

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"/>
			Rule		
Pilot <input type="checkbox"/>	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 adopt DEEP, a new depth of book market data feed, rename TOPS Viewer to IEX Data Platform, and include depth of book market data therein.

**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 \*  Last Name \*   
 Title \*   
 E-mail \*   
 Telephone \*  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  Chief Regulatory Officer  
 By    
 (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 the “Exchange”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend Rule 11.330(a)(3) to adopt a new market data product to be known as DEEP, which is an uncompressed data feed that provides aggregated depth of book quotations for all displayed orders for securities traded on IEX, and execution information (i.e., last sale information) for executions on the Exchange. Additionally, the Exchange proposes to amend Rule 11.330(a)(2) in order to change the name of its data feed currently known as TOPS Viewer to IEX Data Platform, and to add aggregated depth of book quotations for up to ten (10) price levels to the IEX Data Platform. The Exchange has designated this proposal as non-controversial and provided the Commission with the notice required by Rule 19b-4(f)(6)(iii) under the Act.<sup>3</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.

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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> 17 CFR 240.19b-4(f)(6)(iii).

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  
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 Exchange proposes to amend Rule 11.330(a)(3) to describe a new market data product to be known as DEEP. Currently, the Exchange offers TOPS, an uncompressed data feed that provides aggregated top of book quotations for all displayed orders resting on the Order Book and execution information (i.e., last sale information) for executions on the Exchange. The data disseminated on TOPS is also available via TOPS Viewer through the Exchange's public website. Both TOPS and TOPS Viewer are provided free of charge. Based on informal discussion with market participants and other Users, the Exchange has determined that there is demand for a depth of book feed offering. Accordingly, the Exchange proposes to amend Rule 11.330(a)(3) to offer

DEEP. As proposed, DEEP will disseminate, on a real-time basis,<sup>4</sup> aggregated depth of book quotations for all displayed orders resting on the Order Book at each price level for securities traded on IEX (i.e., displayed top of book and full depth of book quotations) and execution information (i.e., last sale information) for executions on the Exchange. DEEP will be provided free of charge.

Consistent with IEX's existing approach whereby data disseminated on TOPS is also available via TOPS Viewer through the Exchange's public website, IEX is proposing to continue this paradigm by also providing aggregated depth of book quotations for all displayed orders resting on the Order Book for up to ten (10) price levels that are disseminated through DEEP via the Exchange's public website. Accordingly, the Exchange proposes to amend Rule 11.330(a)(2) to modify the name of its data product currently known as TOPS Viewer, and instead title it the IEX Data Platform, to reflect that such platform will provide a suite of data that includes data disseminated by TOPS and a subset of data disseminated by DEEP.

As is the case currently with respect to TOPS and TOPS Viewer, the aggregated best bid and offer ("BBO") and last sale information disseminated through DEEP and the IEX Data Platform will also be reported under the Consolidated Tape Association ("CTA") Plan or the Nasdaq/UTP Plan. The Exchange will release such information to DEEP and the IEX Data Platform in compliance with Rule 603(a) of Regulation NMS, which requires that exchanges distribute market data on terms that are "fair and

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<sup>4</sup> Rule 11.510(b)(2) describes the application of the POP to outbound communications from the Exchange, which impacts DEEP in the same manner as all other data products offered by the Exchange. Specifically, as specified therein, the POP "is designed to provide all Participants with an equivalent 350 microseconds of latency from the System at the primary data center to the Exchange-provided network interface at the IEX POP."

reasonable” and “not unreasonably discriminatory,” and prohibits an exchange from releasing data relating to quotes and trades to its customers through proprietary feeds before it sends its quotes and trade reports for inclusion in the consolidated feeds.<sup>5</sup>

The Exchange plans to implement the proposed changes during the second quarter of 2017 pending completion of necessary technology changes and subject to effectiveness of this proposed rule change. The Exchange will announce the implementation date of the proposed changes by Trader Alert at least 10 business days in advance of such implementation date and within 90 days of effectiveness of this proposed rule change.

b. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act<sup>6</sup> in general, and with Section 6(b)(5) of the Act,<sup>7</sup> in particular. DEEP will be provided consistent with the purposes of Section 6(b)(5) of the Act.<sup>8</sup> Moreover, the proposed rule change is not designed to permit unfair discrimination among customers, issuers, and brokers; and is designed 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.

The proposed rule change is designed to promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market

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<sup>5</sup> See Regulation NMS, 70 Fed. Reg. 37,496, 37,567 (June 29, 2005) (adopting release); see also Concept Release, 75 Fed. Reg. at 3601 (January 21, 2010).

