

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-82435; File No. SR-IEX-2017-44)

January 3, 2018

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to the Optional IEX Aggregate Risk Controls Mechanism

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on December 22, 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, II and III 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”),<sup>4</sup> and Rule 19b-4 thereunder,<sup>5</sup> Investors Exchange LLC (“IEX” or “Exchange”) is filing with the Commission a proposed rule change to amend Rule 11.380 to clarify that the optional IEX Aggregate Risk Controls (“ARC”) mechanism will not cancel certain orders eligible for execution in the Opening or Closing Auction after the applicable Lock-in Time and before the Opening or Closing Auction match, respectively.<sup>6</sup> The Exchange has designated this rule change

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> 15 U.S.C. 78s(b)(1).

<sup>5</sup> 17 CFR 240.19b-4.

<sup>6</sup> See Rules 11.350(c) and (d), governing the IEX Opening and Closing Auction,

as non-controversial under Section 19(b)(3)(A) of the Act<sup>7</sup> and provided the Commission with the notice required by Rule 19b-4(f)(6)(iii) thereunder.<sup>8</sup> The text of the proposed rule change is available at the Exchange's website at [www.iextrading.com](http://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 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 purpose of this proposed rule change is to amend Rule 11.380 (Risk Management) to account for Opening and Closing Auctions in IEX-listed securities pursuant to Rule 11.350(c) and (d), respectively. Rule 11.380, entitled Risk Management, describes the optional ARC mechanism that is designed to assist IEX Members<sup>9</sup> and clearing firms<sup>10</sup> in their risk management efforts. IEX does not charge a fee for use of ARC. ARC can be configured to

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respectively.

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>9</sup> See Rule 11.160(s).

<sup>10</sup> As described in Rule 11.250(a), a clearing firm is an IEX Member that is a member of a registered clearing agency. Pursuant to IEX Rule 2.160(c)(4) an IEX Member must be a member of a registered clearing agency or clear transactions executed on the Exchange through another Member that is a member of a registered clearing agency.

provide trading limits based on the gross notional exposure for matched and routed trades for a Member or clearing firm's broker correspondent across MPIDs, by MPID, by FIX session or in combination, per clearing firm relationship or Member, as applicable.<sup>11</sup> Currently, once the gross notional exposure, as elected and configured by the Member or clearing firm, has exceeded the pre-determined limit, IEX will reject new orders and cancel all open orders for the applicable MPID(s) and/or FIX session specified. As specified in paragraph (a)(2)(A) of Rule 11.380, gross notional exposure is calculated as the absolute sum of the notional value of all buy and sell trades: equal to the value of executed buys plus the absolute value of executed long sells plus the absolute value of executed short sells. There is no netting of buys and sales in the same symbol or across symbols. Gross notional exposure resets for each new trading day.

On August 4, 2017, the Commission approved a proposed rule change filed by the Exchange to adopt rules governing auctions in IEX-listed securities, including Opening and Closing Auction processes that establish IEX Official Opening and Closing Prices for each trading day.<sup>12</sup>

Pursuant to Rule 11.350(c)(1), the Exchange allows Users to submit orders eligible for execution in the Opening Auction at the beginning of the Pre-Market Session,<sup>13</sup> which begins at 8:00 a.m.<sup>14</sup> Any orders designated for the Opening Auction Book are queued until 9:30 a.m. at which time they will be eligible to be executed in the Opening Auction. Pursuant to Rule

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<sup>11</sup> In the case of a Member that is subject to ARC limits set by its clearing firm, the Member will be advised of such limits by IEX. In the event a Member that is subject to ARC limits set by its clearing firm also elects to set ARC limits for its own trading, the Exchange will apply both such limits with a lower limit(s) being applicable.

<sup>12</sup> See Securities Exchange Act Release No. 81316 (August 4, 2017), 82 FR 37474 (August 10, 2017)(SR-IEX-2017-10). See also Rules 11.350(a)(12) and (10), respectively.

<sup>13</sup> See Rule 1.160(z).

<sup>14</sup> All times are in Eastern Time.

