

Electronic Comments

- 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-FICC-2023-005 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-FICC-2023-005. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<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 Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FICC and on DTCC's website (<http://dtcc.com/legal/sec-rule-filings.aspx>). 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-FICC-2023-005 and should be submitted on or before May 1, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023-07411 Filed 4-7-23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-97252; File No. SR-IEX-2023-04]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Several IEX Rules To Permit, and in Some Instances Require, Electronic Service and Filing of Documents in Disciplinary and Other Proceedings

April 4, 2023.

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 April 3, 2023, the Investors Exchange LLC ("IEX" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

Pursuant to the provisions of Section 19(b)(1) of Act,⁴ the Exchange is filing with the Commission a proposed rule change to amend IEX Rules 9.132, 9.133, 9.135, 9.146, 9.321, 9.341, 9.349, 9.351, 9.522, 9.524, 9.525, 9.559 and 9.630 to permit, and in some instances require, electronic service and filing of documents in disciplinary and other proceedings and appeals in conformity with recent changes by the Financial Industry Regulatory Authority, Inc. ("FINRA").

The Exchange has designated this proposed rule change as "non-controversial" under Section 19(b)(3)(A) of the Act⁵ and provided the Commission with the notice required by Rule 19b-4(f)(6) thereunder.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.

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 15 U.S.C. 78s(b)(3)(A).

⁶ 17 CFR 240.19b-4.

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The 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 IEX Rules 9.132, 9.133, 9.135, 9.146, 9.321, 9.341, 9.349, 9.351, 9.522, 9.524, 9.525, 9.559 and 9.630 to permit, and in some instances require, electronic service and filing of documents in disciplinary and other proceedings and appeals in conformity with recent changes by FINRA.⁷

Background

In 2020, following the outbreak of the Coronavirus Disease ("COVID-19"), FINRA temporarily amended certain of its rules, including rules related to the method of service and filing in disciplinary proceedings before the Office of Hearing Officers ("OHO") and appeals before the National Adjudicatory Council, among other types of administrative proceedings (the "temporary amendments").⁸ The temporary amendments allowed, and in some instances required, FINRA to serve certain documents on parties by electronic mail ("email") and required parties to file or serve documents by

⁷ See Securities Exchange Act Release Nos. 94654 (April 8, 2022), 87 FR 22264 (April 14, 2022) (SR-FINRA-2022-009) ("Electronic Service Amendments Filing").

⁸ See Securities Exchange Act Release No. 88917 (May 20, 2020), 85 FR 31832 (May 27, 2020) (SR-FINRA-2020-015) (Notice and immediate effectiveness of filing to temporarily amend certain timing, method of service and other procedural requirements in FINRA Rules during the outbreak of COVID-19). FINRA extended the temporary amendments several times before filing to make certain of the aforementioned amendments permanent. The temporary amendments included rule changes to permit the conduct of virtual hearings (*i.e.*, FINRA Rules 9261 and 9830), which rule changes are not being included in this proposal. Rather, the Exchange is solely copying a subset of rules covered by the temporary amendments as discussed herein.

¹⁰ 17 CFR 200.30-3(a)(12).

email, unless the parties agreed to an alternative method of service.⁹

In support of its Electronic Service Amendments Filing, FINRA noted that advances in technology and its availability made filing and service permitted by the temporary amendments more efficient than under FINRA's "original" (non-amended) rules.¹⁰ Moreover, FINRA determined that electronic service and filing is beneficial for parties, panelists and FINRA staff.¹¹ FINRA also noted that the Commission likewise amended its rules in November 2020 to require electronic filing and service of documents in its administrative proceedings.¹² For these reasons, FINRA determined that making permanent the temporary amendments would similarly improve and modernize FINRA's operations.¹³ In 2022, the Commission approved FINRA's Electronic Service Amendments Filing, thereby making permanent the temporary amendments to FINRA's rules regarding electronic service and filing, with some modifications.¹⁴

