

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

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

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

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

Description

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

Proposed rule change to conform Rules 3.260(d) and 5.110(e) to corresponding rules of the Financial Industry Regulatory Authority.

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

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 *

Add Remove View

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

Exhibit 1 - Notice of Proposed Rule Change *

Add Remove View

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

Add Remove View

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”),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 conform Rule 3.260(d) and 5.110(e) to corresponding rules of the Financial Industry Regulatory Authority (“FINRA”). 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.³

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

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

Sophia Lee
General Counsel
Investors Exchange LLC
646-343-2040

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

a. Purpose

Pursuant to Rule 17d-2 under the Act,⁴ and subject to Commission approval, the Exchange and FINRA has entered into an agreement to allocate regulatory responsibility for common rules (the "17d-2 Agreement").⁵ The 17d-2 Agreement covers common members of the Exchange and FINRA and allocates to FINRA regulatory responsibility, with respect to common members, for the following: (i) examination of common members of the Exchange and FINRA for compliance with certain federal securities laws, rules and regulations and rules of the Exchange that the Exchange certifies are identical or substantially similar to FINRA rules; (ii) investigation of common members of the Exchange and FINRA for violations of certain federal securities laws, rules and regulations, or Exchange rules that the Exchange certifies as identical or substantially identical to a FINRA rule; and (iii) enforcement of compliance by common members with certain federal securities laws, rules and regulations, and the rules of the Exchange that the Exchange certifies as identical or substantially similar to FINRA rules.

⁴ 17 CFR 240.17d-2

⁵ See, Securities Exchange Act Release No. 78434 (July 28, 2016) (File No. 4-700).

The 17d-2 Agreement will include a certification by the Exchange that states that the requirements contained in certain Exchange rules are identical to, or substantially similar to, certain FINRA rules that have been identified as comparable. To conform to comparable FINRA rules for the purposes of the 17d-2 Agreement, as well as to make changes that IEX believes are appropriate, the Exchange proposes to amend Exchange Rules 3.260(d) and 5.110(e) to harmonize with FINRA Rules as described below.

IEX Rule 3.260

IEX Rule 3.260 governs discretionary accounts and contains certain prohibitions and requirements as follows:

- (a) Excessive Transactions – The rule prohibits a Member from effecting purchase or sale transactions in a customer’s account, with respect to which such member (or its agent or employee) has discretion, which are excessive in size or frequency in view of the financial resources and character of such account.
- (b) Authorization and Acceptance of Account – The rule provides that no Member or Registered Representative shall exercise any discretionary power in a customer's account unless such customer has given prior written authorization to a stated individual or individuals and the account has been accepted by the Member, as evidenced in writing by the Member or the partner, officer or manager, duly designated by the Member, in accordance with IEX Rule 5.110.
- (c) Approval and Review of Transactions – The rule provides that the Member or the person duly designated shall approve promptly in writing each discretionary order entered and shall review all discretionary accounts at frequent intervals in order to detect and prevent transactions which are excessive in size or frequency in view of the financial resources and character of the account.
- (d) Exceptions – The rule provides an exception for discretion as to the price at which or the time when an order given by a customer for the purchase or sale of a definite amount of a specified security shall be executed, except that the

authority to exercise time and price discretion will be considered to be in effect only until the end of the business day on which the customer granted such discretion, absent a specific, written contrary indication signed and dated by the customer. This limitation shall not apply to time and price discretion exercised in an institutional account, as defined in IEX Rule 5.110 pursuant to valid Good-Till-Canceled instructions issued on a "not-held" basis. Any exercise of time and price discretion must be reflected on the order ticket.

IEX Rule 3.260 is identical to NASD Rule 2510 (which is a FINRA rule) except that paragraph (d) of the IEX rule does not contain an exception contained in NASD Rule 2510(d) for bulk exchanges at net asset value of money market mutual funds utilizing negative response letters provided the bulk exchange is limited to situations involving mergers and acquisitions of funds, changes of clearing members and exchange of funds used in sweep accounts, the negative response letter contains a tabular comparison of the nature and amount of the fees charged by each fund, the negative response letter contains a comparative description of the investment objectives of each fund and a prospectus of the fund to be purchased, and the negative response feature will not be activated until at least 30 days after the date on which the letter was mailed.

