

Required fields are shown with yellow backgrounds and asterisks.

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2022 - * 08

Amendment No. (req. for Amendments *)

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"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>
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Rule

<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
Section 806(e)(1) *

Section 806(e)(2) *

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 3C(b)(2) *

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

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

Proposed Rule Change to Amend IEX Rule 11.190(e) to Expand the Availability of the Exchange's Existing Anti-Internalization Functionality to more Members.

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 * Nathaniel Last Name * Kolodny

Title * Lead Regulation Counsel

E-mail * nathaniel.kolodny@iextrading.com

Telephone * (646) 343-2034 Fax

Signature

Pursuant to the requirements of the Securities Exchange of 1934, Investors' Exchange LLC has duty caused this filing to be signed on its behalf by the undersigned thereunto duty authorized.

Date 10/24/2022

(Title *)

By Nathaniel Kolodny

Lead Regulation Counsel

(Name *)

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

Nathaniel
Kolodny

Digitally signed by Nathaniel
Kolodny
Date: 2022.10.24 17:17:43
-04'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

Add Remove View

AIQ Member Affiliate level grouping 19

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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AIQ Member Affiliate level grouping E

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 Advanced 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 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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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 Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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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 Sent As Paper Document

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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AIQ Member Affiliate level grouping Ex

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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”),¹ and Rule 19b-4 thereunder,² Investors Exchange LLC (“IEX” or “Exchange”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend IEX Rule 11.190(e) to expand the availability of the Exchange’s existing anti-internalization functionality to more Members. The Exchange has designated this rule change as “non-controversial” under Section 19(b)(3)(A) of the Act³ and provided the Commission with the notice required by Rule 19b-4(f)(6) thereunder.⁴

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4.

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

Nathaniel Kolodny
Lead Regulation Counsel
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 Exchange proposes to amend IEX Rule 11.190(e) to expand the availability of the Exchange's existing anti-internalization group identifier ("AIQ") functionality to more Members.⁵ Specifically, the Exchange is proposing to allow Members to apply AIQ to orders submitted by an Affiliate⁶ that is also an IEX Member (a "Member Affiliate"), if so desired.

IEX offers optional anti-internalization functionality to Users⁷ that enables a User to prevent two of its orders from executing against each other. Currently, Users can set the anti-internalization functionality to apply at the market participant identifier ("MPID") or User level. To utilize IEX's optional anti-internalization functionality, a User adds a unique identifier of its choosing designating the order as subject to anti-internalization (the "AIQ identifier").⁸ Orders that have the same AIQ identifier and

⁵ See IEX Rule 1.160(s) (defining the term "Member").

⁶ An "Affiliate" is a person (including an entity) that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified. See 17 CFR § 240.12b-2.

⁷ Pursuant to IEX Rule 1.160(qq), a User means any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to IEX Rule 11.130. Sponsored Participant is defined in IEX Rule 1.160(ll).

⁸ See IEX Rule 11.190(e)(1)(A).

originate from the same MPID or User, as specified by the User,⁹ are part of the same “AIQ group.”¹⁰ And any active order that is part of the same AIQ group is prevented from executing against a resting opposite side order that is part of the same AIQ group.

Users seeking to apply AIQ to their orders also include one of five modifiers to their orders, which determines the interaction between two orders within the same AIQ group that would otherwise execute against each other (“AIQ modifier”).¹¹ The AIQ modifier on the order with the newer timestamp controls the interaction between the two orders in an AIQ group.¹² The five possible interactions for two orders with AIQ instructions that would otherwise match are: cancel the older of the two orders; cancel the newer of the two orders; cancel both orders; cancel the smaller of the two orders; or cancel the smaller of the two orders and decrement the size of the smaller order from the larger order.¹³

Proposal

IEX understands that some Members would like to apply AIQ to orders submitted by their Affiliates who are also Members. For example, if Member A is under common control with Member B, the two Members would like the option of applying AIQ to orders submitted by the two Member Affiliates. Therefore, the Exchange proposes to expand the availability of the anti-internalization functionality it offers by allowing AIQ groups to be set at the Member Affiliate level in addition to the current options of setting AIQ groups at the User or MPID level. This proposal is designed to offer AIQ

⁹ Users may elect to enable anti-internalization functionality on an IEX Port Request Form, designating whether such functionality should be applied on an MPID or User basis.

