

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-80845; File No. SR-IEX-2017-19)

June 1, 2017

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Remove the Ten (10) Price Level Limitation on Aggregated Depth of Book Quotations disseminated on the IEX Data Platform, and to add Rule 11.330(a)(5) to Offer Historical Data

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 May 23, 2017, 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 Securities Exchange Act of 1934 (“Act”), and Rule 19b-4 thereunder, Investors Exchange LLC (“IEX” or the “Exchange”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend Rule 11.330(a)(2) to remove the ten (10) price level limitation on aggregated depth of book quotations for all displayed orders resting on the Order Book disseminated on the IEX Data Platform; and to add Rule 11.330(a)(5) to offer Historical Data (“HIST”), an additional data product that offers historical data. The

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

Exchange has designated this proposal as non-controversial and provided the Commission with the notice required by Rule 19b-4(f)(6)(iii) under the Act.

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 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 Rule 11.330(a)(2) to remove the ten (10) price level limitation on aggregated depth of book quotations for all displayed orders resting on the Order Book disseminated on the IEX Data Platform; and to add Rule 11.330(a)(5) to offer Historical Data ("HIST"), an additional data product that offers historical data. Currently, Rule 11.330(a)(2) states that the IEX Data Platform is a data feed, available through the Exchange's public website, that offers aggregated top of book quotations for all displayed orders resting on the Order Book, aggregated depth of book quotations for all displayed orders resting on the Order Book for up to ten (10) price levels, and execution information (i.e., last sale information) for executions on the Exchange. The

Exchange believes that market participants that make use of the IEX Data Platform would benefit from receiving all aggregated depth of book quotations for all orders resting on the Order Book at every price level, in the same manner that such information is disseminated over IEX DEEP.⁴ Accordingly, the Exchange proposes to amend Rule 11.330(a)(2) to offer aggregated depth of book quotations on the IEX Data Platform for all displayed orders resting on the Order Book at each price level, rather than providing only ten (10) price levels. The IEX Data Platform will continue to offer aggregated top of book quotations for all displayed orders resting on the Order Book, and execution information (i.e., last sale information) for executions on the Exchange. Furthermore, the IEX Data Platform will continue to be provided free of charge. In addition, after informal discussions with market participants and other users, the Exchange has determined that there is demand for historical market data related to quotations and transaction information on the Exchange. Accordingly, the Exchange is proposing to offer HIST, a data product that offers historical data for download from the Exchange's public website. HIST will include the same substantive data that is provided in real time via TOPS and DEEP on a T+1 basis via the Exchange's public website, free of charge.

As is the case currently with respect to TOPS, DEEP and the IEX Data Platform, the aggregated best bid and offer ("BBO") and last sale information disseminated through the proposed IEX Data Platform will be reported under the Consolidated Tape Association ("CTA") Plan or the Nasdaq/UTP Plan. The Exchange will release such information to the IEX Data Platform in compliance with Rule 603(a) of Regulation NMS, which requires that exchanges distribute market data on terms that are "fair and

⁴ See IEX Rule 11.330(a)(3), describing IEX DEEP.

reasonable” and “not unreasonably discriminatory,” and prohibits an exchange from releasing data relating to quotes and trades to its customers through proprietary feeds before it sends its quotes and trade reports for inclusion in the consolidated feeds.⁵

The Exchange plans to implement the proposed changes on May 15, 2017, which is the scheduled launch date of IEX DEEP, and the IEX Data Platform.⁶

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act⁷ in general, and with Section 6(b)(5) of the Act,⁸ in particular. The IEX Data Platform as well as HIST will be provided consistent with the purposes of Section 6(b)(5) of the Act.⁹ Moreover, the proposed rule change is not designed to permit unfair discrimination among customers, issuers, and brokers; and is designed 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.

The proposed rule change is designed to promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market

⁵ See Regulation NMS, 70 Fed. Reg. 37,496, 37,567 (June 29, 2005) (adopting release); see also Concept Release, 75 Fed. Reg. at 3601 (January 21, 2010).

⁶ See IEX Trading Alert #2017-011, April 19, 2017 (<https://www.iextrading.com/trading/alerts/2017/011/>). The Commission notes that the Exchange originally filed the proposed rule change on May 12, 2017 (SR-IEX-2017-17) but withdrew that filing and replaced it with the current filing on May 23, 2017.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4), (5).