To harmonize IEX Rule 3.260 with NASD Rule 2510, the Exchange proposes to adopt an identical exception for bulk transfers as is contained in NASD Rule 2510(d) so that it may be incorporated into the 17d-2 Agreement in its entirety. The exception was added to NASD rules in 1992 in order to eliminate an obstacle to the efficient and timely execution of bulk exchanges of money market mutual funds in the situations set forth in NASD Rule 2510. In Notice to Members 93-1 announcing the rule change,⁶ the NASD explained the reason for adoption of the exception as follows:

⁶ See, http://finra.complinet.com/en/display/display.html?rbid=2403&element_id=1638.

“The NASD recognized that it is often necessary to notify hundreds and, sometimes, several thousand money market mutual fund share-owners of an impending fund exchange. It may be an extremely difficult, if not impossible, administrative task to contact each non-replier and solicit approval of the fund exchange. At best, contacting individuals for approval results in considerable delays and added cost. The NASD determined that, by eliminating an obstacle to the efficient and timely execution of such bulk exchanges, where customers are at little or no risk, customers and NASD members would benefit.”

Although such bulk transfers cannot be effected on the Exchange, IEX believes it is appropriate to include the exception provided in NASD Rule 2510(d) to eliminate the obstacles and provide the benefits identified by the NASD in adopting the exception, as well as to enable incorporation of IEX Rule 3.260 into the 17d-2 Agreement in its entirety. Incorporating the exception into IEX Rule 3.260 would provide appropriate flexibility to allow IEX Members to perform bulk exchanges in the limited situations specified in the rule in an efficient manner that is designed to protect investors and the public interest. Absent the exception, IEX Members would technically be prohibited from effecting bulk transfers in the manner permitted by FINRA rules.⁷

IEX Rule 5.110(e)

IEX Rule 5.110(e) governs the responsibility of an IEX Member to investigate applicants for registration, including that “...each member shall establish and implement

⁷ Each IEX Member subject to IEX Rule 3.260 is required to be a FINRA member, pursuant to Section 15(b)(8) of the Act, since the rule relates to customer accounts and the Member would thus be ineligible for the exemption provided in Rule 15b9-1 under the Act.

written procedures reasonably designed to verify the accuracy and completeness of the information contained in an applicant's Form U4⁸ no later than 30 calendar days after the form is filed with IEX." The rule is substantially identical to FINRA Rule 3110(e) except that in the sentence quoted above, FINRA Rule 3110(e) specifies that the verification requirement applies only to an applicant's initial or transfer Form U4.⁹ The Exchange inadvertently omitted the "initial or transfer" language in Rule 5.110(e). The Exchange proposes to harmonize IEX Rule 5.110(e) with FINRA Rule 3110(e) by adding the omitted language contained in the FINRA rule in order to clarify the requirement, avoid confusion to IEX Members in applying the relevant provision, and enable Rule 5.110 to be incorporated into the 17d-2 Agreement in its entirety. Adding the omitted language will make clear to IEX Members that the verification requirement does not apply to updates or amendments to a registered person's Form U4¹⁰ if such filing is not an initial or transfer Form U4. IEX believes that in determining to require verification for initial and transfer Forms U4, FINRA imposes an appropriate requirement consistent with

⁸ Form U4 is the Uniform Application for Securities Industry Registration or Transfer which must be used by representatives of broker-dealers, among other entities, to become registered in the appropriate jurisdictions and/or SROs. Both FINRA and IEX, as well as all other national securities exchanges, require representatives of broker-dealer members to register on Form U4.

⁹ In its proposed rule filing to adopt FINRA Rule 3110 in its current form, FINRA stated that the term "initial Form U4" refers to the Form U4 filing required when an individual is registering with a FINRA member for the first time, including in the context of dual registration, or is registering with a FINRA member after more than two years have passed since the individual was last registered with a FINRA member. The term "transfer Form U4" refers to the Form U4 filing required when a registered person transfers from one FINRA member to another FINRA member. (See, SR-FINRA-2014-038). Since FINRA administers the Form U4 filing process in its CRD system, in part on behalf of IEX, the Exchange would apply the same meanings in the application of Rule 5.110(e).