¹⁰ See IEX Rule 11.190(e)(1)(B).

¹¹ See IEX Rule 11.190(e)(1)(B).

¹² See IEX Rule 11.190(e).

¹³ See IEX Rule 11.190(e)(2).

functionality to Member Affiliates that have divided their business activities between separate corporate entities without disadvantaging them when compared to Members that operate those business activities within a single corporate entity. This proposal would expand the levels at which AIQ groups can be set by a Member, but nothing in this proposal would change the manner in which two orders in the same AIQ group interact.

Specifically, IEX proposes to amend IEX Rule 11.190(e)(1)(B) to include “Member Affiliates” as one of the possible levels for AIQ groups (in addition to the current options of MPID or User). And the Exchange proposes to add subparagraph (i) to IEX Rule 11.190(e)(1)(B) to specify that for purposes of subparagraph (e)(1)(B), the term “Member Affiliates” shall mean Members that are affiliated with each other pursuant to Rule 12b-2 under the Act.¹⁴ If Members choose to have AIQ applied across Member Affiliates, the anti-internalization functionality would prevent quotes and orders from such Member Affiliates from trading against one another.

Under this proposal if Member A submits an order to buy 100 shares of security ABC for \$10.00 with a user-supplied AIQ identifier, and Member B, an Affiliate of Member A, submits an order to sell 100 shares of security ABC for \$10.00 with the same User-supplied AIQ identifier (meaning the two orders are in the same AIQ group), the two otherwise executable orders will not match, but will instead interact based upon the User-supplied AIQ modifier on the newer order.

Members will be responsible for having proper internal documentation in their books and records substantiating that two or more Members using AIQ are Affiliates of one another. IEX notes that this grouping of Member Affiliates is already a common

¹⁴ See supra note 6.

practice for exchanges that offer rebates, in order to not penalize two affiliated members when calculating rebate tiers.¹⁵

This proposed rule change is designed to provide additional flexibility to Members in how they implement self-trade prevention provided by the Exchange, and thereby better manage their order flow and prevent undesirable executions or the potential for “wash sales” that may occur as a result of the speed of trading in today’s marketplace. Based on informal discussions with Members, the Exchange believes that the proposed additional types of anti-internalization functionality will be useful to Members in implementing their own compliance controls. And the additional AIQ functionality may assist Members in complying with certain rules and regulations of the Employee Retirement Income Security Act (“ERISA”) that preclude and/or limit managing broker-dealers of such accounts from trading as principal with orders generated for those accounts.

The Exchange notes that, as with the current anti-internalization functionality offered by IEX, use of the proposed new Member Affiliate AIQ grouping will not alleviate, or otherwise exempt, Members from their best execution obligations. As such, Members and their Affiliates using AIQ will continue to be obligated to take appropriate steps to ensure that customer orders that do not execute because they were subject to anti-internalization ultimately receive the same price, or a better price, than they would have

¹⁵ See, e.g., the Nasdaq Stock Market LLC Equity 7, Section 127 (“Aggregation of Activity of Affiliated Members”); Nasdaq BX, Inc. Equity 7, Section 127 (“Aggregation of Activity of Affiliated Members”); New York Stock Exchange LLC Price List, General II (“Aggregate Billing of Affiliated Member Organizations”) at 24, available at: https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Price_List.pdf.