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

<sup>7</sup> 15 U.S.C. 78f(b)(4), (5).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

and a national market system by providing quotation and transaction information to market participants. The Exchange also believes this proposal is consistent with Section 6(b)(5) of the Act because it is designed to protect investors and the public interest and promote just and equitable principles of trade by providing transparency regarding displayed orders in the IEX System, and also provides market participants with the option to receive IEX BBO and last sale information otherwise than under the CTA and Nasdaq/UTP Plans. Further, the proposal would not permit unfair discrimination because the information will be available to all market participants and market data vendors on an equivalent basis, and without charge. In addition, any market participant that wishes to receive IEX BBO and last sale information via the CTA and Nasdaq/UTP Plans will still be able to do so.

The Exchange also believes that the proposed rule change is consistent with Section 11(A) of the Act<sup>9</sup> in that it supports (1) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets and (2) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Furthermore, the proposed rule change is consistent with Rule 603 of Regulation NMS,<sup>10</sup> which provides that any national securities exchange which distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are fair and reasonable and not unreasonably discriminatory. As noted above, the Exchange will provide DEEP to Members and other recipients of Exchange data on terms that are fair and reasonable and

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<sup>9</sup> 15 U.S.C. 78k-1.

<sup>10</sup> See 17 CFR 242.603.

not unreasonably discriminatory in that DEEP will be provided free of charge.

Furthermore, DEEP would be accessed and subscribed to on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make this data available. Accordingly, distributors and subscribers can discontinue their use at any time and for any reason.

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 is not proposing to charge a fee for DEEP or the IEX Data Platform, and will make both available to market participants on a fair and impartial basis, and on terms that are not unreasonably discriminatory. In addition, the Exchange believes that providing aggregated depth of book quotations as described above is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system by providing investors with alternative market data, as well as to compete with other exchanges that offer similar market data products, such as those currently offered by the New York Stock Exchange, Inc. ("NYSE"), the Nasdaq Stock Market LLC ("Nasdaq"), and BZX Exchange, Inc. ("Bats").<sup>11</sup>

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<sup>11</sup> See, e.g., Nasdaq Rule 7023(a)(1)(C), which describes the Nasdaq TotalView as a depth-of-book data feed that includes all orders and quotes from all Nasdaq members displayed in the Nasdaq Market Center as well as the aggregate size of such orders and quotes at each price level in the execution functionality of the Nasdaq Market Center; See also NYSE OpenBook Aggregated, available at <http://www.nyxdata.com/nysedata/Default.aspx?tabid=1421>, which provides a real-time view of the NYSE limit order book including the aggregated size at each price level; See Bats Rule 11.22(a) and 11.22(c), which describe the Bats TCP Depth and Multicast Depth feeds as an uncompressed data feed that offers depth of book quotations and execution information based on equity orders entered into the System; See also Bats Rule 11.22(m), which describes the BZX Summary Depth feed as a data feed that offers aggregated

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 proposed rule change (A) does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) by its terms does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five (5) business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

The Exchange believes that the proposed rule change meets the criteria of subparagraph (f)(6) of Rule 19b-4.<sup>12</sup> Specifically, as discussed above, the proposed rule change does not significantly affect the protection of investors or the public interest, or impose any significant burden on competition, in that the Exchange will provide the DEEP feed and aggregated depth of book quotations on the Exchange's public website to Members and other recipients of Exchange data on terms that are fair and reasonable and

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two-sided quotations for all displayed orders entered into the System for up to five (5) price levels.

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

free of charge. Moreover, the DEEP feed and aggregated depth of book quotations on the Exchange's public website, as proposed, are substantially similar to the market data products currently offered by other exchanges, and therefore the proposed rule change does not raise any new or novel issues that have not already been considered by the Commission.<sup>13</sup>

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) of the Act to determine whether the proposed rule change should be approved or disapproved.<sup>14</sup>

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

The proposed rule change is substantially similar to market data products (and corresponding rules) currently offered by Nasdaq and NYSE, as described in the Summary Effectiveness section.

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.

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<sup>13</sup> See, e.g., Nasdaq Rule 7023(a)(1)(C), Bats Rule 11.22(m), and NYSE OpenBook Aggregated, available at <http://www.nyxdata.com/nysedata/Default.aspx?tabid=1421>, as well as Bats Rule 11.22(k).

<sup>14</sup> 15 U.S.C. 78s(b)(2)(B).

