

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-78474; File No. 4-701)

August 3, 2016

Self-Regulatory Organizations; Investors Exchange LLC; Order Declaring Effective a Minor Rule Violation Plan

On July 11, 2016, Investors Exchange LLC (“IEX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed minor rule violation plan (“MRVP” or “Plan”) pursuant to Section 19(d)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19d-1(c)(2) thereunder.² The proposed MRVP was published for public comment on July 18, 2016.³ The Commission received no comments on the proposal. This order declares the Exchange’s proposed MRVP effective.

The Exchange’s MRVP specifies the rule violations which will be included in the Plan and will have sanctions not exceeding \$2,500. Any violations which are resolved under the MRVP would not be subject to the provisions of Rule 19d-1(c)(1) of the Act,⁴ which requires that a self-regulatory organization (“SRO”) promptly file notice with the Commission of any final disciplinary action taken with respect to any person or organization.⁵ In accordance with

¹ 15 U.S.C. 78s(d)(1).

² 17 CFR 240.19d-1(c)(2).

³ See Securities Exchange Act Release No. 78300 (July 12, 2016), 81 FR 46730 (“Notice”).

⁴ 17 CFR 240.19d-1(c)(1).

⁵ The Commission adopted amendments to paragraph (c) of Rule 19d-1 to allow SROs to submit for Commission approval plans for the abbreviated reporting of minor disciplinary infractions. See Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984). Any disciplinary action taken by an SRO against any person for violation of a rule of the SRO which has been designated as a minor rule violation pursuant to such a plan filed with and declared effective by the Commission is not considered “final” for purposes of Section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding \$2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies.

Rule 19d-1(c)(2) under the Act,⁶ the Exchange proposed to designate certain specified rule violations as minor rule violations, and requested that it be relieved of the prompt reporting requirements regarding such violations, provided it gives notice of such violations to the Commission on a quarterly basis.

The Exchange proposed to include in its MRVP the procedures included in Exchange Rule 9.216(b) ("Procedure for Violation Under Plan Pursuant to Exchange Act Rule 19d-1(c)(2)") and the violations to be included in Exchange Rule 9.218 ("Violations Appropriate for Disposition Under Plan Pursuant to Exchange Act Rule 19d-1(c)(2)").⁷ According to the Exchange's proposed MRVP, under Rule 9.216(b), the Exchange may impose a fine (not to exceed \$2,500) and/or a censure on any Member or associated person with respect to any rule listed in IEX Rule 9.218. If the Financial Industry Regulatory Authority Department of Enforcement or the Department of Market Regulation, on behalf of the Exchange, has reason to believe a violation has occurred and if the Member or associated person does not dispute the violation, the Department of Enforcement or the Department of Market Regulation may prepare and request that the Member or associated person execute a minor rule violation plan letter accepting a finding of violation, consenting to the imposition of

⁶ 17 CFR 240.19d-1(c)(2).

⁷ The Exchange received its grant of registration on June 17, 2016, which included approving the rules that govern the Exchange. See Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41141 (June 23, 2016) (File No. 10-222).

Under the proposed MRVP, violations of the following rules would be appropriate for disposition under the MRVP: Rule 2.160(p) – Continuing Education Requirements; Rule 4.511 (General Requirements related to books and records requirements); Rule 4.540 (Furnishing of records); Rule 5.110 (Supervision); Rule 8.220 (Automated submission of trading data requested); Rule 11.151(a)(1) (Market Maker two-sided quotation requirement); Rule 11.290 (Short sales); Rule 11.310 (Locking or crossing quotations in NMS stocks); and Rule 11.420 (Order audit trail system requirements). See Notice, supra note 3. When IEX's MRVP is declared effective, IEX will file a proposed rule change to amend Rule 9.218 to specify the violations to be included in the MRVP.

sanctions, and agreeing to waive the Member's or associated person's right to a hearing before a Hearing Panel or, if applicable, an Extended Hearing Panel, and any right of appeal to the IEX Appeals Committee, the Board, the Commission, and the courts, or to otherwise challenge the validity of the letter, if the letter is accepted. The letter must describe the act or practice engaged in or omitted, the rule, regulation, or statutory provision violated, and the sanction or sanctions to be imposed. Unless the letter states otherwise, the effective date of any sanction imposed will be a date to be determined by IEX Regulation staff. In the event the letter is not accepted by the Member or associated person, or is rejected by the Office of Disciplinary Affairs, the matter can proceed in accordance with the Exchange's disciplinary rules, which include hearing rights for formal disciplinary proceedings.⁸

Once IEX's MRVP is effective, the Exchange will provide to the Commission a quarterly report for any actions taken on minor rule violations under the MRVP. The quarterly report will include: the Exchange's internal file number for the case, the name of the individual and/or organization, the nature of the violation, the specific rule provision violated, the sanction imposed, the number of times the rule violation occurred, and the date of the disposition.⁹

The Commission finds that the proposal is consistent with the public interest, the protection of investors, and otherwise in furtherance of the purposes of the Act, as required by Rule 19d-1(c)(2) under the Act,¹⁰ because the MRVP will permit the Exchange to carry out its oversight and enforcement responsibilities as an SRO more efficiently in cases where full disciplinary proceedings are not necessary due to the minor nature of the particular violation.

⁸ See, Notice, supra note 3.

⁹ The Exchange attached a sample form of the quarterly report with its submission to the Commission.

¹⁰ 17 CFR 240.19d-1(c)(2).

In declaring the Exchange's MRVP effective, the Commission in no way minimizes the importance of compliance with Exchange rules and all other rules subject to the imposition of sanctions under Exchange Rule 9.216(b). The Commission believes that the violation of an SRO's rules, as well as Commission rules, is a serious matter. However, Exchange Rule 9.216(b) provides a reasonable means of addressing violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that the Exchange will continue to conduct surveillance and make determinations based on its findings, on a case-by-case basis, regarding whether a sanction under the MRVP is appropriate, or whether a violation requires formal disciplinary action.

IT IS THEREFORE ORDERED, pursuant to Rule 19d-1(c)(2) under the Act,¹¹ that the proposed MRVP for Investors Exchange LLC, File No. 4-701, be, and hereby is, declared effective.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Robert W. Errett
Deputy Secretary

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Id.

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17 CFR 200.30-3(a)(44).