received had execution of the orders not been inhibited by anti-internalization.¹⁶ Further, as with current rule provisions, Market Makers and other Users may not use AIQ functionality to evade the firm quote obligation, as specified in IEX Rule 11.151(b), and the AIQ functionality must be used in a manner consistent with just and equitable principles of trade.¹⁷ For these reasons, the Exchange believes the proposed new Member Affiliate level of AIQ grouping offers Members enhanced order processing functionality that may prevent potentially undesirable executions without negatively impacting broker-dealer best execution obligations.

b. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁸ in general, and furthers the objectives of Section 6(b)(5),¹⁹ in particular, in that 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, and 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 is consistent with the protection of investors and the public interest because allowing Member Affiliates to be part of the same AIQ group will provide Members with additional flexibility with respect to how they implement self-trade protections provided by IEX that may better support their trading strategies and

¹⁶ See Supplementary Material .01 to IEX Rule 11.190(e).

¹⁷ See Supplementary Materials .02 and .03 to IEX Rule 11.190(e).

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(5).

compliance controls. Members that prefer the current anti-internalization groupings offered by the Exchange can continue to use them without any modification (i.e., if two Member Affiliates do not wish to have orders from the two Members be in the same AIQ group, the Members will not have to make any changes to the manner in which they submit orders to the Exchange).

As noted in the Purpose section, IEX believes that providing Members with more flexibility and control over the interactions of their orders will better prevent undesirable executions or the potential for “wash sales” that may occur as a result of the speed of trading in today’s marketplace. And the Member Affiliate level AIQ grouping may better assist Members in complying with certain ERISA rules and regulations that preclude and/or limit managing broker-dealers of such accounts from trading as principal with orders generated for those accounts.

Additionally, as discussed in the Purpose section, allowing Members to apply AIQ to trades submitted by their Affiliates that are also Members is intended to avoid disparate treatment of firms that have divided their various business activities between separate corporate entities as compared to firms that operate those business activities within a single corporate entity. Accordingly, the Exchange believes that this proposed rule change is fair and equitable, and not unreasonably discriminatory.

Further, the Exchange believes that providing expanded AIQ grouping options may streamline certain regulatory functions by reducing false positive results that may occur on wash trading surveillance reports when two orders in the same AIQ group are executed, notwithstanding that the transaction may not constitute a wash trade.

Finally, as discussed in the Purpose section, the Exchange notes that exchanges

allowing Members to combine their trading activity with Affiliates is already a common practice at several other national securities exchanges.²⁰ Consequently, the Exchange does not believe that the proposed rule change raises any new or novel issues not already considered by the Commission.

4. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the proposal is designed to enhance IEX's competitiveness by providing additional flexibility over the level at which orders are grouped, thereby incentivizing Members to send orders to IEX and increase the liquidity available on the Exchange. Additionally, the proposed rule change is designed to assist Members with compliance with the securities laws that prohibit wash trading as well as ERISA requirements. The Exchange also notes that the proposed new AIQ grouping option, like the Exchange's current anti-internalization functionality, is completely optional and Members can determine on an order-by-order, MPID, User, or Member Affiliate basis whether to apply anti-internalization protections to orders submitted to the Exchange.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Moreover, there is no barrier to other national securities exchanges adopting similar anti-internalization grouping at the Member Affiliate level.

The Exchange also does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance

²⁰ See supra note 15.

of the purposes of the Act. All Members will continue to be eligible to use the Exchange's anti-internalization functionality. While not every Member engages in a business that might involve risks of self-matching against an Affiliate's orders, for the Members that do face that risk, the proposed additional anti-internalization grouping is designed to help such Members with their compliance with the securities laws and ERISA. Further, implementation of anti-internalization functionality impacts only a Member's orders (and the orders of the Member Affiliates), and not the orders of other, unaffiliated Members. And, as discussed in the Purpose and Statutory Basis sections, allowing Members to apply AIQ to trades submitted by their Affiliates that are also Members is intended to avoid disparate treatment of firms that have divided their various business activities between separate corporate entities as compared to firms that operate those business activities within a single corporate entity.

