



February 9, 2018

By email: shillmand@sec.gov

David Shillman
Associate Director
Division of Trading and Markets
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

By email: fredricksond@sec.gov

David Fredrickson
Chief Counsel and Associate Director
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: Request for Relief from Requirements to File Paper Copies with the Investors Exchange LLC and Securities Exchange Act Rule 17a-1

Dear Messrs. Shillman and Fredrickson:

As described below, Investors Exchange LLC (“IEX” or “Exchange”) seeks certain interpretive guidance or no-action relief from the Staff of the Securities and Exchange Commission (“SEC” or “Commission”). On June 17, 2016, the Commission granted IEX’s application for registration as a national securities exchange under Section 6 of the Securities Exchange Act of 1934 (the “Exchange Act”) including approval of rules applicable to the qualification, listing and delisting of companies on the Exchange.¹ The Exchange currently does not operate a listing market but plans to begin listing companies in 2018.

When the Exchange begins operating a listing market, various provisions of the federal securities laws will require IEX-listed companies, as well as their officers and directors, and certain other individuals and entities, such as those acquiring five percent

¹ See Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41141 (June 23, 2016) (File No. 10-222).

or more of an IEX-listed company's voting securities or seeking to acquire control of an IEX-listed company through a proxy fight or tender offer, to file copies of certain SEC filings with IEX, as the national securities exchange on which the company is listed.

All registrants whose filings are subject to review by the SEC Divisions of Corporation Finance and Investment Management, and any party that files a document jointly with, or as a third-party filer with respect to, such a registrant (except for those qualifying for a hardship exception) are required to file certain documents with the Commission through the Electronic Data Gathering, Analysis, and Retrieval ("EDGAR") system.² IEX will obtain access to such filings which are publicly filed, with respect to IEX-listed companies, through an online vendor subscription service. The vendor receives and posts all electronically-filed documents which are publicly filed within seconds of their submission to the SEC's EDGAR system, at which point IEX Regulation staff has immediate access to these filings. IEX Regulation staff responsible for monitoring IEX-listed companies will be alerted when an assigned company makes certain required filings, such as Forms 10-K, 10-Q, and 8-K, and proxy statements.³ As a result, IEX Rule 14.002(12) provides that: "Filed with the Exchange" means submitted to the Exchange directly or filed with the Commission through the EDGAR System." Nonetheless, once IEX begins operating a listing market, IEX-listed companies will have obligations under the federal securities laws to file copies of documents with the

² Rules 100 and 101 of Regulation S-T, 17 CFR 232.100 and 101. Other documents are permitted, but not required, to be filed electronically via EDGAR. *Id.* Rules 201 and 202, 17 CFR 232.201 and 202, provide for temporary and continuing hardship exemptions, respectively.

³ These alerts will be provided no later than the morning of the business day following the filing.

Exchange.⁴ Because these filing obligations will arise from the federal securities laws, IEX rules cannot relieve IEX-listed companies from these obligations.

In addition, certain third-parties will be required to file information with the Exchange under the federal securities laws.⁵ Because IEX will not have a relationship with such third-party filers and IEX's rules do not require any actions by third-party filers, IEX rules do not address the obligation of third-party filers to make filings with IEX. Further, because the filing obligation for these third-parties arises under the Exchange Act and the Commission's rules, IEX rules could not relieve these third-party filers from their filing obligations, even though these parties are also required to file through the EDGAR system and IEX Regulation staff will have access to their filings through that system.⁶

Accordingly, IEX, on behalf of itself, IEX-listed companies and those third-party filers, requests that the Commission Staff grant interpretive guidance or no-action relief providing that where issuers listed on IEX and/or third-party filers have obligations under the federal securities laws to file information with IEX, such obligations will be considered satisfied by the public filing of the information electronically with the SEC through EDGAR pursuant to Regulation S-T⁷ and IEX rules that permit the filing of the material in this manner, and that the Commission Staff confirm that it will not recommend enforcement action to the Commission against IEX, an IEX-listed company

⁴ See, e.g., Instruction D(1) to Form 10-K.