Proposal

To likewise improve and modernize its rules, the Exchange proposes to modify certain of the rules in Chapter 9 of the IEX Rule Book to allow for electronic service and filing of documents in disciplinary and other proceedings in conformity with the Electronic Service Amendments.¹⁵ IEX and FINRA are parties to a regulatory service agreement pursuant to which FINRA provides various regulatory

services to and on behalf of IEX ("RSA").¹⁶ Among the services that FINRA provides are disciplinary and dispute resolution services involving IEX Members,¹⁷ including adjudicating matters on IEX's behalf through FINRA's OHO.

Consistent with the Electronic Service Amendments, the Exchange proposes to amend certain of its disciplinary rules related to filing, service and other procedural requirements and appeals. The proposed rule change includes provisions to allow, and in some instances require, FINRA, acting on behalf of IEX, to serve certain documents on parties by email and require parties to file or serve documents by email, unless another method of service is ordered by the Adjudicator.¹⁸ In addition, to support the transition to email service and filing, the Exchange proposes to require parties in OHO proceedings to file and serve all parties with their current email address and contact information at the time of their first appearance, and to file and serve any change in email address or contact information during the course of the proceeding.

The proposed rule change would permit service of documents other than the initial complaint by email among various other methods of service, such as personal service, mail and courier, and to provide that service by email is deemed complete upon sending. The Exchange intends to elect email service whenever possible. If FINRA, acting on behalf of IEX, has knowledge that the address used for service is not current or not functional (*i.e.*, FINRA receives a bounce back or other message indicating that there was a failure to deliver the email), FINRA will use other permissible methods of service until it can verify the party's email address.¹⁹ The Exchange notes that, in most cases, FINRA and the relevant party, or their counsel, will have already engaged in communications prior to the service of documents or other information. Accordingly, in most cases, FINRA will already have information regarding the relevant party, or their counsel's, preferred method of service.

FINRA Rule Series 9000 contains procedural requirements that apply to FINRA's own disciplinary and adjudicatory processes. Chapter 9 (Code of Procedure) of IEX's Rule Book contains filing, service and other procedural requirements that intentionally track the requirements in FINRA's Rule Series 9000 in order to facilitate FINRA acting on IEX's behalf when called upon to do so under the RSA. Due to the enactment of the Electronic Service Amendments, IEX's Chapter 9 rules are currently inconsistent with some of the rules in FINRA Rule Series 9000, which now allows, and in some instances requires, FINRA to serve certain documents on parties by email and require parties to file or serve documents by email, unless another method of service is ordered by the Adjudicator. IEX is therefore proposing conforming changes to its rules to align them with the Electronic Service Amendments.

The proposed rule changes would permit IEX (and by extension FINRA, when acting on behalf of IEX) to serve documents other than the initial complaint by email among various other methods of service, such as personal service, mail and courier, and to provide that service by email is deemed complete upon sending. The proposed amendments also contain provisions to ensure that parties who lack the ability to use or access email can request relief from the Adjudicator to use an alternative method of service upon a showing of good cause.²⁰

Chapter 9 of IEX's Rule Book, among other things, sets forth the procedure for IEX proceedings for disciplining a member, associated person or formerly associated person. IEX Rule Series 9.130 is of general applicability to all proceedings set forth in Chapter 9, unless a rule specifically provides otherwise. IEX Rules 9.132(b),²¹ 9.133(b),²² and 9.146(l)²³ provide that the documents and other information governed by those rules be served pursuant to IEX Rule 9.134, which permits service on the parties using the following methods: (1) personal service, (2) mail, or (3) courier.²⁴ IEX Rule 9.134 does not permit service by email. The proposed rule change would amend IEX Rule 9.132(b) to allow IEX (or FINRA

⁹ See *Id.*

¹⁰ See Electronic Service Amendments Filing, *supra* note 7, 87 FR 22267.

