

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 * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action * <input type="checkbox"/>		Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" 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) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>
	Section 3C(b)(2) * <input type="checkbox"/>

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

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

Proposed rule change to correct nonsubstantive conflicting rule text in Rule 11.190.

**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 08/08/2017      Chief Regulatory Officer  
 By Claudia Crowley      claudia.crowley@iextrading.com  
 (Name \*)

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 \***

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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**

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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”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to correct nonsubstantive conflicting rule text related to the behavior of market orders entered during the Pre-Market Session<sup>3</sup> marked DAY that are eligible to participate in either auctions for IEX-listed securities pursuant to Rule 11.350, or the opening process for non-IEX-listed securities pursuant to Rule 11.231. The Exchange has designated this rule change as “non-controversial” under Section 19(b)(3)(A) of the Act<sup>4</sup> and provided the Commission with the notice required by Rule 19b-4(f)(6) thereunder.<sup>5</sup>

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

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

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

<sup>3</sup> See Rule 1.160(z).

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A).

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

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  
646-343-2041

Andres J. Trujillo  
Regulatory Associate  
Investors Exchange LLC  
646-343-2034

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

a. Purpose

The purpose of this proposed rule filing is to correct nonsubstantive conflicting rule text related to the queuing behavior of market orders entered during the Pre-Market Session marked DAY that are eligible to participate in auctions for IEX-listed securities pursuant to Rule 11.350, or in the opening process for non-IEX-listed securities pursuant to Rule 11.231. On April 13, 2017, IEX filed with the Commission a proposed rule change to amend IEX Rule 11.231 to modify the manner in which the Exchange opens trading for non-IEX-listed securities beginning at the start of Regular Market Hours; and to amend IEX Rules 11.190 and 11.220 to specify the order types eligible to participate in the proposed opening process for non-IEX listed securities and the priority of such orders (the "Opening Process"). The proposed rule change for the Opening Process was published for comment in the Federal Register on April 28, 2017.<sup>6</sup> On April 20, 2017, IEX filed with the Commission a proposed rule change to adopt rules governing auctions in IEX-listed securities, provide for the dissemination of auction related market data, and

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<sup>6</sup> See Securities Exchange Act Release No. 80514 (April 24, 2017), 82 FR 19763 (April 28, 2017).

establish rules relating to trading halts and pauses (“IEX Auctions”). The proposed rule change for IEX Auctions was published for comment in the Federal Register on May 9, 2017.<sup>7</sup> On July 24<sup>th</sup> 2017, the Commission approved on an accelerated basis IEX’s proposed Opening Process, as modified by Amendment 3.<sup>8</sup> On August 4, 2017, the Commission approved on an accelerated basis the IEX Auctions proposal, as modified by Amendment 2.<sup>9</sup>

The rule changes related to both the Opening Process and IEX Auctions included a modification to Rule 11.190(a)(2)(E)(iii), to specify that market orders marked DAY entered during the Pre-Market Session will be queued by the System until the Opening Auction (or Halt Auction, as applicable), for IEX-listed securities pursuant to IEX Rule 11.350, or until the Opening Process for non-IEX-listed securities pursuant to IEX Rule 11.231. However, because the proposed rule changes for the Opening Process and IEX Auctions were filed and pending action from the Commission concurrently, the proposed rule changes specified in Exhibit 5 to each rule change filing were each separately specified as compared to existing IEX rules. Therefore, the Exhibits 5 to each rule change filing specify distinct behavior, pursuant to Rule 11.190(a)(2)(E)(iii), for how market orders marked as DAY queue before the applicable open for the security in question. Exhibit 5 to the IEX Auctions filing provides that such orders queue until the Opening Auction (or Halt Auction, as applicable) for IEX listed securities. Exhibit 5 to the Opening Process filing provides that such orders queue until the Opening Process for non-listed securities. As a technical matter, after the Commission’s approval of the rule

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<sup>7</sup> See Securities Exchange Act Release No. 80583 (May 3, 2017), 82 FR 21634 (May 9, 2017).

<sup>8</sup> See Securities Exchange Act Release No. 81195 (July 24, 2017), 82 FR 35250 (July 28, 2017).

