders which IEX understands is desirable to many professional market participants (as described in the rule filing adopting the Retail Program), the Exchange believes that free pricing will enhance such incentive and help to maximize participation for launch of its Retail Program as discussed above.

IEX also believes that it is equitable and not unfairly discriminatory to provide free executions to RLP orders that execute against retail orders but not to other liquidity providing orders that execute against retail orders for several reasons.²⁶ First, all Members are eligible to submit RLP orders to IEX, and the Exchange believes that a broad spectrum of Members may be interested in submitting RLP orders because of the

²⁴ See *supra* note 23; see also Securities Exchange Act Release No. 71176 (December 23, 2013), 78 FR 79524 (December 30, 2013) (SR-NYSEArca-2013-107) (approving NYSE Arca retail pilot program); Securities Exchange Act Release No. 68303 (November 27, 2012), 77 FR 71652 (December 3, 2012) (SR-BYX-2012-019) (approving Cboe BYX retail pilot program); Securities Exchange Act Release No. 73702 (November 28, 2014), 79 FR 72049 (December 4, 2014) (SR-BX-2014-048) (approving NASDAQ BX retail pilot program).

²⁵ See, e.g., Nasdaq BX price list available at https://www.nasdaqtrader.com/Trader.aspx?id=bx_pricing.

²⁶ Where a Member submits a non-RLP order and the same Member takes that liquidity with a Retail order, execution is also free.

ability to interact only with Retail orders. Thus, while a different fee will be charged for RLP and non-RLP orders that execute against Retail orders, the difference is not based on the type of Member submitting the order but on the type of order, and all Members can submit an RLP order.

Additionally, in order to maximize the likelihood that Retail orders will be executed, the Exchange believes that it is important to provide meaningful incentives for Members to enter liquidity providing orders to execute against Retail orders. Free execution for RLP orders is designed to provide such an incentive. Further, to the extent that free execution for RLP orders is successful in incentivizing Members to submit RLP orders, Members submitting Retail orders to the Exchange will benefit from the increased liquidity. Moreover, non-RLP providing orders have higher priority than RLP orders and are eligible to execute against any marketable contra-side order. The Exchange believes that this differentiation in trading opportunities warrants a higher fee, even when executing against a Retail order.

Finally, other exchanges provide lower fees to special order types that provide liquidity to retail orders.²⁷ Consequently, the Exchange does not believe that providing free executions for Retail orders raises any new or novel issues not already considered by the Commission.

Deletion of Fee Code N

The Exchange believes that deletion of Fee Code N and related Fee Code combinations is consistent with Section 6(b) of the Act,²⁸ in general, and furthers the

²⁷ See, e.g., *supra* note 25.

²⁸ 15 U.S.C. 78f(b).

objectives of Section 6(b)(4)²⁹ of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable fees among IEX members and persons using its facilities. The Exchange also believes that deletion of Fee Code N and related Fee Code combinations is consistent with Section 6(b)(5)³⁰ of the Act, in particular, in that 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; and 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; and are not designed to permit unfair discrimination between customers, brokers, or dealers.

The Exchange believes that it is consistent with the Act to delete the functionally obsolete Fee Code N and related Fee Code combinations from its Fee Schedule, to avoid any potential confusion among Members. The Exchange further believes that the modification to the Fee Schedule is reasonable, equitable, and not unfairly discriminatory because all Members will be subject to the same fee structure.

As described in the Purpose section above, this proposed rule change does not change any fees charged by IEX, but rather eliminates an obsolete, vestigial Fee Code and its corresponding Fee Code combinations. Thus, the proposed fee change will provide clarity to market participants that IEX execution of spread-crossing eligible orders does not impact applicable fees, therefore making the Exchange's Fee Schedule clearer and more deterministic to the benefit of all market participants.

²⁹ 15 U.S.C. 78f(b)(4).

³⁰ 15 U.S.C. 78f(b)(5).

