SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-93505; File No. SR-IEX-2021-13)

November 2, 2021

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend IEX Rule 11.330 to Retire the IEX Data Platform Data Product

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 October 25, 2021, 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) under the Act,[4] and Rule 19b-4 thereunder,[5] IEX is filing with the Commission proposed changes to IEX Rule 11.330 to retire the IEX Data Platform data product. The Exchange has designated this rule change as "non-controversial" under Section 19(b)(3)(A) of the Act[6] and provided the Commission with the notice required by Rule 19b-4(f)(6) thereunder.[7]

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[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.

[6]   15 U.S.C. 78s(b)(3)(A).

[7]   17 CFR 240.19b-4.

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 is proposing to modify IEX Rule 11.330(a)(2) to retire the IEX Data Platform data product ("Data Platform"). As discussed below, IEX is proposing to retire the Data Platform because IEX has determined that because IEX offers the same data in the Data Platform through other data products, the costs associated with maintaining and updating the Data Platform outweigh the benefits of offering the Data Platform.

IEX's Data Platform is both a human readable data feed available through IEX's website that offers aggregated top of book quotations for all displayed orders resting on IEX's Order Book[8] and last sale data ("TOPS Viewer"), and an application programming interface (the "API"[9]) that offers aggregated top of book and depth of book quotations for all displayed orders

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[8]   See IEX Rule 1.160(p).

[9]   The IEX API enables a market participant to query IEX market data through a computer to computer based protocol. Through such queries, a market participant can obtain a

resting on the Order Book at each price level as well as last sale data, each in near real time.[10]

IEX understands that while both TOPS Viewer and the API provide potentially useful market data, because they are internet based they are subject to the concomitant latency associated therewith and are thus not generally utilized for time-sensitive trading decisions but for informational and research purposes. For example, by the time market data is viewed or obtained by query or update it will typically be stale and not usable for determining IEX's current protected quote, midpoint or available depth of book liquidity.

IEX provides all of the data available in TOPS Viewer and the API through other market data products. Specifically, IEX's "TOPS"[11] feed contains all the data visible in the TOPS Viewer, and IEX's "DEEP"[12] feed contains all the data accessible via the API. Additionally, IEX's "HIST"[13] offers TOPS and DEEP data on a T+1 basis for download from the Exchange's public website.[14]

The TOPS and DEEP feeds also include additional information that is not included in the TOPS Viewer or API. Specifically, IEX recently introduced TOPS and DEEP "snapshots" that allow subscribers of those feeds to download point-in-time snapshots of TOPS or DEEP in order to enable them to accelerate late start recovery (i.e., if a data subscriber's connection to the data feed is delayed or interrupted, the snapshot will provide the subscriber with point-in-time data

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series of static views of the IEX order book, or, can receive periodic updates to the top of book for a particular security.

[10]   See IEX Rule 11.330(a)(2). The Data Platform would also include auction information (see IEX Rule 11.330(a)(2)) if there were any IEX-listed securities.

[11]   See IEX Rule 11.330(a)(1).

[12]   See IEX Rule 11.330(a)(3).

[13]   See IEX Rule 11.330(a)(5).

[14]   HIST data is available for download at https://iextrading.com/trading/market-data/#hist-download.

that it can use to sync up its trading operations going forward).[15] In addition, IEX recently began disseminating a "Retail Liquidity Indicator" through both the TOPS and DEEP feeds, which is also distributed to the SIPs, but not to TOPS Viewer or the API.[16]

In view of the significant overlap in the data available in the Data Platform and in the TOPS and DEEP feeds, IEX has determined that the costs to maintain and update TOPS Viewer and the API are not warranted. IEX does not charge any fees to access either TOPS Viewer or the API, and thus has borne all costs for developing and supporting both data products. As with all businesses, IEX does not have unlimited resources and has determined that it is no longer in its commercial interests to incur costs to maintain and update TOPS Viewer and the API. Accordingly, IEX proposes to retire TOPS Viewer and the API, delete the current IEX Rule 11.330(a)(2), and renumber subparagraphs (a)(3)-(a)(5) to (a)(2)-(a)(4).

IEX also believes this proposed rule change will eliminate any possible confusion that may arise from a market participant trying to access data elements in TOPS Viewer and the API that can only be found in the TOPS and DEEP data products. Along those lines, in advance of issuing a formal trading alert as discussed below, IEX has been advising users of TOPS Viewer and the API that pending the filing and effectiveness of this rule change, IEX intends to retire both data products after November 18, 2021.[17]

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[15]   See Trading Alert No. 2021-003, available at https://iextrading.com/alerts/#/135 and Trading Alert No. 2021-031, available at https://iextrading.com/alerts/#/163.

[16]   See Trading Alert 2021-036, https://iextrading.com/alerts/#/169; see also, Securities Exchange Act Release No. 92398 (July 13, 2021), 86 FR 38166 (July 19, 2021) (SR-IEX-2021-06).

[17]   Notification is being provided via website headers on the TOPS Viewer and API pages of IEX's website, with a comparable header returned with any API queries, in order to notify API users that might not visit the website. The notifications also inform any users of the API that IEX's market data will continue to be available via the TOPS and DEEP feeds, as well as through third party vendors of IEX market data.