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 has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act²¹ and paragraph (f)(6) of Rule 19b-4 thereunder.²² 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,

²¹ 15 U.S.C. 78s(b)(3)(A).

²² 17 CFR 240.19b-4(f)(6).

(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.²³

The Exchange believes that the proposed rule change meets the criteria of subparagraph (f)(6) of Rule 19b-4²⁴ because, as discussed above, this rule change does not modify any of its existing AIQ functionality, but simply offers an additional level of optional AIQ grouping to Members with Affiliates that are also Members. As discussed above, several other exchanges currently allow Members to group their orders with those of their Affiliates for fee purposes.²⁵ Thus, IEX does not believe that the proposed changes raise any new or novel material issues that have not already been considered by the Commission in connection with the existing anti-internalization functionality offered by IEX.

Accordingly, the Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act²⁶ and paragraph (f)(6) of Rule 19b-4 thereunder.²⁷ The Exchange will implement the proposed rule change within 90 days of filing, subject to the 30-day operative delay, and provide at least ten (10) days' notice to Members and market participants of the implementation timeline.

At any time within 60 days of the filing of the proposed rule change, the

²³ 17 CFR 240.19b-4(f)(6)(iii).

²⁴ 17 CFR 240.19b-4(f)(6).

²⁵ See *supra* note 15.

²⁶ 15 U.S.C. 78s(b)(3)(A).

²⁷ 17 CFR 240.19b-4(f)(6).

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.

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 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 Federal Register.

Exhibit 5 – Text of Proposed Rule Change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34 -); File No. SR-IEX-2022-08)

Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend IEX Rule 11.190(e) to Expand the Availability of the Exchange’s Existing Anti-Internalization Functionality to more Members.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on (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,⁴ and Rule 19b-4 thereunder,⁵ the Exchange is filing with the Commission a proposed rule change to amend IEX Rule 11.190(e) to expand the availability of the Exchange’s existing anti-internalization functionality to more Members. The Exchange has designated this rule change as “non-controversial” under Section 19(b)(3)(A) of the Act⁶ and provided the

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ 15 U.S.C. 78s(b)(1).

⁵ 17 CFR 240.19b-4.

⁶ 15 U.S.C. 78s(b)(3)(A).

Commission with the notice required by Rule 19b-4(f)(6) thereunder.⁷

The text of the proposed rule change is available at the Exchange's website at www.iextrading.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these 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 Exchange proposes to amend IEX Rule 11.190(e) to expand the availability of the Exchange's existing anti-internalization group identifier ("AIQ") functionality to more Members.⁸ Specifically, the Exchange is proposing to allow Members to apply AIQ to orders submitted by an Affiliate⁹ that is also an IEX Member (a "Member Affiliate"), if so desired.

IEX offers optional anti-internalization functionality to Users¹⁰ that enables a

⁷ 17 CFR 240.19b-4.

⁸ See IEX Rule 1.160(s) (defining the term "Member").

⁹ An "Affiliate" is a person (including an entity) that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified. See 17 CFR § 240.12b-2.

¹⁰ Pursuant to IEX Rule 1.160(qq), a User means any Member or Sponsored Participant who is

User to prevent two of its orders from executing against each other. Currently, Users can set the anti-internalization functionality to apply at the market participant identifier (“MPID”) or User level. To utilize IEX’s optional anti-internalization functionality, a User adds a unique identifier of its choosing designating the order as subject to anti-internalization (the “AIQ identifier”).¹¹ Orders that have the same AIQ identifier and originate from the same MPID or User, as specified by the User,¹² are part of the same “AIQ group.”¹³ And any active order that is part of the same AIQ group is prevented from executing against a resting opposite side order that is part of the same AIQ group.