⁵ See, e.g., Section 16(a)(1) of the Exchange Act, 15 U.S.C. 78p(a)(1).

⁶ See Rules 100 and 101 of Regulation S-T, 17 CFR 232.100 and 101.

⁷ 17 CFR 232.10, et seq.

or a third-party filer as a result of the failure to file with or otherwise provide a copy of the filing to IEX in such a situation.⁸

In addition, pursuant to Exchange Act Rule 17a-1(a),⁹ IEX "...shall keep and preserve at least one copy of all documents... made or received by it in the course of its business as such and in the conduct of its self-regulatory activity." Rule 17a-1(b)¹⁰ further requires that IEX keep all such documents for at least five years, the first two in an easily accessible place. Rule 17a-1(c)¹¹ requires that IEX promptly furnish copies of any such documents upon request of any representative of the Commission. In view of IEX's reliance on EDGAR filings, the Exchange requests that the Commission Staff grant interpretive guidance or no-action relief providing that documents publicly filed through EDGAR, in accordance with Regulation S-T,¹² shall be deemed to be kept and preserved by IEX for the purposes of Rule 17a-1(a) and Rule 17a-1(b), and that the Commission staff confirm that it will not recommend enforcement action to the Commission against IEX for its reliance on EDGAR to receive and maintain documents required to be kept and preserved by IEX for purposes of Rule 17a-1(a) and Rule 17a-1(b).¹³

IEX believes that these requests are appropriate and in the public interest as it has

⁸ IEX notes that certain third-party filers may file certain documents in paper rather than via EDGAR with the Commission. IEX is not seeking relief with respect to such filings. As such, to the extent required by the Commission's rules, copies of filings not made via EDGAR must be provided to IEX.

⁹ 17 CFR 240.17a-1(a).

¹⁰ 17 CFR 240.17a-1(b).

¹¹ 17 CFR 240.17a-1(c).

¹² 17 CFR Part 232.

¹³ IEX will promptly furnish copies of any documents filed via EDGAR and therefore does not seek relief from Rule 17a-1(c).

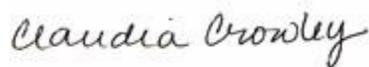
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Mr. David Fredrickson
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long been a goal of the Commission to encourage electronic filing.¹⁴ The requested relief will relieve IEX-listed companies and certain third-parties of the burden and cost of providing separate paper copies of filings to the Exchange and will relieve the Exchange of the burden and cost of receiving and storing these filings. In connection with these requests, IEX represents that it will maintain on a continuous basis its ability to access and monitor documents publicly filed through EDGAR, as described above.

In making these requests, the Exchange notes that the Commission Staff previously granted similar relief to the American Stock Exchange (now NYSE American), the New York Stock Exchange, and the NASDAQ Stock Market LLC.¹⁵

If you have any questions concerning the foregoing you may contact the undersigned.

Sincerely,



¹⁴ See Rulemaking for EDGAR Systems, Securities Act Release No. 6944, 51 SEC Docket 1616 (July 23, 1992); Rulemaking for EDGAR Systems, Securities Act Release No. 6977, 58 FR 14628 (Feb. 23, 1993); and Use of Electronic Media for Delivery Purposes for discussions of the benefits of electronic filing, Securities Act Release No. 7233, 60 FR 53458 (Oct. 13, 1995).

¹⁵ See letters dated July 22, 1998, from Anne M. Krauskopf, Special Counsel, Division of Corporation Finance, Commission, and Howard L. Kramer, Senior Associate Director, Division of Market Regulation, Commission to The New York Stock Exchange and American Stock Exchange. 1998 SEC No-Act. LEXIS 713 and 714. See also letter dated August 1, 2006, from Charles Kwon, Special Counsel, Division of Corporation Finance, Commission, and Elizabeth K. King, Associate Director, Division of Market Regulation, Commission to the NASDAQ Stock Market LLC.