¹⁰ The instructions to the Form U4, state that the "individual is under a continuing obligation to amend and update information required by Form U4 as changes occur." See, Form U4 Uniform Application for Securities Industry Registration or Transfer, available at <http://www.finra.org/sites/default/files/AppSupportDoc/p015111.pdf>.

public interest and investor protection concerns in that FINRA requires verification at key times in a registered person's employment. In this regard, IEX notes that FINRA has substantial expertise administering the CRD system and overseeing its members (and those of its client national securities exchanges) Form U4 reporting obligations.

Accordingly, IEX believes that it is appropriate to harmonize with FINRA's approach on what triggers should be required for Members to verify the accuracy and completeness of Form U4 information for their registered personnel, and that the triggers are consistent with investor protection and the public interest. Moreover, for IEX Members that are also FINRA members, the proposed change will align IEX rules with FINRA rules thereby alleviating potential confusion.

b. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,¹¹ in general and furthers the objectives of Sections 6(b)(5) of the Act,¹² 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.

With respect to the proposed change to add an exception to Rule 3.260 to permit bulk transfers under the specified circumstances, the Exchange believes that the

¹¹ 15 U.S.C. 78f.

¹² 15 U.S.C. 78f(b)(5).

exception is consistent with Section 6(b)(5) of the Act¹³ because the exception is narrowly drawn and includes protections designed to help prevent fraudulent and manipulative acts and protect investors and the public interest. The exception is limited to situations involving mergers and acquisitions of funds, changes of clearing members and exchange of funds used in sweep accounts. The Exchange does not believe that these situations raise concerns regarding abuse of discretion in customer accounts by the Member, but rather are more administrative in nature. In addition, and as described above, the exception to permit negative response letters in lieu of prior written authorization from customers for bulk exchanges includes four requirements that are designed to protect customers – the negative response letter must contain a tabular comparison of the nature and amount of the fees charged by each fund, the negative response letter must contain a comparative description of the investment objectives of each fund, a prospectus of the fund to be purchased must be included with the negative response letter, and the negative response feature may not be activated until at least 30 days after the date on which the letter was mailed. These protections provide relevant disclosures to customers regarding the bulk exchange and 30 days to potentially contact the Member to object to the exchange. Based on these considerations, IEX believes it is appropriate to include the exception provided in NASD Rule 2510(d) to eliminate the obstacles and provide the benefits identified by the NASD in adopting the exception. Incorporating the exception into IEX Rule 3.260 would provide appropriate flexibility to allow IEX Members to perform bulk exchanges in the limited situations specified in the rule in an efficient manner that is designed to protect investors and the public interest, as

¹³ 15 U.S.C. 78f(b)(5).

well as to remove impediments to and perfect the mechanism of a free and open market and a national market system.

Further, as noted above, each IEX Member subject to Rule 3.260 must also be a FINRA member. In this regard, the Exchange believes that the proposed rule change will further the objectives of Section 6(b)(5) of the Act¹⁴ by providing greater harmonization between IEX and FINRA rules of similar purpose, enable IEX to incorporate IEX Rule 3.260 in its entirety into the pending 17d-2 Agreement between the Exchange and FINRA (subject to SEC approval), resulting in less burdensome and more efficient regulatory compliance. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system in accordance with Section 6(b)(5) of the Act.¹⁵

IEX believes that the proposed change to Rule 5.110(e) is consistent with Section 6(b)(5) of the Act¹⁶ because it will serve to correct an inadvertent omission in the rule thereby clarifying the applicable verification requirement for IEX Members. As discussed above in the Purpose section, IEX believes that the FINRA Form U4 verification requirements are designed to protect investors and the public interest by requiring verification at key times in a registered person's employment. In addition, and as noted above, FINRA has substantial expertise administering the CRD system and overseeing its members (and those of its client national securities exchanges) Form U4

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ 15 U.S.C. 78f(b)(5).

