

Required fields are shown with yellow backgrounds and asterisks.

Filing by Investors' Exchange LLC  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			Rule		
Pilot	Extension of Time Period for Commission Action *	Date Expires *	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) *	Section 806(e)(2) *
<input type="checkbox"/>	<input type="checkbox"/>
	Section 3C(b)(2) *
	<input type="checkbox"/>

Exhibit 2 Sent As Paper Document	Exhibit 3 Sent As Paper Document
<input type="checkbox"/>	<input type="checkbox"/>

**Description**

Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

Proposal to add the Consolidated Audit Trail industry member compliance rules to the list of minor rule violations

**Contact Information**

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name *	Claudia	Last Name *	Crowley
Title *	Chief Regulatory Officer		
E-mail *	claudia.crowley@iextrading.com		
Telephone *	(646) 343-2041	Fax	

**Signature**

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title \*)

Date	06/23/2020	Chief Regulatory Officer
By	Claudia Crowley	<div style="border: 1px solid black; width: 100%; height: 20px;"></div>
	(Name *)	<div style="border: 1px solid black; width: 100%; height: 20px; background-color: #ccc;"></div>

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

**Form 19b-4 Information \***

Add Remove View

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

Add Remove View

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> Investors Exchange LLC (“IEX” or “Exchange”) proposes to add the Consolidated Audit Trail (“CAT”) industry member compliance rules to the list of minor rule violations in Rule 9.218. The Exchange requests accelerated approval and effectiveness of this filing.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1. The text of the proposed rule change is attached as Exhibit 5.

(b) The Exchange does not believe that the proposed rule change will have any direct effect, or any significant indirect effect, on any other Exchange rule in effect at the time of this filing.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

Senior management has approved the proposed rule change pursuant to authority delegated to it by the Board of the Exchange. No further action is required under the Exchange’s governing documents. Therefore, the Exchange’s internal procedures with respect to the proposed rule change are complete.

The persons on the Exchange staff prepared to respond to questions and comments on the proposed rule change are:

Claudia Crowley  
Chief Regulatory Officer  
Investors Exchange LLC

Nathaniel Kolodny  
Lead Regulation Counsel  
Investors Exchange LLC

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

<sup>2</sup> 17 CFR 240.19b-4.

646-343-2041

646-343-2034

3. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

a. Purpose

The Exchange proposes to add IEX's CAT industry member compliance rules (the "CAT Compliance Rules") to the list of minor rule violations in Rule 9.218.<sup>3</sup> This proposal is based upon the Financial Industry Regulatory Authority, Inc. ("FINRA") filing to amend FINRA Rule 9217 in order to add FINRA's corresponding CAT Compliance Rules to FINRA's list of rules that are eligible for minor rule violation plan treatment.<sup>4</sup>

Proposed Rule Change

The Exchange adopted the CAT Compliance Rules in the Rule Series 11.600 in order to implement the National Market System Plan Governing the Consolidated Audit Trail (the "CAT NMS Plan" or "Plan").<sup>5</sup> The CAT NMS Plan was filed by the Plan Participants to comply with Rule 613 of Regulation NMS under the Exchange Act,<sup>6</sup> and each Plan Participant accordingly has adopted the same compliance rules in the Exchange's Rule Series 11.600. The common CAT Compliance Rules adopted by each Plan Participant are designed to require industry members to comply with the provisions

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<sup>3</sup> IEX's minor rule violation plan ("MRVP") was declared effective by the Commission on August 3, 2016. See Securities Exchange Act Release No. 78474 (August 3, 2016), 81 FR 52717 (August 9, 2016) (File No. 4-701).

<sup>4</sup> See Securities Exchange Act Release No. 88870 (May 14, 2020), 85 FR 30768 (May 20, 2020) (SR-FINRA-2020-013). The proposal is also based upon the New York Stock Exchange ("NYSE") filing to amend NYSE Rule 9217 in order to add NYSE's corresponding CAT Compliance Rules to NYSE's list of rules that are eligible for MRVP treatment. See SR-NYSE-2020-51.