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-2017-05)

Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt DEEP, a New Depth of Book Market Data Feed, rename TOPS Viewer to IEX Data Platform, and Include Depth of Book Market Data Therein.

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 the “Exchange”) is filing with the Commission a proposed rule change to amend Rule 11.330(a)(3) to adopt a new market data product to be known as DEEP, which is an uncompressed data feed that provides aggregated depth of book quotations for all displayed orders for securities traded on IEX, and execution information (i.e., last sale

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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.

information) for executions on the Exchange. Additionally, the Exchange proposes to amend Rule 11.330(a)(2) in order to change the name of its data feed currently known as TOPS Viewer to IEX Data Platform, and to add aggregated depth of book quotations for up to ten (10) price levels to the IEX Data Platform. The Exchange has designated this proposal as non-controversial and provided the Commission with the notice required by Rule 19b-4(f)(6)(iii) under the Act.<sup>6</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 Exchange proposes to amend Rule 11.330(a)(3) to describe a new market data product to be known as DEEP. Currently, the Exchange offers TOPS, an uncompressed data feed that provides aggregated top of book quotations for all displayed orders resting on the Order Book and execution information (i.e., last sale information)

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

for executions on the Exchange. The data disseminated on TOPS is also available via TOPS Viewer through the Exchange's public website. Both TOPS and TOPS Viewer are provided free of charge. Based on informal discussion with market participants and other Users, the Exchange has determined that there is demand for a depth of book feed offering. Accordingly, the Exchange proposes to amend Rule 11.330(a)(3) to offer DEEP. As proposed, DEEP will disseminate, on a real-time basis,<sup>7</sup> aggregated depth of book quotations for all displayed orders resting on the Order Book at each price level for securities traded on IEX (i.e., displayed top of book and full depth of book quotations) and execution information (i.e., last sale information) for executions on the Exchange. DEEP will be provided free of charge.

Consistent with IEX's existing approach whereby data disseminated on TOPS is also available via TOPS Viewer through the Exchange's public website, IEX is proposing to continue this paradigm by also providing aggregated depth of book quotations for all displayed orders resting on the Order Book for up to ten (10) price levels that are disseminated through DEEP via the Exchange's public website. Accordingly, the Exchange proposes to amend Rule 11.330(a)(2) to modify the name of its data product currently known as TOPS Viewer, and instead title it the IEX Data Platform, to reflect that such platform will provide a suite of data that includes data disseminated by TOPS and a subset of data disseminated by DEEP.

As is the case currently with respect to TOPS and TOPS Viewer, the aggregated best bid and offer ("BBO") and last sale information disseminated through DEEP and the

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<sup>7</sup> Rule 11.510(b)(2) describes the application of the POP to outbound communications from the Exchange, which impacts DEEP in the same manner as all other data products offered by the Exchange. Specifically, as specified therein, the POP "is designed to provide all Participants with an equivalent 350 microseconds of latency from the System at the primary data center to the Exchange-provided network interface at the IEX POP."

IEX Data Platform will also be reported under the Consolidated Tape Association (“CTA”) Plan or the Nasdaq/UTP Plan. The Exchange will release such information to DEEP and the IEX Data Platform in compliance with Rule 603(a) of Regulation NMS, which requires that exchanges distribute market data on terms that are “fair and reasonable” and “not unreasonably discriminatory,” and prohibits an exchange from releasing data relating to quotes and trades to its customers through proprietary feeds before it sends its quotes and trade reports for inclusion in the consolidated feeds.<sup>8</sup>

The Exchange plans to implement the proposed changes during the second quarter of 2017 pending completion of necessary technology changes and subject to effectiveness of this proposed rule change. The Exchange will announce the implementation date of the proposed changes by Trader Alert at least 10 business days in advance of such implementation date and within 90 days of effectiveness of this proposed rule change.

## 2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act<sup>9</sup> in general, and with Section 6(b)(5) of the Act,<sup>10</sup> in particular. DEEP will be provided consistent with the purposes of Section 6(b)(5) of the Act.<sup>11</sup> Moreover, the proposed rule change is not designed to permit unfair discrimination among customers, issuers, and brokers; and is designed 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

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<sup>8</sup> See Regulation NMS, 70 Fed. Reg. 37,496, 37,567 (June 29, 2005) (adopting release); see also Concept Release, 75 Fed. Reg. at 3601 (January 21, 2010).

