

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-89580; File No. SR-IEX-2020-11)

August 17, 2020

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to amend IEX Rules 2.220(a)(7) and 11.410(a) to include MEMX LLC in the List of Away Trading Centers to which the Exchange Routes and the Market Data Sources the Exchange Will Use to Determine MEMX's Top of Book Quotation

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 August 12, 2020, 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 a proposed rule change to amend IEX Rules 2.220(a)(7) and 11.410(a) to include MEMX LLC ("MEMX") in the list of away trading centers to which the Exchange routes and the market data sources the Exchange will use to determine MEMX's Top of Book⁶ quotation, in anticipation of MEMX's planned launch. The Exchange

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 See IEX Rule 11.410(a)(1).

has designated this rule change as “non-controversial” under Section 19(b)(3)(A) of the Act⁷ and provided the Commission with the notice required by Rule 19b-4(f)(6) thereunder.⁸

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 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 [sic] 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend IEX Rules 2.220(a)(7)⁹ and 11.410(a)¹⁰ to include MEMX LLC (“MEMX”) in the list of away trading centers to which the Exchange routes and the market data sources the Exchange will use to determine Top of Book¹¹ quotations, in anticipation

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4.

⁹ IEX Rule 2.220(a)(7) lists the away trading centers that IEX Services LLC (“IEX Services”) routes to as outbound router for the Exchange.

¹⁰ IEX Rule 11.410(a) specifies the market data sources for each away trading center that the Exchange uses for necessary price reference points.

¹¹ See IEX Rule 11.410(a)(1).

of MEMX's planned exchange launch on September 4, 2020.¹²

Specifically, the Exchange proposes to amend IEX Rule 2.220(a)(7) to add MEMX LLC to the list of away trading centers to which IEX Services routes orders. As set forth in IEX Rule 11.230(b)(2), IEX Services routes eligible orders to away trading centers with accessible Protected Quotations in compliance with Regulation NMS Rule 611.¹³ The Exchange must include MEMX in its list of away trading centers to which it routes, because MEMX's best-priced, displayed quotation will be a Protected Quotation under Regulation NMS Rule 600(b)(62)¹⁴ for purposes of Regulation NMS Rule 611.¹⁵

The Exchange also proposes to amend and update the table in IEX Rule 11.410(a) specifying the primary and secondary sources for MEMX market data as a result of MEMX's establishment of MEMOIR Depth and MEMOIR Top¹⁶ ("MEMX Market Data Feeds" or "direct feeds"). As specified in IEX Rule 11.410(a)(2), the Exchange uses market data from each away trading center that produces a Protected Quotation¹⁷ to determine each away trading center's Top of Book quotation, as well as the NBBO¹⁸ for certain reporting, regulatory and compliance systems within IEX. As proposed, the Exchange will use the direct feeds as the primary source to determine MEMX's Top of Book quotes. The Exchange also proposes to use securities

¹² See <https://memx.com/memx-update/>.

¹³ 17 CFR 242.611.

¹⁴ 17 CFR 242.600(b)(62).

¹⁵ See Securities Exchange Act Release No. 88806 (May 4, 2020), 85 FR 27451, 27461 (May 8, 2020) (File No. 10-237) (Order approving MEMX application for registration as a national securities exchange).

¹⁶ See MEMX Rule 13.8.

¹⁷ See IEX Rule 1.160(bb).

¹⁸ See IEX Rule 1.160(u).

information processor (“SIP”) data, i.e., CQS SIP data for securities reported under the Consolidated Quotation Services and Consolidated Tape Association plans and UQDF SIP data for securities reported under the Nasdaq Unlisted Trading Privileges plan, as the secondary source to determine MEMX’s Top of Book quotes.

The Exchange is not proposing any other changes to IEX Rules 2.220(a)(7) and 11.410. The proposed changes do not alter the manner in which orders are handled or routed by the Exchange.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b)¹⁹ of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act²⁰ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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.

For the reasons discussed in the Purpose section, the Exchange believes that the proposed rule change removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest because including MEMX in the list of away trading centers to which IEX routes and including the MEMX Market Data Feeds in the primary sources of market data the Exchange will use to determine away trading center Top of Book quotes (with the SIP as the secondary source) will facilitate the Exchange’s compliance with the applicable requirements of Regulation NMS.

¹⁹ 15 U.S.C. 78f.

²⁰ 15 U.S.C. 78f(b)(5).

Additionally, adding MEMX to the list of away trading centers to which IEX routes and listing the MEMX Market Data Feeds as the primary source of market data the Exchange will use to determine away trading center Top of Book quotes (with the SIP as the secondary source) provides transparency with respect to the away trading centers to which IEX Services may route orders and the source of market data the Exchange will use to determine MEMX's Top of Book quotes.

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 believes that the proposed update does not impact competition in any respect since its purpose is to enhance transparency with respect to the operation of the Exchange and its use of market data feeds, and to update an away market name.

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) of the Act²¹ and Rule 19b-4(f)(6) thereunder.²²

²¹ 15 U.S.C. 78s(b)(3)(A).

²² 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give 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

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act²³ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)²⁴ permits the Commission to 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.

The proposed rule change will merely amend IEX rules to reflect the launch of MEMX as an away trading center with a Protected Quote and specify that IEX will route orders to MEMX and use the MEMX Market Data Feeds as the primary source, and the SIP as the secondary source, to determine MEMX's Top of Book quotation.

The Exchange believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to implement the proposed rule change concurrent with MEMX's exchange launch of equities trading, thereby facilitating IEX's compliance with the applicable requirements of Regulation NMS and providing clarity to market participants with respect to whether IEX routes to MEMX and how IEX determines MEMX's Top of Book quotation. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change does not raise any new or novel issues. Therefore, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.²⁵

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.

²³ 17 CFR 240.19b-4(f)(6).

²⁴ 17 CFR 240.19b-4(f)(6)(iii).

²⁵ 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).

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 under Section 19(b)(2)(B)²⁶ 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 e-mail to rule-comments@sec.gov. Please include File Number SR-IEX-2020-11 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-2020-11. This file number should be included on the subject line if e-mail 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

²⁶ 15 U.S.C. 78s(b)(2)(B).

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 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-2020-11 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.²⁷

J. Matthew DeLesDernier
Assistant Secretary

²⁷ 17 CFR 200.30-3(a)(12).