<sup>9</sup> See Securities Exchange Act Release No. 81316 (August 4, 2017), awaiting publication to the Federal Register.

changes related to IEX Auctions, which came subsequent to the Commission's approval of the Opening Process, Rule 11.190(a)(2)(E)(iii) no longer specifies the queueing behavior of market orders entered during the Pre-Market Session marked DAY in the Opening Process. Accordingly, IEX proposes to consolidate and correct the rule text changes to Rule 11.190(a)(2)(E)(iii), as approved in each rule filing to provide that Market orders marked DAY submitted before the open of the Regular Market Session are queued by the System until the Opening Auction (or Halt Auction, as applicable) for IEX-listed securities pursuant to IEX Rule 11.350, or until the Opening Process for non-IEX-listed securities pursuant to IEX Rule 11.231, except market orders marked DAY that are designated to route pursuant to Rule 11.230(c). Market orders marked DAY are eligible to trade or route during the Regular Market Session and treated by the System as having a time-in-force of IOC.

As recently announced by IEX Trading Alert #2017-027, on August 24, 2017 the Exchange is beginning a multi-phase deployment of the Opening Process functionality for non-test securities.<sup>10</sup> Furthermore, the Exchange believes that some Members are currently in the process of making or testing technology changes for the Exchange's Opening Process. Accordingly, in order to provide clarity to Members and other market participants regarding the Opening Process, and specifically to avoid potential confusion regarding the queueing behavior of market orders entered during the Pre-Market Session marked as DAY, the Exchange is proposing to make the conforming change to Rule 11.190(a)(2)(E)(iii) described above to clearly state that such orders will be queued by the System until the Opening Auction (or Halt Auction, as applicable) for IEX-listed

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<sup>10</sup> See [IEX Trading Alert #2017-027](#) (Deployment Schedule for New Opening Process for Non-IEX-Listed Securities), August 3, 2017.

securities pursuant to IEX Rule 11.350, or until the Opening Process for non-IEX-listed securities pursuant to IEX Rule 11.231.

b. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b)<sup>11</sup> of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>12</sup> 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. The Exchange believes it is consistent with the Act to correct the conflicting rule provisions so that IEX's rules are accurate and descriptive of the System's functionality as approved by the Commission, and to avoid any potential confusion among Members and market participants regarding the Opening Process.

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 Exchange believes that the proposed correction does not impact competition in any respect since it is designed to correct a conflict between two approved versions of Exchange rule 11.190(a)(2)(E)(iii), without changing the substance of the Rules as separately approved.

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.

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<sup>11</sup> 15 U.S.C. 78f.

<sup>12</sup> 15 U.S.C. 78f(b)(5).

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 has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act<sup>13</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>14</sup> The Exchange asserts that the proposed rule change: (1) will not significantly affect the protection of investors or the public interest, (2) will not impose any significant burden on competition, (3) and will not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate. In addition, the Exchange provided the Commission with 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 business days prior to the date of filing.<sup>15</sup>

The Exchange believes that the proposed rule change meets the criteria of subparagraph (f)(6) of Rule 19b-4<sup>16</sup> because it would not significantly affect the protection of investors or the public interest. Rather, the proposed rule change neither significantly affects the protection of investors or the public interest, nor does it impose any burden on competition in that the purpose of the rule change is merely to correct a conflict between two approved versions of Exchange rule 11.190(a)(2)(E)(iii), without changing the substance of the Rules as separately approved. Accordingly, the Exchange believes that the proposed rule change is noncontroversial and satisfies the requirements

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<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4.

<sup>15</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

of Rule 19b-4(f)(6)<sup>17</sup>.

The Exchange respectfully 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 purpose of the proposed rule change is merely to correct a conflict between two approved versions of Exchange rule 11.190(a)(2)(E)(iii), without changing the substance of the Rules as separately approved. Waiver of the operative delay is, therefore, consistent with the protection of investors and the public interest because it will allow the Exchange to implement the proposed rule change upon effectiveness of the proposed rule change, thus avoiding any potential confusion among market participants regarding the Opening Process, as described in the Purpose section.

The Exchange further respectfully requests that the Commission waive the five day pre-filing requirement so that the Exchange may implement the proposed rule change immediately. As described above, the purpose of the rule change is merely to correct a conflict between two approved versions of Exchange rule 11.190(a)(2)(E)(iii), without changing the substance of the Rules as separately approved. Furthermore, as described in the Purpose section, IEX recently announced in IEX Trading Alert #2017-027 that on August 24, 2017 the Exchange is beginning a multi-phase deployment of the Opening Process functionality for non-test securities, and the Exchange believes that some Members are currently in the process of making or testing technology changes for the modified Opening Process.<sup>18</sup> Accordingly, the Exchange believes it is critical to provide clarity to Members and other market participants regarding the Opening Process, and

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

<sup>18</sup> See [IEX Trading Alert #2017-027](#) (Deployment Schedule for New Opening Process for Non-IEX-Listed Securities), August 3, 2017.

specifically to avoid potential confusion regarding the queueing behavior of market orders entered during the Pre-Market Session marked DAY. Therefore, the Exchange believes it is appropriate for the Commission to waive the five day pre-filing requirement because it will allow the Exchange to implement the proposed rule change immediately, thus avoiding any potential confusion among market participants regarding the Opening Process in the weeks leading up to deployment.