<sup>5</sup> See Securities Exchange Act Release No. 80256 (March 15, 2017), 82 FR 14526 (March 21, 2017).

<sup>6</sup> 17 CFR 242.613.

of the CAT NMS Plan, which broadly calls for industry members to record and report timely and accurately customer, order, and trade information relating to activity in NMS Securities and OTC Equity Securities.

Rule 9.218 sets forth the list of rules under which a Member<sup>7</sup> or associated person may be subject to a fine under Rule 9.216(b). Rule 9.216(b) permits the Exchange to impose a fine of up to \$2,500 on any Member or associated person for a minor violation of an eligible rule. The Exchange proposes to amend Rule 9.218 to add the CAT Compliance Rules in the Rule Series 11.600 to the list of rules in Rule 9.218 eligible for disposition pursuant to a minor fine under Rule 9.216(b).<sup>8</sup>

IEX is coordinating with FINRA and other Plan Participants to promote harmonized and consistent enforcement of all the Plan Participants' CAT Compliance Rules. The Commission recently approved a Rule 17d-2 Plan under which the regulation of CAT Compliance Rules will be allocated among Plan Participants to reduce regulatory duplication for industry members that are members of more than one Participant ("common members").<sup>9</sup> Under the Rule 17d-2 Plan, the regulation of CAT Compliance Rules with respect to common members that are members of FINRA is allocated to FINRA. Similarly, under the Rule 17d-2 Plan, responsibility for common members of

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<sup>7</sup> See Rule 1.160(s).

<sup>8</sup> FINRA's maximum fine for minor rule violations under FINRA Rule 9216(b) is also \$2,500. Like FINRA, the Exchange, or FINRA on its behalf, would be able to pursue a fine greater than \$2,500 for violations of the Rule Series 11.600 in a regular disciplinary proceeding or an acceptance, waiver, and consent ("AWC") under Chapter 9 of the IEX Rule Book, as appropriate. Any fine imposed in excess of \$2,500 or not otherwise covered by Rule 19d-1(c)(2) of the Act would be subject to prompt notice to the Commission pursuant to Rule 19d-1 under the Act. As noted below, in assessing the appropriateness of a minor rule fine with respect to CAT Compliance Rules, the Exchange will be guided by the same factors that FINRA utilizes. See text accompanying notes 10-11, *infra*.

<sup>9</sup> See Securities Exchange Act Release No. 88366 (March 12, 2020), 85 FR 15238 (March 17, 2020) (File No. 4-618).

multiple other Plan Participants that are not members of FINRA will be allocated among those other Plan Participants, including to the Exchange. For those non-common members who are allocated to IEX pursuant to the Rule 17d-2 Plan, the Exchange and FINRA entered into a Regulatory Services Agreement (“RSA”) pursuant to which FINRA will conduct surveillance, investigation, examination, and enforcement activity in connection with the CAT Compliance Rules on the Exchange’s behalf. IEX understands that the other exchanges entered into similar RSAs with FINRA.

FINRA, in connection with its amendment to FINRA Rule 9217 to make FINRA’s CAT Compliance Rules MRVP eligible, represented that it will apply MRVP fines for CAT Compliance Rules in the same manner that FINRA has for its similar existing audit trail-related rules.<sup>10</sup> Accordingly, in order to promote regulatory consistency, the Exchange, and FINRA acting on behalf of the Exchange, plan to do the same. Specifically, application of a MRVP fine with respect to CAT Compliance Rules will be guided by the same factors that FINRA referenced in its filing. However, more formal disciplinary proceedings may be warranted instead of minor rule dispositions in certain circumstances such as where violations prevent regulatory users of the CAT from performing their regulatory functions. Where minor rule dispositions are appropriate, the following factors help guide the determination of fine amounts:

- Total number of reports that are not submitted or submitted late;
- The timeframe over which the violations occur;
- Whether violations are batched;
- Whether the violations are the result of the actions of one individual or the result of faulty systems or procedures;

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<sup>10</sup> See Securities Exchange Act Release No. 88870 (May 14, 2020), 85 FR 30768, 30768-69 (May 20, 2020) (SR-FINRA-2020-013); see also FINRA Notice to Members 04-19 (March 2004) (providing specific factors used to inform dispositions for violations of OATS reporting rules).