11.350(a)(1)(A), orders on the Opening Auction Book would include MOO orders,<sup>15</sup> LOO orders,<sup>16</sup> market orders with a time-in-force of DAY,<sup>17</sup> and limit orders with a time-in-force of DAY or GTX.<sup>18</sup> In addition to orders on the Opening Auction Book, limit orders on the Continuous Book<sup>19</sup> with a time-in-force of SYS or GTT are eligible to execute in the Opening Auction (“Pre-market Continuous Book”).<sup>20</sup>

Pursuant to Rule 11.350(c)(1)(B), beginning at the Opening Auction Lock-in Time<sup>21</sup> (i.e., 9:28 a.m.), the Opening Auction will be subject to certain “lock-in” and “lock-out” restrictions. Specifically, Users may enter, cancel, or modify Auction Eligible Orders until the Opening Auction Lock-in Time, at which time orders on the Opening Auction Book can no longer be canceled or modified before the Opening Auction match. After the Opening Auction Lock-in Time, the Exchange will begin to reject Hyper-aggressive Auction Orders upon entry. Pursuant to Rule 11.350(a)(8), Hyper-aggressive Auction Orders include market and MOO orders, as well as LOO and limit orders with a time in-force of DAY or GTX with a limit price more aggressive than the latest Opening/Closing Auction Collar<sup>22</sup> calculated by the System (i.e., buy (sell) orders priced above (below) the latest upper (lower) threshold of the Opening/Closing Auction Collar calculated by the System). However, LOO orders and limit orders with a time-in-force of DAY

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<sup>15</sup> See Rule 11.350(a)(25).

<sup>16</sup> See Rule 11.350(a)(21).

<sup>17</sup> See Rule 11.190(a)(2)(E)(iii).

<sup>18</sup> See Rule 11.190(a)(1)(E)(iii) and (v).

<sup>19</sup> See Rule 11.350(a)(4).

<sup>20</sup> See Rule 11.190(a)(1)(E)(iv) and (vi).

<sup>21</sup> See Rule 11.350(a)(22).

<sup>22</sup> See Rule 11.350(a)(27).

or GTX will continue to be accepted until the Opening Auction Lock-out Time<sup>23</sup> (i.e., 9:29:50 a.m., ten (10) seconds prior to the Opening Auction match) so long as they are not Hyper-aggressive Auction Orders. Restricting orders on the Opening Auction Book from cancellation or modification (i.e., locking them in) and rejecting Hyper-Aggressive Auction Orders, while still allowing Users to enter reasonably priced LOO and limit orders with a time in-force of DAY or GTX is designed to allow Users to continue to express interest for the auction and offset imbalances via orders designated for the Auction Book in the minutes leading up to the auction match, while minimizing the increase of imbalances or large price swings resulting from the cancellation of auction eligible orders or the entry of aggressively priced orders to the Auction Book during the last two minutes of the auction process.

Similarly, pursuant to Rule 11.350(d)(1), the Exchange allows Users to submit orders eligible for execution in the Closing Auction at the beginning of the Pre-Market Session, which begins at 8:00 a.m. Any orders designated for the Closing Auction Book are queued until 4:00 p.m. (or such earlier time as the Regular Market Session<sup>24</sup> ends on days that IEX is subject to an early closing) at which time they will be eligible to be executed in the Closing Auction. Pursuant to Rule 11.350(a)(1)(B), orders on the Closing Auction Book would include MOC orders<sup>25</sup> and LOC orders.<sup>26</sup> In addition to orders on the Closing Auction Book, all limit and pegged orders resting on the Continuous Book<sup>27</sup> with a time-in-force of DAY, GTX, GTT, or SYS are eligible

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<sup>23</sup> See Rule 11.350(a)(23).

<sup>24</sup> See Rule 1.160(gg).

<sup>25</sup> See Rule 11.350(a)(24).

<sup>26</sup> See Rule 11.350(a)(20).

<sup>27</sup> See Rule 11.350(a)(4).

for execution in the Closing Auction, (“Regular-Market Continuous Book”).<sup>28</sup>