¹¹ See *Id.*

¹² See Amendments to the Commission's Rules of Practice, Securities Exchange Act Release No. 90442 (November 17, 2020), 85 FR 86464 (File No. S7-18-15) (December 30, 2020) (codified at 17 CFR 201 (2020)).

¹³ See Electronic Service Amendments Filing, *supra* note 7, 87 FR 22266-67.

¹⁴ See Securities Exchange Act Release Nos. 95147 (June 23, 2022), 87 FR 38803 (June 29, 2022) (SR-FINRA-2022-009) (order approving change to certain FINRA rules to permit, and in some instances require, electronic service and filing of documents in disciplinary and other proceedings and appeals) ("Electronic Service Amendments Approval Order"). The Electronic Service Amendments Approval Order related to FINRA Rules 1012, 1015, 6490, 9132, 9133, 9135, 9146, 9321, 9341, 9349, 9351, 9522, 9524, 9559 and 9630 (collectively, "the Electronic Service Amendments").

¹⁵ Consistent with the Electronic Service Amendments Approval Order, the Exchange is not proposing to permit electronic service of an initial complaint on a respondent due to heightened fair process concerns. As is the case today, the only permissible methods of serving the initial complaint are by hand, mail or courier. See IEX Rule 9.131(b) (requiring that service be pursuant to IEX Rule 9.134).

¹⁶ See IEX Rule 9.001.

¹⁷ See IEX Rule 1.160(s).

¹⁸ To the extent that a party lacks the ability to use or access technology needed to file, serve or accept service by email, FINRA, as adjudicator, may order an alternative method of service upon a showing of good cause. See Electronic Service Amendments Filing, *supra* note 7, 87 FR 22265.

¹⁹ As indicated in the proposed rule text, the Exchange will consider service by email complete upon sending of the relevant document or other information. This is consistent with service by mail under the current rules.

²⁰ See *supra* note 18.

²¹ See IEX Rule 9.132(b) (Service of Orders, Notices, and Decisions by Adjudicator; How Served).

²² See IEX Rule 9.133(b) (Service of Papers Other Than Complaints, Orders, Notices or Decisions; How Served).

²³ See IEX Rule 9.146(l) (Motions; General).

²⁴ See IEX Rule 9.134 (Methods of, Procedures for Service).

acting on behalf of IEX) to serve the relevant documents or information by email, and amend IEX Rules 9.133(b) and 9.146(l) to require parties to serve documents by email, unless an alternative method of service is ordered by the Adjudicator.

The proposed rule changes would also amend IEX Rule 9.135 to add paragraph (d), which would require parties in OHO proceedings to file and serve the parties with their current email address and contact information at the time of their first appearance, and to file and serve any change in email address or contact information during the course of the proceeding.²⁵ As noted above, this will ensure that all parties have accurate electronic contact information for all other parties.

IEX Rule Series 9.300 sets forth the procedures for review of disciplinary proceedings by the IEX Board²⁶ and for applications for SEC review. IEX Rules 9.321, 9.341(c), 9.349(c), and 9.351(e) require IEX to serve documents in connection with those proceedings. IEX proposes to amend IEX Rules 9.321, 9.341(c), 9.349(c), and 9.351(e) to allow for email as a method of service.²⁷

IEX Rule Series 9.520 sets forth the procedures for eligibility proceedings and review of those proceedings by the IEX Board. IEX Rules 9.522(a)(4),²⁸ 9.524(a)(3)(A) and (B),²⁹ 9.524(b)(3),³⁰ and 9.525(e)³¹ require IEX to serve documents in connection with those proceedings, but do not allow for email as a method of service. The proposed rule change would amend those rules to allow for email as a method of service.³² Further, under the proposed change to IEX Rule 9.524(a)(3)(A) and (B), the disqualified member or sponsoring member would be required to serve documents and the exhibit and witness lists by email unless an alternative method of service is ordered by the