- Whether the firm has taken remedial measures to correct the violations;
- Prior minor rule violations within the past 24 months;
- Collateral effects that the failure has on customers; and
- Collateral effects that the failure has on the Exchange's ability to perform its regulatory function.<sup>11</sup>

Upon effectiveness of this rule change, the Exchange will publish a regulatory bulletin notifying its Members of the rule change and the specific factors that will be considered in connection with assessing minor rule fines described above.

For the foregoing reasons, the Exchange believes that the proposed rule change will result in a coordinated, harmonized approach to CAT compliance rule enforcement across Plan Participants that will be consistent with the approach FINRA has taken with the CAT rules.

b. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>12</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>13</sup> in particular, because 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, 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.

Minor rule fines provide a meaningful sanction for minor or technical violations of rules when the conduct at issue does not warrant stronger, immediately reportable disciplinary sanctions. The inclusion of a rule in the Exchange's MRVP does not

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<sup>11</sup> See supra note 10.

<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

minimize the importance of compliance with the rule, nor does it preclude the Exchange from choosing to pursue violations of eligible rules through an AWC if the nature of the violations or prior disciplinary history warrants more significant sanctions. Rather, the Exchange believes that the proposed rule change will strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities in cases where full disciplinary proceedings are unwarranted in view of the minor nature of the particular violation. Thus, the option to impose a minor rule sanction gives the Exchange additional flexibility to administer its enforcement program in the most effective and efficient manner while still fully meeting the Exchange's remedial objectives in addressing violative conduct. Specifically, the proposed rule change is designed to prevent fraudulent and manipulative acts and practices because it will provide the Exchange the ability to issue a minor rule fine for violations of the CAT Compliance Rules in the Rule Series 11.600 where a more formal disciplinary action may not be warranted or appropriate consistent with the approach of other Plan Participants for the same conduct, and thereby promote regulatory consistency across self-regulatory organizations

The Exchange further believes that the proposed changes to Rule 9.218 are consistent with Section 6(b)(6) of the Act,<sup>14</sup> which provides that members and persons associated with members shall be appropriately disciplined for violation of the provisions of the rules of the exchange, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction. As noted, the proposed rule change would provide the Exchange ability to sanction minor or technical violations of the Rule Series 11.600

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<sup>14</sup> 15 U.S.C. 78f(b)(6).

pursuant to the Exchange's rules.

Finally, the Exchange also believes that the proposed changes are designed to provide a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d) of the Act.<sup>15</sup> Rule 9.216 does not preclude a Member or associated person from contesting an alleged violation and receiving a hearing on the matter with the same procedural rights through a litigated disciplinary proceeding.

4. 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 proposed rule change is not intended to address competitive issues but rather is concerned solely with making the CAT Compliance Rules in the Rule Series 11.600 eligible for disposition pursuant to a MRVP, thereby strengthening the Exchange's ability to carry out its oversight and enforcement functions and deter potential violative conduct.

5. 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.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The Exchange requests the Commission to find good cause pursuant to Section

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<sup>15</sup> 15 U.S.C. 78f(b)(7) and 78f(d).

19(b)(2) of the Act<sup>16</sup> for approving the proposed rule change prior to the 30th day after its publication in the Federal Register in order to allow the change to take effect in line with the commencement of the first phase of industry member reporting to CAT. The Exchange believes accelerated approval will facilitate more efficient, effective, and coordinated enforcement of the CAT Compliance Rules as the first phase of industry member reporting takes effect. Further, the Exchange believes that accelerated approval is appropriate given the proposed rule change is consistent with FINRA's approach to MRVP dispositions for the CAT Compliance Rules. As noted above, the Exchange proposes to apply minor fines for the CAT Compliance Rules in the same manner as FINRA and the other exchanges.