¹⁶ 15 U.S.C. 78f(b)(5).

reporting obligations through SEC approved rules.¹⁷ Accordingly, IEX believes that the proposed rule change would further the objectives of Section 6(b)(5) of the Act¹⁸ by imposing appropriately balanced Form U4 verification requirements that are designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade. Further, the Exchange believes that providing greater harmonization between IEX and FINRA rules of similar purpose will result in less burdensome and more efficient regulatory compliance for IEX Members that are also FINRA members, and facilitate FINRA's performance of its regulatory performance under the pending 17d-2 Agreement (subject to SEC approval), thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, consistent with the objectives of Section 6(b)(5). In addition, alignment of IEX rules with FINRA rules will alleviate any confusion among market participants regarding the applicable verification requirements, including for IEX Members that are not FINRA members.

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, as amended. The proposed rule change is not designed to address any competitive issues but rather to provide greater harmonization among Exchange and FINRA rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance for common members and facilitating FINRA's performance of its regulatory performance on the pending 17d-2 Agreement (subject to SEC approval). Moreover, harmonization of

¹⁷ See, Release No. 34-73966, File No. SR-FINRA-2014-038 (December 30, 2014); 80 FR 546 (January 6, 2015).

¹⁸ 15 U.S.C. 78f(b)(5).

the specified IEX's rules with FINRA rules will promote competition by removing disparate requirements between IEX Members and FINRA members.

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 believes that this proposal qualifies for immediate effectiveness upon filing as a "non-controversial" rule change in accordance with Section 19(b)(3)(A) of the Act¹⁹ and paragraph (f)(6) of Rule 19b-4 thereunder.²⁰

The Exchange asserts that the proposed rule change (i) will not significantly affect the protection of investors or the public interest, (ii) will not impose any significant burden on competition, and (iii) by its terms, will not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest. 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, or such shorter time as the Commission may designate.

The Exchange believes that this filing is non-controversial because it raises no novel issues and is consistent with FINRA rules previously approved by the Commission.

¹⁹ 15 U.S.C. 78s(b)(3)(A).

²⁰ 17 C.F.R. 240.19b-4.

In particular, the purpose of the proposed rule change is to harmonize with and conform to FINRA rules. The Exchange proposes to adopt the rule changes in substantially the form that they were approved by the Commission for FINRA.²¹ Accordingly, the Exchange believes that these proposed rule changes are eligible for immediately effective treatment under the Commission's current procedures for processing rule filings.²²

The Exchange respectfully requests that the Commission waive the 30-day delayed operative date so that the proposed rule change may become effective and operative upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder. Waiving the 30-day delay would permit the Exchange to harmonize its rules with FINRA to coincide with IEX's launch of exchange operations during a security-by-security phase-in period scheduled to begin on August 19, 2016. As IEX is harmonizing these two rules to the comparable rules of FINRA, the proposed changes do not present any new or novel issues. Further harmonizing them now will allow them to coincide with the recently effective bilateral 17d-2 plan, which should reduce burdens on members while the increased coordination should promote investor protection.

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

²¹ See NASD Notice 93-1, available at http://finra.complinet.com/en/display/display.html?rbid=2403&element_id=1638 and Securities Exchange Act Release No. 73966 (December 30, 2014), 80 FR 546 (January 6, 2015)

²² See Securities Exchange Act Release No. 58092 (July 3, 2008), 73 FR 40144 (July 11, 2008) (concerning 17 CFR 200 and 241).

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.²³

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

The proposed rule change is based on FINRA Rules 3.260 and 5.110.

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.

²³ 15 U.S.C. 78s(b)(2)(B).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34 -); File No. SR-IEX-2016-12)

Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Conform Rules 3.260(d) and 5.110(e) to Corresponding Rules of the Financial Industry Regulatory Authority

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 Securities Exchange Act of 1934 (“Act”),⁴ and Rule 19b-4 thereunder,⁵ Investors Exchange LLC (“IEX” or “Exchange”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to conform Rule 3.260(d) and 5.110(e) to corresponding rules of the Financial Industry Regulatory Authority (“FINRA”). The Exchange has designated

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.

this proposal as “non-controversial” and provided the Commission with the notice required by Rule 19b-4(f)(6)(iii) under the Act.⁶

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

Pursuant to Rule 17d-2 under the Act,⁷ and subject to Commission approval, the Exchange and FINRA has entered into an agreement to allocate regulatory responsibility for common rules (the “17d-2 Agreement”).⁸ The 17d-2 Agreement covers common members of the Exchange and FINRA and allocates to FINRA regulatory responsibility, with respect to common members, for the following: (i) examination of common members of the Exchange and FINRA for compliance with certain federal securities laws, rules and regulations and rules of the Exchange that the Exchange certifies are

⁶ 17 CFR 240.19b-4(f)(6)(iii).