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

Retail Program Fees

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. To the contrary, IEX believes that charging no fees for the execution of Retail orders and RLP orders would continue to enhance competition and execution quality for retail order flow among execution venues and contribute to the public price discovery process.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition since competing venues have and can continue to adopt similar fees for orders executing in their retail programs, subject to the SEC rule change process. Further, the Exchange operates in a highly competitive market in which market participants can easily direct their orders to competing venues, including off-exchange venues, if fees are viewed as non-competitive.

The Exchange also does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. While Retail orders and RLP orders will be treated differently, those differences are not based on the type of Member entering orders but on whether the order is for a retail customer or an entity seeking to transact with a retail customer, and there is no restriction on whether a Member can handle retail customer orders. Further, any Member can enter an RLP order.

Deletion of Fee Code N

The Exchange does not believe that deletion of Fee Code N and related Fee Code

combinations will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Deletion of Fee Code N and related Fee Code combinations is not proposed for any competitive reason but to provide clarity to market participants that IEX execution of spread-crossing eligible orders does not impact applicable fees, therefore making the Exchange's Fee Schedule clearer and more deterministic to the benefit of all market participants.

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)

Pursuant to Section 19(b)(3)(A)(ii) of the Act,³¹ IEX has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

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) of the Act to determine whether the proposed rule change should be

³¹ 15 U.S.C. 78s(b)(3)(A)(ii).

approved or disapproved.³²

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 3C 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.

³² 15 U.S.C. 78s(b)(2)(B).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34 -); File No. SR-IEX-2019-08)

Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify its Fee Schedule to Establish Fees for the Execution of Retail and Retail Liquidity Provider Orders and to Eliminate Fee Code N from the Fee Schedule.

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 IEX is filing with the Commission a proposed rule change to modify its Fee Schedule, pursuant to IEX Rule 15.110(a) and (c), to establish fees for the execution of Retail and Retail Liquidity Provider orders and to eliminate Fee Code N from the Fee Schedule. Changes to the Fee Schedule pursuant to this proposal are effective upon

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.

filing,⁶ and will be implemented as described herein.

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 statement 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 modify its Fee Schedule, pursuant to IEX Rule 15.110(a) and (c), to establish fees for the execution of Retail and Retail Liquidity Provider orders and to eliminate Fee Code N from the Fee Schedule.

Retail Price Improvement Program Fees

On August 9, 2019, the Commission approved an IEX rule filing to establish a Retail Price Improvement Program ("Retail Program").⁷ IEX now proposes to adopt fees for the launch of its Retail Program.

The Exchange does not propose to charge any fees for the execution of a Retail

⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

⁷ See Securities Exchange Act Release No. 86619 (August 9, 2019), 84 FR 41769 (August 15, 2019) (SR-IEX-2019-05) (order approving the IEX Retail Program)

order⁸ submitted to IEX by a Member approved as a Retail Member Organization (“RMO”).⁹ This pricing is referred to as the “Retail Order Fee” on the IEX Fee Schedule with a Fee Code Modifier of R¹⁰ to be provided by the Exchange on execution reports. In addition, the Exchange proposes to add a new footnote 2 to the IEX Fee Schedule (and renumber current footnote 2 to be footnote 3) to specify that Fee Code R applies only to a Retail order submitted by an IEX Retail Member Organization that (i) satisfies the criteria set forth in IEX Rules 11.190(b)(15) and 11.232(a)(1) and (ii) is a Discretionary Peg order or Midpoint Peg order with a Time-in-Force of IOC or FOK only eligible to trade at the Midpoint Price.

In addition, the Exchange does not propose to charge any fees for the execution of a Retail Liquidity Provider (“RLP”)¹¹ order. This pricing is referred to as the “Retail Liquidity Provider Order Fee” on the IEX Fee Schedule with a Fee Code Modifier of A¹² to be provided by the Exchange on execution reports. The Exchange is not proposing any changes to the IEX Fee Schedule with respect to orders other than RLP orders that execute against a Retail Order.

The Exchange also proposes conforming changes to the section of the IEX Fee Schedule entitled “Fee Code Combinations and Associated Fees” to reflect the proposed fees for execution of Retail orders and RLP orders and new Fee Code Modifiers R and A.¹³ The following describes the proposed Fee Code Combinations and Associated Fees:

⁸ See IEX Rule 11.232(a)(2).