8. Proposed Rule Change Based on the Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule change is based on SR-FINRA-2020-13, which made the FINRA CAT Compliance Rules eligible for MRVP treatment under FINRA Rule 9217; and SR-NYSE-2020-51, which proposes to make the NYSE CAT Compliance Rules eligible for MRVP treatment under NYSE Rule 9217.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1 – Form of Notice of the Proposed Rule Change for Publication in the

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<sup>16</sup> 15 U.S.C. 78s(b)(2).

Federal Register.

## EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34 -     ); File No. SR-IEX-2020-09)

Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing of Proposed Rule Change to Add the Consolidated Audit Trail Industry Member Compliance Rules to the List of Minor Rule Violations.

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 (date), 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 Act,<sup>4</sup> and Rule 19b-4 thereunder,<sup>5</sup> IEX proposes to add the Consolidated Audit Trail (“CAT”) industry member compliance rules to the list of minor rule violations in Rule 9.218. The Exchange requests accelerated approval and effectiveness of this filing.

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

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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.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to add IEX's CAT industry member compliance rules (the "CAT Compliance Rules") to the list of minor rule violations in Rule 9.218.<sup>6</sup> This proposal is based upon the Financial Industry Regulatory Authority, Inc. ("FINRA") filing to amend FINRA Rule 9217 in order to add FINRA's corresponding CAT Compliance Rules to FINRA's list of rules that are eligible for minor rule violation plan treatment.<sup>7</sup>

Proposed Rule Change

The Exchange adopted the CAT Compliance Rules in the Rule Series 11.600 in

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<sup>6</sup> IEX's minor rule violation plan ("MRVP") was declared effective by the Commission on August 3, 2016. See Securities Exchange Act Release No. 78474 (August 3, 2016), 81 FR 52717 (August 9, 2016) (File No. 4-701).

<sup>7</sup> See Securities Exchange Act Release No. 88870 (May 14, 2020), 85 FR 30768 (May 20, 2020) (SR-FINRA-2020-013). The proposal is also based upon the New York Stock Exchange ("NYSE") filing to amend NYSE Rule 9217 in order to add NYSE's corresponding CAT Compliance Rules to NYSE's list of rules that are eligible for MRVP treatment. See SR-NYSE-2020-51.

order to implement the National Market System Plan Governing the Consolidated Audit Trail (the “CAT NMS Plan” or “Plan”).<sup>8</sup> The CAT NMS Plan was filed by the Plan Participants to comply with Rule 613 of Regulation NMS under the Exchange Act,<sup>9</sup> and each Plan Participant accordingly has adopted the same compliance rules in the Exchange’s Rule Series 11.600. The common CAT Compliance Rules adopted by each Plan Participant are designed to require industry members to comply with the provisions of the CAT NMS Plan, which broadly calls for industry members to record and report timely and accurately customer, order, and trade information relating to activity in NMS Securities and OTC Equity Securities.

Rule 9.218 sets forth the list of rules under which a Member<sup>10</sup> or associated person may be subject to a fine under Rule 9.216(b). Rule 9.216(b) permits the Exchange to impose a fine of up to \$2,500 on any Member or associated person for a minor violation of an eligible rule. The Exchange proposes to amend Rule 9.218 to add the CAT Compliance Rules in the Rule Series 11.600 to the list of rules in Rule 9.218 eligible for disposition pursuant to a minor fine under Rule 9.216(b).<sup>11</sup>

IEX is coordinating with FINRA and other Plan Participants to promote harmonized and consistent enforcement of all the Plan Participants’ CAT Compliance

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<sup>8</sup> See Securities Exchange Act Release No. 80256 (March 15, 2017), 82 FR 14526 (March 21, 2017).

<sup>9</sup> 17 CFR 242.613.

<sup>10</sup> See Rule 1.160(s).