⁷ 17 CFR 240.17d-2

⁸ See, Securities Exchange Act Release No. 78434 (July 28, 2016) (File No. 4-700).

identical or substantially similar to FINRA rules; (ii) investigation of common members of the Exchange and FINRA for violations of certain federal securities laws, rules and regulations, or Exchange rules that the Exchange certifies as identical or substantially identical to a FINRA rule; and (iii) enforcement of compliance by common members with certain federal securities laws, rules and regulations, and the rules of the Exchange that the Exchange certifies as identical or substantially similar to FINRA rules.

The 17d-2 Agreement will include a certification by the Exchange that states that the requirements contained in certain Exchange rules are identical to, or substantially similar to, certain FINRA rules that have been identified as comparable. To conform to comparable FINRA rules for the purposes of the 17d-2 Agreement, as well as to make changes that IEX believes are appropriate, the Exchange proposes to amend Exchange Rules 3.260(d) and 5.110(e) to harmonize with FINRA Rules as described below.

IEX Rule 3.260

IEX Rule 3.260 governs discretionary accounts and contains certain prohibitions and requirements as follows:

- (a) Excessive Transactions – The rule prohibits a Member from effecting purchase or sale transactions in a customer’s account, with respect to which such member (or its agent or employee) has discretion, which are excessive in size or frequency in view of the financial resources and character of such account.
- (b) Authorization and Acceptance of Account – The rule provides that no Member or Registered Representative shall exercise any discretionary power in a customer’s account unless such customer has given prior written authorization to a stated individual or individuals and the account has been accepted by the Member, as evidenced in writing by the Member or the partner, officer or manager, duly designated by the Member, in accordance with IEX Rule 5.110.

- (c) Approval and Review of Transactions – The rule provides that the Member or the person duly designated shall approve promptly in writing each discretionary order entered and shall review all discretionary accounts at frequent intervals in order to detect and prevent transactions which are excessive in size or frequency in view of the financial resources and character of the account.
- (d) Exceptions – The rule provides an exception for discretion as to the price at which or the time when an order given by a customer for the purchase or sale of a definite amount of a specified security shall be executed, except that the authority to exercise time and price discretion will be considered to be in effect only until the end of the business day on which the customer granted such discretion, absent a specific, written contrary indication signed and dated by the customer. This limitation shall not apply to time and price discretion exercised in an institutional account, as defined in IEX Rule 5.110 pursuant to valid Good-Till-Canceled instructions issued on a "not-held" basis. Any exercise of time and price discretion must be reflected on the order ticket.

IEX Rule 3.260 is identical to NASD Rule 2510 (which is a FINRA rule) except that paragraph (d) of the IEX rule does not contain an exception contained in NASD Rule 2510(d) for bulk exchanges at net asset value of money market mutual funds utilizing negative response letters provided the bulk exchange is limited to situations involving mergers and acquisitions of funds, changes of clearing members and exchange of funds used in sweep accounts, the negative response letter contains a tabular comparison of the nature and amount of the fees charged by each fund, the negative response letter contains a comparative description of the investment objectives of each fund and a prospectus of the fund to be purchased, and the negative response feature will not be activated until at least 30 days after the date on which the letter was mailed.

To harmonize IEX Rule 3.260 with NASD Rule 2510, the Exchange proposes to adopt an identical exception for bulk transfers as is contained in NASD Rule 2510(d) so

that it may be incorporated into the 17d-2 Agreement in its entirety. The exception was added to NASD rules in 1992 in order to eliminate an obstacle to the efficient and timely execution of bulk exchanges of money market mutual funds in the situations set forth in NASD Rule 2510. In Notice to Members 93-1 announcing the rule change,⁹ the NASD explained the reason for adoption of the exception as follows:

“The NASD recognized that it is often necessary to notify hundreds and, sometimes, several thousand money market mutual fund share-owners of an impending fund exchange. It may be an extremely difficult, if not impossible, administrative task to contact each non-replier and solicit approval of the fund exchange. At best, contacting individuals for approval results in considerable delays and added cost. The NASD determined that, by eliminating an obstacle to the efficient and timely execution of such bulk exchanges, where customers are at little or no risk, customers and NASD members would benefit.”