⁹ See IEX Rule 11.232(a)(1).

¹⁰ Fee Code Modifier R appears in the “Additional Fee Codes” section of the Fee Schedule.

¹¹ See IEX Rule 11.232(a)(3).

¹² Fee Code Modifier A appears in the “Additional Fee Codes” section of the Fee Schedule.

¹³ The proposed new Fee Code combinations, as well as Fee Code modifiers R and A, will be provided to Members on execution reports.

Fee Codes	Description	Fee
IR	Retail order removes non-displayed liquidity	FREE
IA	Retail Liquidity Provider order adds non-displayed liquidity to a Retail order	FREE
LR	Retail order removes displayed liquidity	FREE
ISR	Retail order removes non-displayed liquidity provided by such Member	FREE
ISA	Retail Liquidity Provider order adds non-displayed liquidity to a Retail order provided by such Member	FREE
IQR ¹⁴	Retail order removes non-displayed liquidity during periods of quote instability	FREE
LSR	Retail order removes displayed liquidity provided by such Member	FREE
LQR ¹⁵	Retail order removes displayed liquidity during periods of quote instability	FREE
ISQR ¹⁶	Retail order removes non-displayed liquidity provided by such Member during periods of quote instability	FREE
LSQR ¹⁷	Retail order removes displayed liquidity provided by such Member during periods of quote instability	FREE

Implementation of Retail Price Improvement Program Fees

As set forth in the Retail Program filing, IEX will implement the Retail Program within 90 days of approval and provide at least ten (10) days' notice to Members and market participants of the implementation timeline.¹⁸ Thus, IEX will issue a trading alert at least 10 days before the launch of the Retail Program, informing Members both of the Retail Program's imminent launch and of the new Fee Codes and associated fees set forth

¹⁴ Fee Code combinations that include Fee Code Modifier Q are subject to Footnote 1 of the IEX Fee Schedule which provides as follows:

Crumbling Quote Remove Fee: Executions with Fee Code Q that exceed the CQRF Threshold are subject to the Crumbling Quote Remove Fee identified in the Fee Code Modifiers table. Executions with Fee Code Q that do not exceed the CQRF Threshold are subject to the fees identified in the Fee Codes and Associated Fees table.

¹⁵ See supra note 14.

¹⁶ See supra note 14.

¹⁷ See supra note 14.

¹⁸ See Securities Exchange Act Release No. 86241 (June 28, 2019) 84 FR 32238 (July 5, 2019) (SR-IEX-2019-05).

in this filing.

Elimination of Fee Code N

IEX is also proposing to delete Fee Code Modifier N from the IEX Fee Schedule. On May 1, 2018, the Exchange established the use of Fee Code Modifier N as an “Additional Fee Code” in connection with a reduction of the applicable fee for certain executions that removed non-displayed liquidity with a spread-crossing eligible order.¹⁹ Fee Code Modifier N (and related Fee Code combinations) was added to denote such executions and provided to Members on execution reports. Thereafter, effective August 1, 2018, IEX reverted to the prior fee of \$0.0009 per share for such executions,²⁰ but did not eliminate the use of Fee Code Modifier N and related Fee Code combinations, which continue to be provided to Members on execution reports, notwithstanding that they no longer impact applicable execution fees because orders that remove non-displayed liquidity with a spread-crossing eligible order are not subject to a different fee than is otherwise assessed because the order was spread-crossing eligible. Thus, Fee Code Modifier N and related Fee Code combinations are duplicative of other Fee Code Modifiers and Fee Code combinations. Accordingly, IEX proposes to delete Fee Code Modifier N and Fee Code combinations that include Fee Code Modifier N from the IEX Fee Schedule. The following describes the basis for each deletion:

- Fee Code Modifier N describes execution of an order that removes liquidity with a spread-crossing eligible order, specifying that the fee for such an execution is \$0.0009 per share. However, as explained in the Fee Schedule, because Fee Code Modifier “N” is an “Additional Fee Code, the rates listed in the Fee Codes and Associated Fees table will apply.” Therefore, Fee Code Modifier N is never the

¹⁹ See Securities Exchange Act Release No. 83147 (May 1, 2018), 83 FR 20118 (May 7, 2018) (SR-IEX-2018-09).