Users seeking to apply AIQ to their orders also include one of five modifiers to their orders, which determines the interaction between two orders within the same AIQ group that would otherwise execute against each other (“AIQ modifier”).¹⁴ The AIQ modifier on the order with the newer timestamp controls the interaction between the two orders in an AIQ group.¹⁵ The five possible interactions for two orders with AIQ instructions that would otherwise match are: cancel the older of the two orders; cancel the newer of the two orders; cancel both orders; cancel the smaller of the two orders; or cancel the smaller of the two orders and decrement the size of the smaller order from the larger order.¹⁶

Proposal

IEX understands that some Members would like to apply AIQ to orders submitted

authorized to obtain access to the System pursuant to IEX Rule 11.130. Sponsored Participant is defined in IEX Rule 1.160(II).

¹¹ See IEX Rule 11.190(e)(1)(A).

¹² Users may elect to enable anti-internalization functionality on an IEX Port Request Form, designating whether such functionality should be applied on an MPID or User basis.

¹³ See IEX Rule 11.190(e)(1)(B).

¹⁴ See IEX Rule 11.190(e)(1)(B).

¹⁵ See IEX Rule 11.190(e).

¹⁶ See IEX Rule 11.190(e)(2).

by their Affiliates who are also Members. For example, if Member A is under common control with Member B, the two Members would like the option of applying AIQ to orders submitted by the two Member Affiliates. Therefore, the Exchange proposes to expand the availability of the anti-internalization functionality it offers by allowing AIQ groups to be set at the Member Affiliate level in addition to the current options of setting AIQ groups at the User or MPID level. This proposal is designed to offer AIQ functionality to Member Affiliates that have divided their business activities between separate corporate entities without disadvantaging them when compared to Members that operate those business activities within a single corporate entity. This proposal would expand the levels at which AIQ groups can be set by a Member, but nothing in this proposal would change the manner in which two orders in the same AIQ group interact.

Specifically, IEX proposes to amend IEX Rule 11.190(e)(1)(B) to include “Member Affiliates” as one of the possible levels for AIQ groups (in addition to the current options of MPID or User). And the Exchange proposes to add subparagraph (i) to IEX Rule 11.190(e)(1)(B) to specify that for purposes of subparagraph (e)(1)(B), the term “Member Affiliates” shall mean Members that are affiliated with each other pursuant to Rule 12b-2 under the Act.¹⁷ If Members choose to have AIQ applied across Member Affiliates, the anti-internalization functionality would prevent quotes and orders from such Member Affiliates from trading against one another.

Under this proposal if Member A submits an order to buy 100 shares of security ABC for \$10.00 with a user-supplied AIQ identifier, and Member B, an Affiliate of Member A, submits an order to sell 100 shares of security ABC for \$10.00 with the same

¹⁷ See supra note 9.

User-supplied AIQ identifier (meaning the two orders are in the same AIQ group), the two otherwise executable orders will not match, but will instead interact based upon the User-supplied AIQ modifier on the newer order.

Members will be responsible for having proper internal documentation in their books and records substantiating that two or more Members using AIQ are Affiliates of one another. IEX notes that this grouping of Member Affiliates is already a common practice for exchanges that offer rebates, in order to not penalize two affiliated members when calculating rebate tiers.¹⁸

This proposed rule change is designed to provide additional flexibility to Members in how they implement self-trade prevention provided by the Exchange, and thereby better manage their order flow and prevent undesirable executions or the potential for “wash sales” that may occur as a result of the speed of trading in today’s marketplace. Based on informal discussions with Members, the Exchange believes that the proposed additional types of anti-internalization functionality will be useful to Members in implementing their own compliance controls. And the additional AIQ functionality may assist Members in complying with certain rules and regulations of the Employee Retirement Income Security Act (“ERISA”) that preclude and/or limit managing broker-dealers of such accounts from trading as principal with orders generated for those accounts.