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(4), (5).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

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

The proposed rule change is designed to promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system by providing quotation and transaction information to market participants. The Exchange also believes this proposal is consistent with Section 6(b)(5) of the Act because it is designed to protect investors and the public interest and promote just and equitable principles of trade by providing transparency regarding displayed orders in the IEX System, and also provides market participants with the option to receive IEX BBO and last sale information otherwise than under the CTA and Nasdaq/UTP Plans. Further, the proposal would not permit unfair discrimination because the information will be available to all market participants and market data vendors on an equivalent basis, and without charge. In addition, any market participant that wishes to receive IEX BBO and last sale information via the CTA and Nasdaq/UTP Plans will still be able to do so.

The Exchange also believes that the proposed rule change is consistent with Section 11(A) of the Act<sup>12</sup> in that it supports (1) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets and (2) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Furthermore, the proposed rule change is consistent with Rule 603 of Regulation NMS,<sup>13</sup> which provides that any national securities exchange which distributes information with respect to quotations for

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<sup>12</sup> 15 U.S.C. 78k-1.

<sup>13</sup> See 17 CFR 242.603.

or transactions in an NMS stock do so on terms that are fair and reasonable and not unreasonably discriminatory. As noted above, the Exchange will provide DEEP to Members and other recipients of Exchange data on terms that are fair and reasonable and not unreasonably discriminatory in that DEEP will be provided free of charge. Furthermore, DEEP would be accessed and subscribed to on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make this data available. Accordingly, distributors and subscribers can discontinue their use at any time and for any reason.

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 is not proposing to charge a fee for DEEP or the IEX Data Platform, and will make both available to market participants on a fair and impartial basis, and on terms that are not unreasonably discriminatory. In addition, the Exchange believes that providing aggregated depth of book quotations as described above is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system by providing investors with alternative market data, as well as to compete with other exchanges that offer similar market data products, such as those currently offered by the New York Stock Exchange, Inc. ("NYSE"), the Nasdaq Stock Market LLC ("Nasdaq"), and BZX Exchange, Inc. ("Bats").<sup>14</sup>

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<sup>14</sup> See, e.g., Nasdaq Rule 7023(a)(1)(C), which describes the Nasdaq TotalView as a depth-of-book data feed that includes all orders and quotes from all Nasdaq members displayed in the Nasdaq Market Center as well as the aggregate size of such orders and quotes at each price level in the execution functionality of the Nasdaq Market Center; See also NYSE OpenBook Aggregated, available at <http://www.nyxdata.com/nysedata/Default.aspx?tabid=1421>, which provides a real-time view of the NYSE limit order book including the aggregated size at each

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>15</sup> of the Act and Rule 19b-4(f)(6)<sup>16</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>17</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>18</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay to the extent necessary so that the proposal may become operative at the time of the launch of its operation as a national securities exchange.

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price level; See Bats Rule 11.22(a) and 11.22(c), which describe the Bats TCP Depth and Multicast Depth feeds as an uncompressed data feed that offers depth of book quotations and execution information based on equity orders entered into the System; See also Bats Rule 11.22(m), which describes the BZX Summary Depth feed as a data feed that offers aggregated two-sided quotations for all displayed orders entered into the System for up to five (5) price levels.

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

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

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

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

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>19</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-2017-05 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.

All submissions should refer to File Number SR-IEX-2017-05. 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

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<sup>19</sup> 15 U.S.C. 78s(b)(2)(B).

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-2017-05 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>20</sup>

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<sup>20</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 11.330. Data Products

- (a) The Exchange offers the following data products free of charge, except as otherwise noted in the Exchange's fee schedule:
- (1) TOPS. TOPS is an uncompressed data feed that offers aggregated top of book quotations for all displayed orders resting on the Order Book and execution information (i.e., last sale information) for executions on the Exchange.
  - (2) IEX Data Platform [TOPS Viewer]. IEX Data Platform [TOPS Viewer] is a data feed, available through the Exchange's public website, that offers aggregated top of book quotations for all displayed orders resting on the Order Book, aggregated depth of book quotations for all displayed orders resting on the Order Book for up to ten (10) price levels, and execution information (i.e., last sale information) for executions on the Exchange.
  - (3) DEEP. DEEP is an uncompressed data feed that provides aggregated depth of book quotations for all displayed orders resting on the Order Book at each price level, and execution information (i.e., last sale information) for executions on the Exchange.  
[Reserved.]
  - (4) DROP. DROP is an uncompressed data feed that offers information regarding the equities trading activity of a specific Member. DROP is only available to the Member to whom the specific data relates and those recipients expressly authorized by the Member.