²⁰ See Securities Exchange Act Release No. 83820 (August 10, 2018), 83 FR 40800 (August 16, 2018) (SR-IEX-2018-17).

only Fee Code provided to Members on execution reports, and will only be provided to Members on execution reports in the following eight fee code combinations.

- Fee Code combination IN describes execution of an order that removes non-displayed liquidity with a spread-crossing eligible order, specifying that the fee for such an execution is \$0.0009 per share. Such executions are also described by Fee Code I which describes an execution of an order that adds or removes non-displayed liquidity and is also subject to a fee of \$0.0009 per share. Consequently, Fee Code combination IN is duplicative of Fee Code I.
- Fee Code combination LN describes execution of an order that removes displayed liquidity with a spread-crossing eligible order, specifying that the fee for such execution is \$0.0003 per share. Such executions are also described by Fee Code L which describes an execution of an order that adds or removes displayed liquidity and is also subject to a fee of \$0.0003 per share. Consequently, Fee Code combination LN is duplicative of Fee Code L.
- Fee Code combination ISN describes execution of an order that removes non-displayed liquidity provided by such Member with a spread-crossing eligible order, specifying that such executions are free. Such executions are also described by Fee Code combination IS which describes execution of an order that executes against resting non-displayed liquidity provided by such Member and is also free. Consequently, Fee Code combination ISN is duplicative of Fee Code Combination IS.
- Fee Code combination IQN describes execution of an order that removes non-displayed liquidity during periods of quote instability with a spread-crossing eligible order, specifying that the fee for such execution is \$0.0009 per share. Such executions are also described by Fee Code combination IQ which describes execution of an order that removes non-displayed liquidity during periods of quote instability and is also subject to a fee of \$0.0009 per share. Consequently, Fee Code combination IQN is duplicative of Fee Code Combination IQ.
- Fee Code combination LSN describes execution of an order that removes displayed liquidity provided by such Member with a spread-crossing eligible order, specifying that such executions are free. Such executions are also described by Fee Code combination LS which describes execution of an order against resting displayed liquidity provided by such Member and is also free. Consequently, Fee Code combination LSN is duplicative of Fee Code combination LS.
- Fee Code combination LQN describes execution of an order that removes displayed liquidity during periods of quote instability with a spread-crossing eligible order, specifying that the fee for such an execution is \$0.0003 per share. Such executions are also described by Fee Code LQ which describes an execution of an order that removes displayed liquidity during periods of quote instability

and is also subject to a fee of \$0.0003 per share. Consequently, Fee Code combination LQN is duplicative of Fee Code LQ.

- Fee Code combination ISQN describes execution of an order that removes non-displayed liquidity provided by such Member during periods of quote instability with a spread-crossing eligible order, specifying that such executions are free. Such executions are also described by Fee Code combination ISQ which describes execution of an order that removes non-displayed liquidity provided by such Member during periods of quote instability and is also free. Consequently, Fee Code combination ISQN is duplicative of Fee Code combination ISQ.
- Fee Code combination LSQN describes execution of an order that displayed liquidity provided by such Member during periods of quote instability with a spread-crossing eligible order, specifying that such executions are free. Such executions are also described by Fee Code combination LSQ which describes execution of an order that removes displayed liquidity provided by such Member during periods of quote instability and is also free. Consequently, Fee Code combination LSQN is duplicative of Fee Code combination LSQ.

Implementation of the Elimination of Fee Code N

The elimination of Fee Code N will be operative beginning on August 28, 2019, as described in a trading alert issued on August 15, 2019.²¹

2. Statutory Basis

Retail Program Fees

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,²² in general, and furthers the objectives of Section 6(b)(4)²³ of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable fees among IEX members and persons using its facilities. Additionally, IEX believes that the proposed fees are consistent with the investor protection objectives of Section 6(b)(5)²⁴ of the Act, in particular, in that they are designed to prevent fraudulent and manipulative

²¹ See IEX Trading Alert #2019 – 022 “Upcoming Elimination of Fee Code N” available at <https://iextrading.com/alerts/#/79>.