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

8. Proposed Rule Change Based on the Rules of Another Self-Regulatory Organization or of the Commission  
Not applicable.
9. Security-Based Swap Submissions Filed Pursuant to Section 3 C 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 Federal Register.  
Exhibit 5 – Text of Proposed Rule Change.

## EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34 -     ); File No. SR-IEX-2017-26)

Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Correct Nonsubstantive Conflicting Rule Text in Rule 11.190.

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 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 Securities and Exchange Commission (“Commission”) a proposed rule change to correct nonsubstantive conflicting rule text related to the behavior of market orders entered during the Pre-Market Session<sup>6</sup> marked DAY that are eligible to participate in either auctions for IEX-listed securities pursuant to Rule 11.350,

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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 Rule 1.160(z).

or the opening process for non-IEX-listed securities pursuant to Rule 11.231. The Exchange has designated this rule change 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) 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 the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statement may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule filing is to correct nonsubstantive conflicting rule text related to the queuing behavior of market orders entered during the Pre-Market Session marked DAY that are eligible to participate in auctions for IEX-listed securities pursuant to Rule 11.350, or in the opening process for non-IEX-listed securities pursuant to Rule 11.231. On April 13, 2017, IEX filed with the Commission a proposed rule

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

<sup>8</sup> 17 CFR 240.19b-4.

change to amend IEX Rule 11.231 to modify the manner in which the Exchange opens trading for non-IEX-listed securities beginning at the start of Regular Market Hours; and to amend IEX Rules 11.190 and 11.220 to specify the order types eligible to participate in the proposed opening process for non-IEX listed securities and the priority of such orders (the “Opening Process”). The proposed rule change for the Opening Process was published for comment in the Federal Register on April 28, 2017.<sup>9</sup> On April 20, 2017, IEX filed with the Commission a proposed rule change to adopt rules governing auctions in IEX-listed securities, provide for the dissemination of auction related market data, and establish rules relating to trading halts and pauses (“IEX Auctions”). The proposed rule change for IEX Auctions was published for comment in the Federal Register on May 9, 2017.<sup>10</sup> On July 24<sup>th</sup> 2017, the Commission approved on an accelerated basis IEX’s proposed Opening Process, as modified by Amendment 3.<sup>11</sup> On August 4, 2017, the Commission approved on an accelerated basis the IEX Auctions proposal, as modified by Amendment 2.<sup>12</sup>

The rule changes related to both the Opening Process and IEX Auctions included a modification to Rule 11.190(a)(2)(E)(iii), to specify that market orders marked DAY entered during the Pre-Market Session will be queued by the System until the Opening Auction (or Halt Auction, as applicable), for IEX-listed securities pursuant to IEX Rule 11.350, or until the Opening Process for non-IEX-listed securities pursuant to IEX Rule 11.231. However, because the proposed rule changes for the Opening Process and IEX

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<sup>9</sup> See Securities Exchange Act Release No. 80514 (April 24, 2017), 82 FR 19763 (April 28, 2017).

<sup>10</sup> See Securities Exchange Act Release No. 80583 (May 3, 2017), 82 FR 21634 (May 9, 2017).

<sup>11</sup> See Securities Exchange Act Release No. 81195 (July 24, 2017), 82 FR 35250 (July 28, 2017).

<sup>12</sup> See Securities Exchange Act Release No. 81316 (August 4, 2017), awaiting publication to the Federal Register.

Auctions were filed and pending action from the Commission concurrently, the proposed rule changes specified in Exhibit 5 to each rule change filing were each separately specified as compared to existing IEX rules. Therefore, the Exhibits 5 to each rule change filing specify distinct behavior, pursuant to Rule 11.190(a)(2)(E)(iii), for how market orders marked as DAY queue before the applicable open for the security in question. Exhibit 5 to the IEX Auctions filing provides that such orders queue until the Opening Auction (or Halt Auction, as applicable) for IEX listed securities. Exhibit 5 to the Opening Process filing provides that such orders queue until the Opening Process for non-listed securities. As a technical matter, after the Commission's approval of the rule changes related to IEX Auctions, which came subsequent to the Commission's approval of the Opening Process, Rule 11.190(a)(2)(E)(iii) no longer specifies the queueing behavior of market orders entered during the Pre-Market Session marked DAY in the Opening Process. Accordingly, IEX proposes to consolidate and correct the rule text changes to Rule 11.190(a)(2)(E)(iii), as approved in each rule filing to provide that Market orders marked DAY submitted before the open of the Regular Market Session are queued by the System until the Opening Auction (or Halt Auction, as applicable) for IEX-listed securities pursuant to IEX Rule 11.350, or until the Opening Process for non-IEX-listed securities pursuant to IEX Rule 11.231, except market orders marked DAY that are designated to route pursuant to Rule 11.230(c). Market orders marked DAY are eligible to trade or route during the Regular Market Session and treated by the System as having a time-in-force of IOC.