⁹ 15 U.S.C. 78f(b)(5).

and a national market system by providing quotation and transaction information to market participants via the IEX Data Platform, available via the Exchange's public website, thereby promoting broad price discovery and market efficiency. Furthermore, HIST will provide market participants, academics, and other users, the ability to analyze and make use of the Exchange's historical quotations and transaction information, thereby promoting transparency and accessibility to Exchange data products for a variety of purposes. For instance, data recipients that wish to back-test certain trading strategies can use HIST for such a purpose. As another example, data recipients that provide market information through public websites or develop dynamic stock tickers, portfolio trackers, price/time graphs and other visual systems can also use HIST for such purposes. The Exchange notes that similar historical data products are offered by other market centers.¹⁰ The Exchange also believes this proposal is consistent with Section 6(b)(5) of the Act because it is designed to protect investors and the public interest and promote just and equitable principles of trade by providing greater transparency regarding displayed orders in the IEX System on a historical basis through HIST and in real-time through the IEX Data Platform. Further, the proposal would not permit unfair discrimination because the information will be available to all market participants and market data vendors on an equivalent basis, and without charge.

The Exchange also believes that the proposed rule change is consistent with Section 11(A) of the Act¹¹ in that it supports (1) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than

¹⁰ See e.g., Bats Rule 11.22(h); NASDAQ Rule 7022; see also www.nyxdata.com for information regarding NYSE OpenBook History and ArcaBook FTP, historical data products offered by the NYSE and NYSE Arca, respectively.

¹¹ 15 U.S.C. 78k-1.

exchange markets and (2) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Furthermore, the proposed rule change is consistent with Rule 603 of Regulation NMS,¹² which provides that any national securities exchange which distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are fair and reasonable and not unreasonably discriminatory. Moreover, as noted above, the Exchange will provide the IEX Data Platform as well as HIST to Members and other recipients of Exchange data on terms that are fair and reasonable and not unreasonably discriminatory in that both HIST and the IEX Data Platform will be provided free of charge. Furthermore, HIST and the IEX Data Platform would be accessible on a voluntary basis, in that market data distributors are not required by any rule or regulation to make this data available. Accordingly, distributors and subscribers can discontinue their use at any time and for any reason.

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. The Exchange is not proposing to charge a fee for HIST or the IEX Data Platform, and will make them both available to market participants on a fair and impartial basis, and on terms that are not unreasonably discriminatory. In addition, the Exchange believes that providing both historical TOPS and DEEP data through HIST, as well as aggregated depth of book quotations for each price level on the IEX Data Platform, as described above, is designed to remove impediments to and perfect the mechanism of a free and

¹² See 17 CFR 242.603.

open market and a national market system by providing investors with alternative market data, as well as to compete with other exchanges that offer similar market data products, such as those currently offered by the New York Stock Exchange, Inc. (“NYSE”), the Nasdaq Stock Market LLC (“Nasdaq”), and BZX Exchange, Inc. (“Bats”).¹³

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 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)(iii) of the Act¹⁴ and subparagraph (f)(6) Rule 19b-4 thereunder.¹⁵

¹³ See, e.g., Nasdaq Rule 7023(a)(1)(C), which describes the Nasdaq TotalView as a depth-of-book data feed that includes all orders and quotes from all Nasdaq members displayed in the Nasdaq Market Center as well as the aggregate size of such orders and quotes at each price level in the execution functionality of the Nasdaq Market Center; See also NYSE OpenBook Aggregated, available at <http://www.nyxdata.com/nysedata/Default.aspx?tabid=1421>, which provides a real-time view of the NYSE limit order book including the aggregated size at each price level; See Bats Rule 11.22(a) and 11.22(c), which describe the Bats TCP Depth and Multicast Depth feeds as an uncompressed data feed that offers depth of book quotations and execution information based on equity orders entered into the System. As noted above, see also Bats Rule 11.22(h); NASDAQ Rule 7022; see also www.nyxdata.com for information regarding NYSE OpenBook History and ArcaBook FTP, historical data products offered by the NYSE and NYSE Arca, respectively.

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange’s 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

A proposed rule change filed under Rule 19b-4(f)(6)¹⁶ normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii)¹⁷ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay period after which a proposed rule change under Rule 19b-4(f)(6) becomes effective. The Exchange states that the proposed rule change will provide market participants and other users greater transparency regarding displayed orders in the IEX System through HIST and the IEX Data Platform thereby promoting broad price discovery and market efficiency, and will not remove or eliminate any data that is currently available to market participants, consistent with the protection of investors and the public interest. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because it will provide to investors, without undue delay, public access to, and thus greater transparency regarding, displayed orders, including historical data, free of charge. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.¹⁸

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

change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁶ 17 CFR 240.19b-4(f)(6).

¹⁷ 17 CFR 240.19b-4(f)(6)(iii).

¹⁸ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 will institute proceedings 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-2017-19 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-2017-19. 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 Room, 100 F Street, NE, Washington, D.C. 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-IEX-2017-19 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.¹⁹

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Assistant Secretary

¹⁹ 17 CFR 200.30-3(a)(12).