²² 15 U.S.C. 78f(b).

²³ 15 U.S.C. 78f(b)(4).

²⁴ 15 U.S.C. 78f(b)(5).

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; and are not designed to permit unfair discrimination between customers, brokers, or dealers.

Specifically, the Exchange's proposal not to charge fees for the execution of Retail orders and RLP orders is designed to maximize participation for the launch of the IEX Retail Program by incentivizing market participants to submit such orders to IEX, thereby enhancing IEX's ability to compete with competing exchange and non-exchange venues that offer programs for the execution of the orders of retail customers. This fee structure is designed to attract the orders of retail customers (and counterparties that wish to trade with retail customers) to the Exchange, thereby supporting the competitiveness of the Exchange's Retail Program. IEX understands that Members wishing to participate in the Retail Program will need to modify and test their order entry systems in order to do so, and free pricing is designed to provide a meaningful economic incentive for such efforts.

The Retail Program is designed to offer the potential for meaningful price improvement to orders of retail investors, including through incentivizing market participants to provide additional liquidity to execute against the orders of retail investors.²⁵ Offering free execution of Retail orders and RLP orders is designed to provide further incentives to send such orders to IEX.

The Exchange believes that providing free executions to Retail orders will

²⁵ See supra note 7.

incentivize Members and other market participants that handle orders on behalf of retail customers to route such orders to the Exchange. While the Retail Program offers the opportunity for Retail orders to obtain meaningful price improvement at the Midpoint Price, which should operate as a sufficient incentive to route such orders to IEX, the Exchange believes that free pricing will enhance such incentive. The Exchange also believes that increasing the volume of Retail orders routed to IEX will not only benefit such orders (in the form of the opportunity for meaningful price improvement), but will also incentivize and benefit the orders of contra-side liquidity providers that execute against Retail orders that view interacting with orders of retail investors as desirable.

Further, the Exchange understands that a large majority of orders from retail investors are executed in the OTC market across different wholesalers and dark pools, and exchange retail programs have not attracted a significant volume.²⁶ While there are likely a variety of reasons for this, providing free pricing for Retail orders and RLP orders is designed to provide a meaningful pricing incentives for Members to send orders of retail investors to IEX as well as for market participants to provide liquidity to Retail orders through RLP orders. The Exchange believes that the proposed pricing incentives will help to support the competitiveness of the IEX Retail Program, by maximizing participation for its launch, to the benefit of the retail investor.

IEX also believes that it is equitable and not unfairly discriminatory to provide free executions to Retail orders notwithstanding that not all Members handle Retail orders. There is ample precedent for differentiation of retail order flow in the retail

²⁶ See Securities Exchange Act Release No. 85160 (February 15, 2019), 84 FR 5754, 5762 (February 22, 2019) (SR-NYSE-2018-28) (approving NYSE RLP on a permanent basis) (“Although the Program provides the opportunity to achieve significant price improvement, the Program has not generated significant activity.... The Program’s share of NYSE volume during [in 2016-17] was below 0.4%”).

programs of other exchanges and the Retail Program.²⁷ Further, other exchanges provide pricing incentives to retail orders in the form of lower fees and/or higher rebates.²⁸

Consequently, the Exchange does not believe that providing free executions for Retail orders raises any new or novel issues not already considered by the Commission.

Similarly, the Exchange believes that providing free executions to RLP orders will incentivize Exchange members and other market participants to submit such orders to IEX. While the Exchange believes that the Retail Program provides significant incentives to send such orders to IEX, specifically the ability to interact only with Retail orders which IEX understands is desirable to many professional market participants (as described in the rule filing adopting the Retail Program), the Exchange believes that free pricing will enhance such incentive and help to maximize participation for launch of its Retail Program as discussed above.