Pursuant to Rule 11.350(d)(1)(B), beginning at the Closing Auction Lock-in Time<sup>29</sup> (i.e., 3:50 p.m., or 10 minutes prior to the end of the Regular Market Session on days that IEX is subject to an early closing), the Closing Auction will be subject to certain “lock-in” and “lock-out” restrictions. Specifically, Users may enter, cancel, or modify Auction Eligible Orders until the Closing Auction Lock-in Time, at which time orders on the Closing Auction Book can no longer be canceled or modified, except that between the Closing Auction Lock-in Time and five minutes before the Closing Auction match (e.g., 3:55 p.m.), LOC and MOC orders can be canceled only if the participant requests that IEX correct a legitimate error in the order (e.g., side, size, symbol, price, or duplication of an order). LOC and MOC orders cannot be canceled or modified at or after five minutes before the Closing Auction match (e.g., 3:55 p.m.) for any reason. After the Closing Auction Lock-in Time, the Exchange will begin to reject Hyper-aggressive Auction Orders upon entry. Pursuant to Rule 11.350(a)(8)(B), Hyper-aggressive Auction Orders include MOC orders, and LOC orders with a limit price more aggressive than the latest Opening/Closing Auction Collar calculated by the System (i.e., buy orders priced above the latest upper auction collar threshold and sell orders priced below the latest lower auction collar threshold calculated by the System). However, LOC orders will continue to be accepted until the Closing Auction Lock-out Time<sup>30</sup> (i.e., 3:59:50 p.m., ten (10) seconds prior to the Closing Auction match) so long as they are not Hyper-aggressive Auction Orders. As with the

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<sup>28</sup> The following types of orders are not eligible for execution in the Closing Auction: market orders (except MOC orders) and orders with a time-in-force of IOC or FOK, because Market orders entered during the Regular Market Session and orders marked IOC or FOK do not rest on the Continuous Book, and therefore are not eligible for the Closing Auction.

<sup>29</sup> See Rule 11.350(a)(22).

<sup>30</sup> See Rule 11.350(a)(23).

Opening Auction, restricting orders on the Closing Auction Book from cancelation or modification (i.e., locking them in) and rejecting Hyper-Aggressive Auction Orders, while still allowing Users to enter reasonably priced LOC orders is designed to allow Users to continue to express interest for the auction and offset imbalances via orders designated for the Auction Book in the minutes leading up to the auction match, while minimizing the increase of imbalances or large price swings resulting from aggressively priced orders in the Auction Book during the last ten minutes of the auction process.

IEX proposes to amend Rule 11.380 to clarify that the ARC mechanism will not cancel orders eligible for execution in the Opening or Closing Auction after the applicable Lock-in Time and before the match. Specifically, the Exchange propose to add paragraph (3) to Rule 11.380(a), to provide that, notwithstanding subparagraphs (1) and (2) regarding ARC, after the Opening (Closing) Auction Lock-in Time and before the Opening (Closing) Auction match, if a Member exceeds its pre-determined ARC limit as configured by the Member or their clearing firm, IEX will not cancel such Member's orders if they are on the Opening (Closing) Auction Book ("Locked-in Orders").<sup>31</sup> Any unexecuted portion of Locked-in Orders will be canceled immediately after the Opening or Closing Auction match.<sup>32</sup> The proposed rule change is designed to ensure fair and orderly execution of the Opening and Closing Auctions, consistent with fair and orderly markets, the protection of investors, and the public interest. Specifically, the

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<sup>31</sup> The Exchange notes that if a Member's ARC limit is breached after the Opening Auction Lock-In Time, any MOC or LOC orders on the Closing Auction Book will be canceled, along with all Pre-market Continuous Book orders.

<sup>32</sup> The Exchange notes the proposed change is not applicable to IPO, Halt, or Volatility Auctions, because their respective auction processes do not have "Lock-in" or "Lock-out" provisions, and instead include automatic extensions to allow price discovery to continue when there is a market order imbalance, or a security experiences price volatility leading into the auction match. See Rules 11.350(e) and (f).

Exchange believes that to the extent a Member has breached its pre-determined gross notional exposure limit after the Lock-in Time for the Opening or Closing Auction, and such Member has Locked-in Orders on the Opening or Closing Auction Book (which, as discussed above, are not eligible for modification or cancelation pursuant to Rules 11.350(c) and (d), respectively), ARC's cancelation of such interest could significantly disrupt the price discovery process by generating or exacerbating an order imbalance, or causing large price swings in the minutes leading into the auction match.

As described above, IEX rules explicitly provide that orders eligible for execution in the Opening or Closing Auction may not be modified or cancelled after the applicable Lock-in Time and before the auction match. In order to avoid any confusion as to how the ARC mechanism would operate in the event that a Member exceeds its pre-determined ARC limit (as configured by the Member or its clearing firm) after the Opening or Closing Lock-in Time and before the match, the Exchange believes that it is appropriate to amend Rule 11.380(a) to clarify that the ARC mechanism will not cancel such orders.