As recently announced by IEX Trading Alert #2017-027, on August 24, 2017 the Exchange is beginning a multi-phase deployment of the Opening Process functionality

for non-test securities.<sup>13</sup> Furthermore, the Exchange believes that some Members are currently in the process of making or testing technology changes for the Exchange's Opening Process. Accordingly, in order to provide clarity to Members and other market participants regarding the Opening Process, and specifically to avoid potential confusion regarding the queuing behavior of market orders entered during the Pre-Market Session marked as DAY, the Exchange is proposing to make the conforming change to Rule 11.190(a)(2)(E)(iii) described above to clearly state that such orders will be queued by the System until the Opening Auction (or Halt Auction, as applicable) for IEX-listed securities pursuant to IEX Rule 11.350, or until the Opening Process for non-IEX-listed securities pursuant to IEX Rule 11.231.

## 2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b)<sup>14</sup> of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>15</sup> 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. The Exchange believes it is consistent with the Act to correct the conflicting rule provisions so that IEX's rules are accurate and descriptive of the System's functionality as approved by the Commission, and to avoid any potential confusion among Members and market participants regarding the Opening Process.

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<sup>13</sup> See [IEX Trading Alert #2017-027](#) (Deployment Schedule for New Opening Process for Non-IEX-Listed Securities), August 3, 2017.

<sup>14</sup> 15 U.S.C. 78f.

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

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 correction does not impact competition in any respect since it is designed to correct a conflict between two approved versions of Exchange rule 11.190(a)(2)(E)(iii), without changing the substance of the Rules as separately approved.

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>16</sup> of the Act and Rule 19b-4(f)(6)<sup>17</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 pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>18</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>19</sup> the Commission may designate a shorter time if such action is consistent

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<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

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

<sup>18</sup> 17 CFR 240.19b-4(f)(6).

<sup>19</sup> 17 CFR 240.19b-4(f)(6)(iii).

with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing.

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>20</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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-IEX-2017-26 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.

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<sup>20</sup> 15 U.S.C. 78s(b)(2)(B).

All submissions should refer to File Number SR-IEX-2017-26. 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 20549-1090. 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; 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-2017-26 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>21</sup>

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<sup>21</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 11.190. Orders and Modifiers

(a) General Order Types.

(1) No change.

(2) Market Order. An order to buy or sell a stated amount of a security that is to be executed at or better than the NBBO at the time the order reaches the Exchange. Market orders shall not trade through Protected Quotations. Any portion of a market order that is designated as “IEX Only” will be canceled if, upon receipt by the System, it cannot be executed by the Exchange in accordance with Rules 11.230 and 11.230(a). Any portion of a market order that is not designated as “IEX Only,” i.e. routable orders as described in IEX Rule 11.230(b), and that cannot be executed in full in accordance with Rule 11.230(a)(1) and 11.230(a) on the Exchange when reaching the Exchange will be eligible for routing away pursuant to IEX Rule 11.230(a)(2). A routable market order will trade at increasingly aggressive prices, fully satisfying all Protected Quotations, until the order is fully filled, reaches the LULD band, or reaches the Router Constraint, as defined in IEX Rule 11.190(f)(2). A market order:

(A) – (D) No change.

(E) May only trade during the Regular Market Session. Market orders submitted in the Pre-Market Session may queue for the Opening Process as defined below. Market orders submitted in the Post-Market Session will be rejected by the System.

(i) – (ii) No change.

(iii) Market orders marked DAY, by default, are rejected. When elected by the User, Market orders marked DAY submitted by that User are accepted. Market orders marked DAY submitted before the open of the

Regular Market Session are queued by the System until the Opening Auction (or Halt Auction, as applicable) for IEX-listed securities[,] pursuant to IEX Rule 11.350, or until the Opening Process for non-IEX-listed securities pursuant to IEX Rule 11.231, except market orders marked DAY that are designated to route pursuant to Rule 11.230(c). Market orders marked DAY are eligible to trade or route during the Regular Market Session and treated by the System as having a TIF of IOC.

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