IEX also believes that it is equitable and not unfairly discriminatory to provide free executions to RLP orders that execute against retail orders but not to other liquidity providing orders that execute against retail orders for several reasons.²⁹ First, all Members are eligible to submit RLP orders to IEX, and the Exchange believes that a broad spectrum of Members may be interested in submitting RLP orders because of the ability to interact only with Retail orders. Thus, while a different fee will be charged for

²⁷ See *supra* note 26; see also Securities Exchange Act Release No. 71176 (December 23, 2013), 78 FR 79524 (December 30, 2013) (SR-NYSEArca-2013-107) (approving NYSE Arca retail pilot program); Securities Exchange Act Release No. 68303 (November 27, 2012), 77 FR 71652 (December 3, 2012) (SR-BYX-2012-019) (approving Cboe BYX retail pilot program); Securities Exchange Act Release No. 73702 (November 28, 2014), 79 FR 72049 (December 4, 2014) (SR-BX-2014-048) (approving NASDAQ BX retail pilot program).

²⁸ See, e.g., Nasdaq BX price list available at https://www.nasdaqtrader.com/Trader.aspx?id=bx_pricing.

²⁹ Where a Member submits a non-RLP order and the same Member takes that liquidity with a Retail order, execution is also free.

RLP and non-RLP orders that execute against Retail orders, the difference is not based on the type of Member submitting the order but on the type of order, and all Members can submit an RLP order.

Additionally, in order to maximize the likelihood that Retail orders will be executed, the Exchange believes that it is important to provide meaningful incentives for Members to enter liquidity providing orders to execute against Retail orders. Free execution for RLP orders is designed to provide such an incentive. Further, to the extent that free execution for RLP orders is successful in incentivizing Members to submit RLP orders, Members submitting Retail orders to the Exchange will benefit from the increased liquidity. Moreover, non-RLP providing orders have higher priority than RLP orders and are eligible to execute against any marketable contra-side order. The Exchange believes that this differentiation in trading opportunities warrants a higher fee, even when executing against a Retail order.

Finally, other exchanges provide lower fees to special order types that provide liquidity to retail orders.³⁰ Consequently, the Exchange does not believe that providing free executions for Retail orders raises any new or novel issues not already considered by the Commission.

Deletion of Fee Code N

The Exchange believes that deletion of Fee Code N and related Fee Code combinations is consistent with Section 6(b) of the Act,³¹ in general, and furthers the objectives of Section 6(b)(4)³² of the Act, in particular, in that it is designed to provide

³⁰ See, e.g., *supra* note 28.

³¹ 15 U.S.C. 78f(b).

³² 15 U.S.C. 78f(b)(4).

for the equitable allocation of reasonable fees among IEX members and persons using its facilities. The Exchange also believes that deletion of Fee Code N and related Fee Code combinations is consistent with Section 6(b)(5)³³ of the Act, in particular, in that 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; and 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; and are not designed to permit unfair discrimination between customers, brokers, or dealers.

The Exchange believes that it is consistent with the Act to delete the functionally obsolete Fee Code N and related Fee Code combinations from its Fee Schedule, to avoid any potential confusion among Members. The Exchange further believes that the modification to the Fee Schedule is reasonable, equitable, and not unfairly discriminatory because all Members will be subject to the same fee structure.

As described in the Purpose section above, this proposed rule change does not change any fees charged by IEX, but rather eliminates an obsolete, vestigial Fee Code and its corresponding Fee Code combinations. Thus, the proposed fee change will provide clarity to market participants that IEX execution of spread-crossing eligible orders does not impact applicable fees, therefore making the Exchange's Fee Schedule clearer and more deterministic to the benefit of all market participants.

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

Retail Program Fees

³³ 15 U.S.C. 78f(b)(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 Act. To the contrary, IEX believes that charging no fees for the execution of Retail orders and RLP orders would continue to enhance competition and execution quality for retail order flow among execution venues and contribute to the public price discovery process.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition since competing venues have and can continue to adopt similar fees for orders executing in their retail programs, subject to the SEC rule change process. Further, the Exchange operates in a highly competitive market in which market participants can easily direct their orders to competing venues, including off-exchange venues, if fees are viewed as non-competitive.

The Exchange also does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. While Retail orders and RLP orders will be treated differently, those differences are not based on the type of Member entering orders but on whether the order is for a retail customer or an entity seeking to transact with a retail customer, and there is no restriction on whether a Member can handle retail customer orders. Further, any Member can enter an RLP order.