<sup>11</sup> FINRA’s maximum fine for minor rule violations under FINRA Rule 9216(b) is also \$2,500. Like FINRA, the Exchange, or FINRA on its behalf, would be able to pursue a fine greater than \$2,500 for violations of the Rule Series 11.600 in a regular disciplinary proceeding or an acceptance, waiver, and consent (“AWC”) under Chapter 9 of the IEX Rule Book, as appropriate. Any fine imposed in excess of \$2,500 or not otherwise covered by Rule 19d-1(c)(2) of the Act would be subject to prompt notice to the Commission pursuant to Rule 19d-1 under the Act. As noted below, in assessing the appropriateness of a minor rule fine with respect to CAT Compliance Rules, the Exchange will be guided by the same factors that FINRA utilizes. See text accompanying notes 13-14, *infra*.

Rules. The Commission recently approved a Rule 17d-2 Plan under which the regulation of CAT Compliance Rules will be allocated among Plan Participants to reduce regulatory duplication for industry members that are members of more than one Participant (“common members”).<sup>12</sup> Under the Rule 17d-2 Plan, the regulation of CAT Compliance Rules with respect to common members that are members of FINRA is allocated to FINRA. Similarly, under the Rule 17d-2 Plan, responsibility for common members of multiple other Plan Participants that are not members of FINRA will be allocated among those other Plan Participants, including to the Exchange. For those non-common members who are allocated to IEX pursuant to the Rule 17d-2 Plan, the Exchange and FINRA entered into a Regulatory Services Agreement (“RSA”) pursuant to which FINRA will conduct surveillance, investigation, examination, and enforcement activity in connection with the CAT Compliance Rules on the Exchange’s behalf. IEX understands that the other exchanges entered into similar RSAs with FINRA.

FINRA, in connection with its amendment to FINRA Rule 9217 to make FINRA’s CAT Compliance Rules MRVP eligible, represented that it will apply MRVP fines for CAT Compliance Rules in the same manner that FINRA has for its similar existing audit trail-related rules.<sup>13</sup> Accordingly, in order to promote regulatory consistency, the Exchange, and FINRA acting on behalf of the Exchange, plan to do the same. Specifically, application of a MRVP fine with respect to CAT Compliance Rules will be guided by the same factors that FINRA referenced in its filing. However, more formal disciplinary proceedings may be warranted instead of minor rule dispositions in

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<sup>12</sup> See Securities Exchange Act Release No. 88366 (March 12, 2020), 85 FR 15238 (March 17, 2020) (File No. 4-618).

<sup>13</sup> See Securities Exchange Act Release No. 88870 (May 14, 2020), 85 FR 30768, 30768-69 (May 20, 2020) (SR-FINRA-2020-013); see also FINRA Notice to Members 04-19 (March 2004) (providing specific factors used to inform dispositions for violations of OATS reporting rules).

certain circumstances such as where violations prevent regulatory users of the CAT from performing their regulatory functions. Where minor rule dispositions are appropriate, the following factors help guide the determination of fine amounts:

- Total number of reports that are not submitted or submitted late;
- The timeframe over which the violations occur;
- Whether violations are batched;
- Whether the violations are the result of the actions of one individual or the result of faulty systems or procedures;
- Whether the firm has taken remedial measures to correct the violations;
- Prior minor rule violations within the past 24 months;
- Collateral effects that the failure has on customers; and
- Collateral effects that the failure has on the Exchange's ability to perform its regulatory function.<sup>14</sup>

Upon effectiveness of this rule change, the Exchange will publish a regulatory bulletin notifying its Members of the rule change and the specific factors that will be considered in connection with assessing minor rule fines described above.

For the foregoing reasons, the Exchange believes that the proposed rule change will result in a coordinated, harmonized approach to CAT compliance rule enforcement across Plan Participants that will be consistent with the approach FINRA has taken with the CAT rules.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>15</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>16</sup> in particular, because 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, to remove impediments to, and perfect the mechanism of, a free

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<sup>14</sup> See supra note 13.

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

<sup>16</sup> 15 U.S.C. 78f(b)(5).

and open market and a national market system and, in general, to protect investors and the public interest.