Adjudicator.³³ Additionally, IEX proposes to add new paragraph (d) to IEX Rule 9.524, which states that service by email shall be deemed complete upon sending the documents or decision.³⁴

IEX Rule Series 9.550 sets forth the procedures for expedited proceedings³⁵ and the ability of the IEX Board to call for review a proposed decision prepared under IEX Rule Series 9.550. IEX Rule 9.559(h) (Transmission of Documents) sets forth the timing and method of service requirements for IEX (or FINRA acting on behalf of IEX) to provide documents considered in commencing the expedited proceeding³⁶ and for the parties to exchange proposed exhibit and witness lists³⁷ in advance of an expedited proceeding.³⁸ IEX Rule 9.559(h) does not allow for email as a method of service. IEX proposes to amend IEX Rules 9.559(h)(1) and (2) to allow for email service, unless an alternative method of service is ordered by the Adjudicator and to remove text from Rule 9.559(h)(2) that requires that documents served by email must also be served by overnight courier or personal service.³⁹ IEX Rule 9.559(q)(2)⁴⁰ requires the IEX Board to serve its decision when it issues one, and IEX Rule 9.559(q)(5)⁴¹ requires the IEX Board to serve the decision on the parties and all members with which the respondent is associated. IEX Rules 9.559(q)(2) and (5) also do not allow for email as a method of service. The proposed rule change would amend Rule 9.559(q)(2) and (5) to allow for email as a method of service. Further, IEX proposes to add new paragraph (s) to IEX Rule 9.559, which states that service by email shall be deemed complete upon sending the documents or decision.⁴² Additionally, the proposed amendment also makes a non-substantive change to correct a

typographical error in the rule's title (adding a period to "9550").

IEX Rule Series 9.600 sets forth the procedures for Members to seek exemptive relief from a variety of IEX rules, including appealing a decision of the Chief Regulatory Officer, made pursuant to IEX Rule 9.620. IEX Rules 9.630(e)(1) and (2)⁴³ require the IEX Board to serve its decision pursuant to IEX Rule 9.134, which does not allow for email as a method of service. The proposed rule change would amend IEX Rule 9.630(e) to allow for email as an alternative method of service.⁴⁴ Additionally, IEX proposes to add new paragraph (f) to IEX Rule 9.630, which states that service by email shall be deemed complete upon sending the documents or decision.⁴⁵

IEX believes these proposed changes will modernize its rules and make service and filing more efficient and effective because it will align IEX's service and filing rules with those of FINRA. Email technology is widely available, and use of electronic methods of service and filing is common practice in the courts and other regulatory agencies, including the Commission.⁴⁶ At the same time, the proposal provides for alternative methods of service for parties who lack the ability to use or access technology needed to send or receive documents electronically.

As noted below, the Exchange has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, so the Exchange can implement the proposed rule change immediately.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,⁴⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁴⁸ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is designed to provide a fair procedure for the disciplining of members and persons associated with members, consistent

²⁵ See proposed IEX Rule 9.135 (Filing of Papers with Adjudicator; Procedure)

²⁶ See IEX Rule 1.160(e).

²⁷ See proposed IEX Rules 9.321 (Transmission of Record); 9.341(c) (Oral Argument; Notice Regarding Oral Argument); 9.349(c) (IEX Appeals Committee Formal Consideration; Decision; Issuance of Decision after Expiration of Call for Review Period); 9.351(e) (Discretionary Review by IEX Board; Issuance of Decision After Expiration of Call for Review Period).

²⁸ See IEX Rule 9.522(a)(4) (Initiation of Eligibility Proceeding; Member Regulation Consideration; Service).

²⁹ See IEX Rule 9.524(a)(3)(A) and (B) (IEX Appeals Committee Consideration; Transmission of Documents).

³⁰ See IEX Rule 9.524(b)(3) (IEX Appeals Committee Consideration; Issuance of Decision After Expiration of Call for Review Period).