Deletion of Fee Code N

The Exchange does not believe that deletion of Fee Code N and related Fee Code combinations will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Deletion of Fee

Code N and related Fee Code combinations is not proposed for any competitive reason but to provide clarity to market participants that IEX execution of spread-crossing eligible orders does not impact applicable fees, therefore making the Exchange's Fee Schedule clearer and more deterministic to the benefit of all market participants.

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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii)³⁴ of the Act.

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)³⁵ 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:

³⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

³⁵ 15 U.S.C. 78s(b)(2)(B).

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-IEX-2019-08 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-IEX-2019-08. This file number should be included in 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 (<http://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 Section, 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 will also be available for inspection and copying at the IEX's principal office and on its Internet website at www.iextrading.com. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available

publicly. All submissions should refer to File Number SR-IEX-2019-08 and should be submitted on or before [insert date 21 days from publication in the Federal Register]. For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁶

³⁶ 17 CFR 200.30-3(a)(12).

Exhibit 5 – Text of Proposed Rule Change

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

Investors Exchange Fee Schedule

Effective August [8] 28, 2019

Fee Code Modifiers:

Additional Fee Codes	Description	Fee
S	Internalization Fee: Member executes against resting liquidity provided by such Member	FREE
Q	Crumbling Quote Remove Fee: removes liquidity during periods of quote instability at or within the NBBO above the CQRF Threshold, measured on an MPID basis ¹	\$0.0030
[N	Spread-Crossing Eligible Remove Fee: removes liquidity with a spread-crossing eligible order	\$0.0009]
D	Discounted Single-Price Cross Fee: displayed interest resting on the Continuous Book executes in a cross or auction	FREE
<u>R</u> ²	<u>Retail Order Fee: Retail order removes liquidity</u>	<u>FREE</u>
<u>A</u>	<u>Retail Liquidity Provider Order Fee: Member adds liquidity against a Retail order with a Retail Liquidity Provider order</u>	<u>FREE</u>

Market Quality Incentive Programs:

IEX Enhanced Market Maker ("IEMM Rates"): Unless an IEX Enhanced Market Maker ("IEMM") pursuant to Rule 11.160(a) otherwise qualifies for a lower rate, IEMMs will receive the following discounts for executions during continuous trading in securities priced at or above \$1.00. If a Member qualifies under both the Inside Tier and the Depth Tier, any earned Standard Match Fee Discount, Reduced Match Fee Discount, and Spread-Crossing Eligible Remove Fee Discount will be aggregated and applied to such Member's executions subject to the Standard Match Fee, Reduced Match Fee, or Spread-Crossing Eligible Remove Fee in securities priced at or above \$1.00, subject to the applicable Depth Tier aggregate monthly savings cap of \$20,000.00.^{[2]3}

Fee Code Combinations and Associated Fees:

Fee Codes	Description	Fee
I	Adds or removes non-displayed liquidity	\$0.0009
L	Adds or removes displayed liquidity	\$0.0003
IS	Member executes against resting non-displayed liquidity provided by such Member	FREE
IQ ¹	Removes non-displayed liquidity during periods of quote instability	\$0.0009
[IN	Removes non-displayed liquidity with a spread-crossing eligible order	\$0.0009]
<u>IR</u> ²	<u>Retail order removes non-displayed liquidity</u>	<u>FREE</u>
<u>IA</u>	<u>Retail Liquidity Provider order adds non-displayed liquidity against a Retail order</u>	<u>FREE</u>
LS	Member executes against resting displayed liquidity provided by such Member	FREE
LQ ¹	Removes displayed liquidity during periods of quote instability	\$0.0003
[LN	Removes displayed liquidity with a spread-crossing eligible order	\$0.0003]
<u>LR</u> ²	<u>Retail order removes displayed liquidity</u>	<u>FREE</u>
ISQ ¹	Member removes non-displayed liquidity provided by such Member during periods of quote instability	FREE
[ISN	Member removes non-displayed liquidity provided by such Member with a spread-crossing eligible order	FREE]
<u>ISR</u> ²	<u>Retail order removes non-displayed liquidity provided by such Member</u>	<u>FREE</u>
<u>ISA</u>	<u>Retail Liquidity Provider order adds non-displayed liquidity against a Retail order provided by such Member</u>	<u>FREE</u>
[IQN ¹	Removes non-displayed liquidity during periods of quote instability with a spread-crossing eligible order	\$0.0009]
<u>IQR</u> ¹²	<u>Retail order removes non-displayed liquidity during periods of quote instability</u>	<u>FREE</u>
LSQ ¹	Member removes displayed liquidity provided by such Member during periods of quote instability	FREE
[LSN	Member removes displayed liquidity provided by such Member with a spread-crossing eligible order	FREE]
<u>LSR</u> ²	<u>Retail order removes displayed liquidity provided by such Member</u>	<u>FREE</u>
[LQN ¹	Removes displayed liquidity during periods of quote instability with a spread-crossing eligible order	\$0.0003]
<u>LQR</u> ¹²	<u>Retail order removes displayed liquidity during periods of quote instability</u>	<u>FREE</u>
[ISQN ¹	Member removes non-displayed liquidity provided by such Member during periods of quote instability with a spread-crossing eligible order	FREE]
<u>ISQR</u> ¹²	<u>Retail order removes non-displayed liquidity provided by such Member during periods of quote instability</u>	<u>FREE</u>
[LSQN ¹	Member removes displayed liquidity provided by such Member during periods of quote instability with a spread-crossing eligible order	FREE]
<u>LSQR</u> ¹²	<u>Retail order removes displayed liquidity provided by such Member during periods of quote instability</u>	<u>FREE</u>
X	Opening Process for Non-Listed Securities ("Opening Process")	\$0.0009

XD	Displayed interest resting on the Continuous Book executes in the Opening Process	FREE
O	Opening Auction, IEX-listed security	\$0.0003
OD	Displayed interest resting on the Continuous Book executes in the Opening Auction	FREE
C	Closing Auction, IEX-listed security	\$0.0003
CD	Displayed interest resting on the Continuous Book executes in the Closing Auction	FREE
H	Halt or Volatility Auction, IEX-listed security	\$0.0003
P	IPO Auction, IEX-listed security	\$0.0003

Footnotes

¹ **Crumbling Quote Remove Fee:** Executions with Fee Code Q that exceed the CQRF Threshold are subject to the Crumbling Quote Remove Fee identified in the Fee Code Modifiers table. Executions with Fee Code Q that do not exceed the CQRF Threshold are subject to the fees identified in the Fee Codes and Associated Fees table.

² **Fee Code R:** Fee Code R applies only to a Retail order submitted by an IEX Retail Member Organization that (i) satisfies the criteria set forth in IEX Rules 11.190(b)(15) and 11.232(a)(1) and (ii) is a Discretionary Peg order or Midpoint Peg order with a Time-in-Force of IOC or FOK only eligible to trade at the Midpoint Price.

^{[2]3} **Aggregation of activity of affiliated Members:**

- a. For purposes of applying the provisions of Rule 11.170(a), a Member may request that the Exchange aggregate its activity with activity of such Member's affiliated Members.
 1. A Member requesting aggregation of affiliate activity is required to certify to the Exchange the affiliate status of Members whose activity it seeks to aggregate prior to receiving approval for aggregation, and inform the Exchange immediately of any event that causes an entity to cease being an affiliate. The Exchange shall review available information regarding the entities and reserves the right to request additional information to verify the affiliate status of an entity. The Exchange shall approve a request unless it determines that the certification is not accurate.
 2. If two or more Members become affiliated on or prior to the sixteenth day of a month and submit the required request for aggregation on or prior to the twenty-second day of the month, an approval of the request by the Exchange shall be deemed to be effective as of the first day of that month. If two or more Members become affiliated after the sixteenth day of a month or submit a request for aggregation after the twenty-second day of the month, an approval of the request by the Exchange shall be deemed to be effective as of the first day of the next calendar month.
- b. For purposes of applying the provisions of Rule 11.170(a), references to an IEMM shall include the Member and any of its affiliates that have been approved for aggregation.
- c. The term "affiliate" shall mean any Member under 75% common ownership or control of

that Member.