Minor rule fines provide a meaningful sanction for minor or technical violations of rules when the conduct at issue does not warrant stronger, immediately reportable disciplinary sanctions. The inclusion of a rule in the Exchange's MRVP does not minimize the importance of compliance with the rule, nor does it preclude the Exchange from choosing to pursue violations of eligible rules through an AWC if the nature of the violations or prior disciplinary history warrants more significant sanctions. Rather, the Exchange believes that the proposed rule change will strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities in cases where full disciplinary proceedings are unwarranted in view of the minor nature of the particular violation. Thus, the option to impose a minor rule sanction gives the Exchange additional flexibility to administer its enforcement program in the most effective and efficient manner while still fully meeting the Exchange's remedial objectives in addressing violative conduct. Specifically, the proposed rule change is designed to prevent fraudulent and manipulative acts and practices because it will provide the Exchange the ability to issue a minor rule fine for violations of the CAT Compliance Rules in the Rule Series 11.600 where a more formal disciplinary action may not be warranted or appropriate consistent with the approach of other Plan Participants for the same conduct, and thereby promote regulatory consistency across self-regulatory organizations

The Exchange further believes that the proposed changes to Rule 9.218 are consistent with Section 6(b)(6) of the Act,<sup>17</sup> which provides that members and persons

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<sup>17</sup> 15 U.S.C. 78f(b)(6).

associated with members shall be appropriately disciplined for violation of the provisions of the rules of the exchange, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction. As noted, the proposed rule change would provide the Exchange ability to sanction minor or technical violations of the Rule Series 11.600 pursuant to the Exchange's rules.

Finally, the Exchange also believes that the proposed changes are designed to provide a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d) of the Act.<sup>18</sup> Rule 9.216 does not preclude a Member or associated person from contesting an alleged violation and receiving a hearing on the matter with the same procedural rights through a litigated disciplinary proceeding.

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 proposed rule change is not intended to address competitive issues but rather is concerned solely with making the CAT Compliance Rules in the Rule Series 11.600 eligible for disposition pursuant to a MRVP, thereby strengthening the Exchange's ability to carry out its oversight and enforcement functions and deter potential violative conduct.

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

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<sup>18</sup> 15 U.S.C. 78f(b)(7) and 78f(d).

### Action

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be 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](mailto:rule-comments@sec.gov). Please include File Number SR-IEX-2020-09 on the subject line.

#### Paper Comments:

- Send paper comments in triplicate to Vanessa Countryman, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-IEX-2020-09. 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 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](http://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-2020-09 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>19</sup>

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<sup>19</sup> 17 CFR 200.30-3(a)(12).

## Exhibit 5 – Text of Proposed Rule Change

Proposed new language is underlined; proposed deletions are in brackets.

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Rule 9.218. Violations Appropriate for Disposition Under Plan Pursuant to Exchange Act Rule 19d-1(c)(2)

- (a) Rule 2.160(p) – Continuing Education Requirements.
- (b) Rule 4.511 – General Requirements related to books and records requirements.
- (c) Rule 4.540 – Furnishing of records.
- (d) Rule 5.110 – Supervision.
- (e) Rule 8.220 – Automated submission of trading data requested.
- (f) Rule 11.151(a)(1) – Market Maker two-sided quotation requirement.
- (g) Rule 11.290 – Short sales.
- (h) Rule 11.310 – Locking or crossing quotations in NMS stocks.
- (i) Rule 11.420 – Order audit trail system requirements.
- (j) Rule Series 11.600 – Failure to comply with the Consolidated Audit Trail Compliance Rule requirements

Recommended Fine Schedule – Rule 9.218(a) – (i)

Occurrence*	Individual	Member
First time fined	\$100	\$500
Second time fined	\$300	\$1,000
Third time fined	\$500	\$2,500

For failures to comply with the Consolidated Audit Trail Compliance Rule requirements of the Rule Series 11.600, pursuant to Rule 9.218(j), the Exchange may impose a minor rule violation fine of up to \$2,500.

\* Within a “rolling” 12-month period.