³¹ See IEX Rule 9.525(e) (Discretionary Review by the IEX Board; Issuance of Decision).

³² See proposed IEX Rules 9.522(a)(4); 9.524(a)(3)(A) and (B); 9.524(b)(3); and 9.525(e).

³³ See proposed IEX Rule 9.524(a)(3)(A) and (B).

³⁴ See proposed IEX Rule 9.524(c).

³⁵ Expedited proceedings are available in a subset of disciplinary proceedings set forth in IEX Rules 9.552 through 9.559. Examples include IEX Rule 9.552 (Failure to Provide Information or Keep Information Current) and IEX Rule 9.555 (Failure to Meet the Eligibility or Qualification Standards or Prerequisites for Access to Services).

³⁶ See IEX Rule 9.559(h)(1).

³⁷ See IEX Rule 9.559(h)(2).

³⁸ FINRA also amended its Rule 9559(h) to eliminate the requirements that, if the specified documents are served by facsimile or email, they must also be served by either overnight courier or personal delivery. IEX's amendment conforms IEX Rule 9.559(h)(1) and (2) to match FINRA's rule.

³⁹ See proposed IEX Rule 9.559(h)(2).

⁴⁰ See IEX Rule 9.559(q)(2).

⁴¹ See IEX Rule 9.559(q)(5).

⁴² See proposed IEX Rule 9.559(s).

⁴³ See IEX Rule 9.630(e) (Appeal; Decision).

⁴⁴ See proposed IEX Rule 9.630(e)(1) and (2).

⁴⁵ See proposed IEX Rule 9.630(f).

⁴⁶ See *supra* note 12.

⁴⁷ 15 U.S.C. 78f(b).

⁴⁸ 15 U.S.C. 78f(b)(5).

with Sections 6(b)(7) and 6(d) of the Act.⁴⁹

IEX believes that the proposed rule change protects investors and the public interest by requiring use of broadly available technology to make service and filing processes more efficient and effective. IEX's disciplinary and eligibility proceedings and other review processes serve a critical role in providing investor protection and maintaining fair and orderly markets by, for example, sanctioning misconduct and preventing further customer harm by members and associated persons.

The proposed rule change promotes efficiency in these processes by aligning IEX's rules with FINRA's rules that permit electronic service and filing in most instances. To ensure that documents are effectively sent and received, IEX (in line with FINRA's requirements) is proposing to require parties to provide and update their contact information, including their email address, during the course of a proceeding. These amendments reduce the reliance on paper documents in favor of more efficient electronic formats. IEX concurs with the Commission and FINRA in the belief that adopting rules on electronic service and filing is especially important as hybrid and remote work become more common.

IEX believes as well that the proposed rule change includes important safeguards to ensure fairness. For example, there are procedures in place for persons who lack the ability to use or access technology necessary to send or receive documents electronically. Such parties will have the ability to request relief from the Adjudicator to file or serve documents by another method.⁵⁰ As discussed in the Purpose section, based on FINRA's representations about its experience of operating under its temporary amendments, which have permitted electronic service and filing since mid-2020, IEX anticipates that requests to use non-electronic methods of service will be rare. In addition, the proposed rule change balances the interests of fairness and efficiency. Service of the initial complaint will continue to occur by hand, mail or courier, rather than by electronic means, thus ensuring there is satisfactory notice and fair process. Thus, the proposed rule change represents a significant step toward modernizing the service and filing processes in a manner that will protect investors and the public interest by

promoting efficiency while preserving fair process.

Additionally, the Exchange believes that the proposed rule change supports the objectives of the Act by providing greater harmonization between Exchange rules and FINRA rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance. As such, the proposed rule change will foster cooperation and coordination with persons engaged in facilitating transactions in securities and will remove impediments to and perfect the mechanism of a free and open market and a national market system.

Finally, as discussed in the Purpose section, this proposed rule change is based on FINRA rule changes approved by the Commission in 2022.⁵¹ Therefore, IEX believes there is nothing in this proposal that is new or novel that has not been previously considered by the Commission.