The Exchange believes that the Opening and Closing Auctions will provide a critical price discovery mechanism that establishes IEX Official Opening and Closing Prices for IEX-listed securities, and allows market participants to move in and out of sizable positions during a single centralized liquidity event. The Exchange also notes that the official closing price of all securities is generally the data point most closely scrutinized by investors, securities analysts, and the financial media, and is used to value and assess management fees on mutual funds, hedge funds, and individual investor portfolios. Accordingly, the Exchange believes that Opening and Closing Auctions should not be disrupted by momentary price dislocations or the creation or exacerbation of large imbalances that can be caused by the cancelation of Locked-in Orders, and

should instead reflect all available trading interest in a stable and transparent manner.

The Exchange also believes that ARC, as described above, provides a useful risk management tool for Members and clearing firms. However, the Exchange notes that use of ARC by a Member does not automatically constitute compliance with IEX rules or SEC rules, nor does it replace Member-managed risk management solutions. The Exchange does not require Members to use ARC, and Members may use any other appropriate risk-management tool or service instead of, or in combination with, ARC. Furthermore, the Exchange believes that Members should be aware of their auction order flow, and clearing firms should be aware of the auction order flow of their broker correspondents, in order to appropriately manage their risk limits to account for the fact that Locked-In Orders cannot be canceled after the Lock-in Time. Thus, the proposed rule change is designed to balance the utility of the optional ARC functionality that is voluntarily offered by the Exchange free of charge, and the interests of fair and orderly markets, the protection of investors, and the public interest. Accordingly, the Exchange believes the proposed rule change strikes an appropriate balance between these two goals by continuing to allow Members and clearing firms to utilize ARC to assist with risk management, while protecting the Opening and Closing Auctions from undue price dislocation or the creation or exacerbation of large imbalances by preventing Locked-in Orders from being canceled after the Lock-in Time.

## 2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Sections 6(b)<sup>33</sup> of the Act in general, and furthers the objectives of Section 6(b)(5)<sup>34</sup> of the Act, in

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<sup>33</sup> 15 U.S.C. 78f.

<sup>34</sup> 15 U.S.C. 78f(b)(5).

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.

Specifically, the Exchange believes that the proposed rule change supports these objectives in that it is designed to ensure fair and orderly execution of the Opening and Closing Auctions, as described in the Purpose section, by minimizing the creation or exacerbation of large imbalances and the resultant auction price dislocations that can be caused by the cancelation of Locked-in Orders after the Lock-in Time and before the Opening or Closing Auction match. As discussed in the Purpose section, while ARC provides a useful risk management tool for Members and clearing firms, the proposed rule change is designed to balance the utility of the optional ARC functionality that is voluntarily offered by the Exchange free of charge, and the interests of fair and orderly markets, the protection of investors, and the public interest. The Exchange believes the proposed rule change strikes an appropriate balance between these two goals by continuing to allow Members and clearing firms to utilize ARC to assist with risk management, while protecting the Opening and Closing Auctions from undue price dislocation or the creation or exacerbation of large imbalances by preventing Locked-in Orders from being canceled after the Lock-in Time and before the Opening or Closing Auction match.

Furthermore, the Exchange believes the proposed rule change is consistent with the protection of investors and the public interest because it will provide enhanced clarity on the operation of the ARC mechanism with respect to orders eligible for execution in the Opening or Closing Auction after the Lock-in Time and before the auction match, thereby eliminating any

potential confusion in this regard.

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. To the contrary, the Exchange believes that the proposed rule change will increase intermarket competition because it is designed to protect the Exchange's Opening and Closing Auctions thereby enhancing its ability to compete in the market for corporate listings.

The Exchange also does not believe that the proposal will impose an intramarket burden on competition because, notwithstanding the limited proposed exception for Locked-in Orders, ARC remains available to all Members on a fair and equal basis, and the Exchange continues to provide a mechanism to enable Members to manage their risk by preventing trading that is erroneous or exceeds a Member's financial resources, thereby contributing to the stability of the equities markets.

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

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A)<sup>35</sup> of the Act and Rule 19b-4(f)(6)<sup>36</sup> thereunder. Because the 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

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<sup>35</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>36</sup> 17 CFR 240.19b-4(f)(6).

pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.

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)<sup>37</sup> 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](mailto:rule-comments@sec.gov). Please include File Number SR-IEX-2017-44 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-2017-44. 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

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<sup>37</sup> 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 this filing will also be available for inspection and copying at the principal office of the Exchange. 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-2017-44 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.<sup>38</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>38</sup> 17 CFR 200.30-3(a)(12).