This proposed rule change is effective on filing, and the Exchange expects to implement it on November 19, 2021 (meaning November 18, 2021 will be the last day that TOPS Viewer and the API will be available to users), following the expiration of the 30-day operative delay. IEX will provide at least ten (10) days' notice to Members[18] and market participants of the implementation timeline.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5), 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. Specifically, the Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest because it will continue to provide all market data currently available in TOPS Viewer and the API through the TOPS and DEEP feeds. IEX appreciates that retail investors and other non-professional market participants may not be able to utilize TOPS or DEEP in lieu of TOPS Viewer or the API. However, IEX understands that the market data available in TOPS Viewer and through the API is also available to retail investors and other non-professional market participants through brokerage accounts that must be maintained to enter orders on IEX.[19] Thus, the retirement of TOPS Viewer and the API will not

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[18]   See IEX Rule 1.160(s).

[19]   Only a Member may enter an order directly on IEX. Thus, retail investors and other market participants that are not Members must maintain an account with a Member of

adversely impact the ability of retail investors to access IEX market data when making investing decisions. Additionally, as discussed in the Purpose section, IEX's HIST data product allows anyone to download TOPS and DEEP data from IEX's public website on a T+1 basis, so the retirement of TOPS Viewer and the API will not adversely impact the ability of academics or other non-market participants to access historical IEX market data.

Additionally, IEX believes that retiring TOPS Viewer and the API will allow it to dedicate more resources to the maintenance of and enhancements to the TOPS and DEEP feeds. This reallocation of IEX's limited resources should serve to help remove impediments to a free and open market, in furtherance of the protection of investors and the public interest.

Finally, IEX notes that nothing in the Act requires IEX to provide a near real-time online version of its market data or any API with near real-time access to IEX's depth of book data product. No other exchange offers an online version or API that provides depth of book data analogous to the IEX API. One other exchange family, the Cboe exchanges, offers a similar, human readable, top of book viewer on its website free of charge.[20] The only other human readable top of book viewer offered by an exchange is offered by Nasdaq, which charges $76/month per professional subscriber and $15/month per non-professional subscriber to access the human readable top of book viewer.[21]

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.

IEX in order to do so.

[20]   See https://www.cboe.com/us/equities/market_statistics/book_viewer/.

[21]   See https://www.nasdaq.com/solutions/nasdaq-bookviewer#pricing.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the proposal is designed to enhance IEX's competitiveness with other markets by enabling IEX to focus its limited resources on the continued maintenance and enhancement of its TOPS and DEEP feeds. Nothing in this rule change will impact the ability of any other exchange to offer or not offer comparable market data products. Further, elimination of TOPS Viewer and the API will not adversely impact any equities exchanges or other competing venues of IEX since IEX will continue to provide its market data through the TOPS and DEEP feeds. In this regard, IEX does not believe that such exchanges and venues utilize either for other than informational purposes since their non-continuous nature is not well suited for operating a trading market. For example, by the time market data is viewed or obtained by query or update it will typically be stale and not usable for determining IEX's protected quote.

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. All market participants will continue to be able to obtain IEX's market data through the TOPS and DEEP feeds, and as discussed in the Purpose section, there is more data available in the TOPS and DEEP feeds than in the TOPS Viewer and the API. Thus, this proposal will impact all market participants equally, any of which can obtain IEX market data through the TOPS and DEEP feeds, or through a third-party vendor.

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

Because the foregoing 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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[22] and Rule 19b-4(f)(6)[23] thereunder.

The Exchange has asked the Commission to waive the 30-day operative delay in order to discontinue the optional Internet-based TOPS Viewer and API by November 18, 2021 because doing so: (1) will allow developers to make code changes in advance of any year-end "code freezes," and (2) would not adversely impact the ability of persons to access the same IEX market data.[24] The Commission finds that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Specifically, waiver of the operative delay will allow the Exchange to retire these optional market data products in a timely fashion well in advance of year-end code freezes and better focus its resources on its core market data feeds. In addition, according to the Exchange, the same and more IEX market data is available to market participants and others, through the Exchange's TOPS, DEEP and HIST data products. The

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[22]   15 U.S.C. 78s(b)(3)(A).

[23]   17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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 has satisfied this requirement.

[24]   17 CFR 240.19b-4(f)(6)(iii).

proposal does not, therefore, present any novel issues and, accordingly, the Commission

designates the proposal operative upon filing.[25]

At any time within 60 days of the filing of the proposed rule change, the Commission

summarily may temporarily suspend such rule change if it appears to the Commission that such

action is necessary or appropriate in the public interest, for the protection of investors, or

otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the

Commission shall institute proceedings to determine whether the proposed rule should be

approved or disapproved.

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-2021-13

  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-2021-13. This file number should

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[25]   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. 15
        U.S.C. 78c(f).

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-2021-13 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.[26]

J. Matthew DeLesDernier
Assistant Secretary

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[26]   17 CFR 200.30-3(a)(12).