The Exchange notes that, as with the current anti-internalization functionality offered by IEX, use of the proposed new Member Affiliate AIQ grouping will not

¹⁸ See, e.g., the Nasdaq Stock Market LLC Equity 7, Section 127 (“Aggregation of Activity of Affiliated Members”); Nasdaq BX, Inc. Equity 7, Section 127 (“Aggregation of Activity of Affiliated Members”); New York Stock Exchange LLC Price List, General II (“Aggregate Billing of Affiliated Member Organizations”) at 24, available at: https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Price_List.pdf.

alleviate, or otherwise exempt, Members from their best execution obligations. As such, Members and their Affiliates using AIQ will continue to be obligated to take appropriate steps to ensure that customer orders that do not execute because they were subject to anti-internalization ultimately receive the same price, or a better price, than they would have received had execution of the orders not been inhibited by anti-internalization.¹⁹ Further, as with current rule provisions, Market Makers and other Users may not use AIQ functionality to evade the firm quote obligation, as specified in IEX Rule 11.151(b), and the AIQ functionality must be used in a manner consistent with just and equitable principles of trade.²⁰ For these reasons, the Exchange believes the proposed new Member Affiliate level of AIQ grouping offers Members enhanced order processing functionality that may prevent potentially undesirable executions without negatively impacting broker-dealer best execution obligations.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,²¹ in general, and furthers the objectives of Section 6(b)(5),²² in particular, in that 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, and 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 is consistent with the protection of investors and

¹⁹ See Supplementary Material .01 to IEX Rule 11.190(e).

²⁰ See Supplementary Materials .02 and .03 to IEX Rule 11.190(e).

²¹ 15 U.S.C. 78f(b).

²² 15 U.S.C. 78f(b)(5).

the public interest because allowing Member Affiliates to be part of the same AIQ group will provide Members with additional flexibility with respect to how they implement self-trade protections provided by IEX that may better support their trading strategies and compliance controls. Members that prefer the current anti-internalization groupings offered by the Exchange can continue to use them without any modification (i.e., if two Member Affiliates do not wish to have orders from the two Members be in the same AIQ group, the Members will not have to make any changes to the manner in which they submit orders to the Exchange).

As noted in the Purpose section, IEX believes that providing Members with more flexibility and control over the interactions of their orders will better prevent undesirable executions or the potential for “wash sales” that may occur as a result of the speed of trading in today’s marketplace. And the Member Affiliate level AIQ grouping may better assist Members in complying with certain ERISA rules and regulations that preclude and/or limit managing broker-dealers of such accounts from trading as principal with orders generated for those accounts.

Additionally, as discussed in the Purpose section, allowing Members to apply AIQ to trades submitted by their Affiliates that are also Members is intended to avoid disparate treatment of firms that have divided their various business activities between separate corporate entities as compared to firms that operate those business activities within a single corporate entity. Accordingly, the Exchange believes that this proposed rule change is fair and equitable, and not unreasonably discriminatory.

Further, the Exchange believes that providing expanded AIQ grouping options may streamline certain regulatory functions by reducing false positive results that may

occur on wash trading surveillance reports when two orders in the same AIQ group are executed, notwithstanding that the transaction may not constitute a wash trade.

Finally, as discussed in the Purpose section, the Exchange notes that exchanges allowing Members to combine their trading activity with Affiliates is already a common practice at several other national securities exchanges.²³ Consequently, the Exchange does not believe that the proposed rule change raises any new or novel issues not already considered by the Commission.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the proposal is designed to enhance IEX's competitiveness by providing additional flexibility over the level at which orders are grouped, thereby incentivizing Members to send orders to IEX and increase the liquidity available on the Exchange. Additionally, the proposed rule change is designed to assist Members with compliance with the securities laws that prohibit wash trading as well as ERISA requirements. The Exchange also notes that the proposed new AIQ grouping option, like the Exchange's current anti-internalization functionality, is completely optional and Members can determine on an order-by-order, MPID, User, or Member Affiliate basis whether to apply anti-internalization protections to orders submitted to the Exchange.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Moreover, there is no barrier to other national securities

²³ See supra note 18.

exchanges adopting similar anti-internalization grouping at the Member Affiliate level.