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

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, IEX believes that proposed rule change reduces the burden on competition because it eliminates inconsistencies between IEX's Code of Procedure (Chapter 9 of the IEX Rule Book) and FINRA's rules governing the adjudication of disputes and disciplinary proceedings. Additionally, IEX notes that the proposed rule change is not intended to address competitive issues but is designed to modernize the service and filing process in harmonization with the approved FINRA Rules.

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

Written comments were neither solicited nor received.

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

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) ⁵² of the Act and Rule 19b-4(f)(6) ⁵³ 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 this filing is non-controversial and eligible to become effective immediately because the proposal provides a more uniform standard for disciplinary rules across self-regulatory organizations and thereby enables the Exchange to modernize the service and filing process to conduct disciplinary hearings. The Exchange further believes that the proposed rule change would not significantly affect the protection of investors or the public interest or impose any significant burden on competition because the proposed rule change is based on the approved FINRA Electronic Service Amendments.⁵⁴ As such, the IEX believes the proposal does not raise any new or novel issues not previously considered by the Commission.

A proposed rule change filed under Rule 19b-4(f)(6) ⁵⁵ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),⁵⁶ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. Additionally, the Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange states that this filing is non-controversial and eligible to become effective immediately because the proposal promotes uniformity in disciplinary rules across self-regulatory organizations and thereby enables the Exchange to modernize the service and filing process to conduct disciplinary hearings.⁵⁷ The Exchange further states that the proposed rule change would not significantly affect the protection of investors or the public interest or impose any significant burden on competition because the proposed rule

⁵⁴ See generally Electronic Service Amendments Approval Order, *supra* note 14.

⁵⁵ 17 CFR 240.19b-4(f)(6).

⁵⁶ 17 CFR 240.19b-4(f)(6)(iii).

⁵⁷ See *supra* Item II.

⁴⁹ 15 U.S.C. 78f(b)(5).

⁵⁰ See *supra* note 18.

⁵¹ See *supra* note 14.

⁵² 15 U.S.C. 78s(b)(3)(A).

⁵³ 17 CFR 240.19b-4(f)(6).

change is based on the approved FINRA Rules. After reviewing the filing, the Commission believes that waiver of the 30-day operative delay for this proposal is consistent with the protection of investors and the public interest. The proposed rule change supports the objectives of the Act by providing greater harmonization between Exchange rules and FINRA rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.⁵⁸

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)⁵⁹ 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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-IEX-2023-04 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-IEX-2023-04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/>

⁵⁸ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁵⁹ 15 U.S.C. 78s(b)(2)(B).

rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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-2023-04 and should be submitted on or before May 1, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶⁰

Sherry R. Haywood,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-97251; File No. SR-NYSE-2023-17]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Section 902.02 of the NYSE Listed Company Manual With Respect to the Qualification of Eligible Portfolio Companies of an Investment Management Entity for the Investment Management Entity Group Fee Discount

April 4, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 29, 2023, New York Stock Exchange LLC ("NYSE" 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Section 902.02 of the NYSE Listed Company Manual (the "Manual") to amend the provisions with respect to the qualification of Eligible Portfolio Companies of an Investment Management Entity for the Investment Management Entity Group Fee Discount. In order to qualify for the Investment Management Entity Group Fee Discount in any calendar year, an issuer must submit satisfactory proof to the Exchange no later than the first trading day of such calendar year that it meets the ownership requirements specified above. The Exchange proposes to extend the application of the Investment Management Entity Group Discount to the annual fees payable with respect to the first partial year of listing by any newly-listed company that is able to demonstrate at the time of listing that it qualifies as an Eligible Portfolio Company of an Investment Management Entity. The proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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

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

1. Purpose

Section 902.02 of the Manual includes a subsection entitled "Investment Management Entity Group Fee Discount." For purposes of this

⁶⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.