The Exchange also does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. All Members will continue to be eligible to use the Exchange's anti-internalization functionality. While not every Member engages in a business that might involve risks of self-matching against an Affiliate's orders, for the Members that do face that risk, the proposed additional anti-internalization grouping is designed to help such Members with their compliance with the securities laws and ERISA. Further, implementation of anti-internalization functionality impacts only a Member's orders (and the orders of the Member Affiliates), and not the orders of other, unaffiliated Members. And, as discussed in the Purpose and Statutory Basis sections, allowing Members to apply AIQ to trades submitted by their Affiliates that are also Members is intended to avoid disparate treatment of firms that have divided their various business activities between separate corporate entities as compared to firms that operate those business activities within a single corporate entity.

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)²⁴ of the Act and Rule 19b-4(f)(6)²⁵ thereunder. Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest;

²⁴ 15 U.S.C. 78s(b)(3)(A).

²⁵ 17 CFR 240.19b-4(f)(6).

(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. 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.²⁶

The Exchange believes that the proposed rule change meets the criteria of subparagraph (f)(6) of Rule 19b-4²⁷ because, as discussed above, this rule change does not modify any of its existing AIQ functionality, but simply offers an additional level of optional AIQ grouping to Members with Affiliates that are also Members. As discussed above, several other exchanges currently allow Members to group their orders with those of their Affiliates for fee purposes.²⁸ Thus, IEX does not believe that the proposed changes raise any new or novel material issues that have not already been considered by the Commission in connection with the existing anti-internalization functionality offered by IEX.

Accordingly, the Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act²⁹ and paragraph (f)(6) of Rule 19b-4 thereunder.³⁰ The Exchange will implement the proposed rule change within 90 days of filing, subject to the 30-day operative delay, and provide at least ten (10) days' notice to Members and market participants of the implementation timeline.

At any time within 60 days of the filing of the proposed rule change, the

²⁶ 17 CFR 240.19b-4(f)(6)(iii).

²⁷ 17 CFR 240.19b-4(f)(6).

²⁸ See *supra* note 18.

²⁹ 15 U.S.C. 78s(b)(3)(A).

³⁰ 17 CFR 240.19b-4(f)(6).

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)³¹ 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. Please include File Number SR-IEX-2022-08 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-2022-08. 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

³¹ 15 U.S.C. 78s(b)(2)(B).

(<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. 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-2022-08 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.³²

³² 17 CFR 200.30-3(a)(12).

Exhibit 5 – Text of Proposed Rule Change

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

CHAPTER 11. TRADING RULES

Rule 11.190. Orders and Modifiers

(a)-(d) No change.

(e) Anti-Internalization Group Identifier (“AIQ”) Functionality. Any active order that is part of the same AIQ group will be prevented from executing against a resting opposite side order that is part of the same AIQ group. The AIQ modifier on the order with the newer timestamp will control the interaction between the two orders in an AIQ group. Determination of “newer” and “older” is based upon each order’s timestamp, as specified in IEX Rule 11.220(a)(1)(C).

(1) Definitions.

(A) The term AIQ identifier means a unique User-supplied identifier included on an order message designating the order as subject to anti-internalization.

(B) The term AIQ group means orders that are designated with the same AIQ identifier and originating from the same market participant identifier (“MPID”), [or]Exchange User, or Member Affiliates, as specified by the User.

(i) For purposes of subparagraph (e)(1)(B) of this Rule 11.190, the term “Member Affiliates” shall mean Members that are affiliated with each other pursuant to Rule 12b-2 under the Act.

(C) No change.

(2)-(8) No change.

(f)-(h) No change.