Although such bulk transfers cannot be effected on the Exchange, IEX believes it is appropriate to include the exception provided in NASD Rule 2510(d) to eliminate the obstacles and provide the benefits identified by the NASD in adopting the exception, as well as to enable incorporation of IEX Rule 3.260 into the 17d-2 Agreement in its entirety. Incorporating the exception into IEX Rule 3.260 would provide appropriate flexibility to allow IEX Members to perform bulk exchanges in the limited situations specified in the rule in an efficient manner that is designed to protect investors and the

⁹ See, http://finra.complinet.com/en/display/display.html?rbid=2403&element_id=1638.

public interest. Absent the exception, IEX Members would technically be prohibited from effecting bulk transfers in the manner permitted by FINRA rules.¹⁰

IEX Rule 5.110(e)

IEX Rule 5.110(e) governs the responsibility of an IEX Member to investigate applicants for registration, including that “...each member shall establish and implement written procedures reasonably designed to verify the accuracy and completeness of the information contained in an applicant’s Form U4¹¹ no later than 30 calendar days after the form is filed with IEX.” The rule is substantially identical to FINRA Rule 3110(e) except that in the sentence quoted above, FINRA Rule 3110(e) specifies that the verification requirement applies only to an applicant’s initial or transfer Form U4.¹² The Exchange inadvertently omitted the “initial or transfer” language in Rule 5.110(e). The Exchange proposes to harmonize IEX Rule 5.110(e) with FINRA Rule 3110(e) by adding the omitted language contained in the FINRA rule in order to clarify the requirement, avoid confusion to IEX Members in applying the relevant provision, and enable Rule 5.110 to be incorporated into the 17d-2 Agreement in its entirety. Adding the omitted

¹⁰ Each IEX Member subject to IEX Rule 3.260 is required to be a FINRA member, pursuant to Section 15(b)(8) of the Act, since the rule relates to customer accounts and the Member would thus be ineligible for the exemption provided in Rule 15b9-1 under the Act.

¹¹ Form U4 is the Uniform Application for Securities Industry Registration or Transfer which must be used by representatives of broker-dealers, among other entities, to become registered in the appropriate jurisdictions and/or SROs. Both FINRA and IEX, as well as all other national securities exchanges, require representatives of broker-dealer members to register on Form U4.

¹² In its proposed rule filing to adopt FINRA Rule 3110 in its current form, FINRA stated that the term “initial Form U4” refers to the Form U4 filing required when an individual is registering with a FINRA member for the first time, including in the context of dual registration, or is registering with a FINRA member after more than two years have passed since the individual was last registered with a FINRA member. The term “transfer Form U4” refers to the Form U4 filing required when a registered person transfers from one FINRA member to another FINRA member. (See, SR-FINRA-2014-038). Since FINRA administers the Form U4 filing process in its CRD system, in part on behalf of IEX, the Exchange would apply the same meanings in the application of Rule 5.110(e).

language will make clear to IEX Members that the verification requirement does not apply to updates or amendments to a registered person's Form U4¹³ if such filing is not an initial or transfer Form U4. IEX believes that in determining to require verification for initial and transfer Forms U4, FINRA imposes an appropriate requirement consistent with public interest and investor protection concerns in that FINRA requires verification at key times in a registered person's employment. In this regard, IEX notes that FINRA has substantial expertise administering the CRD system and overseeing its members (and those of its client national securities exchanges) Form U4 reporting obligations. Accordingly, IEX believes that it is appropriate to harmonize with FINRA's approach on what triggers should be required for Members to verify the accuracy and completeness of Form U4 information for their registered personnel, and that the triggers are consistent with investor protection and the public interest. Moreover, for IEX Members that are also FINRA members, the proposed change will align IEX rules with FINRA rules thereby alleviating potential confusion.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,¹⁴ in general and furthers the objectives of Sections 6(b)(5) of the Act,¹⁵ 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

¹³ The instructions to the Form U4, state that the "individual is under a continuing obligation to amend and update information required by Form U4 as changes occur." See, Form U4 Uniform Application for Securities Industry Registration or Transfer, available at <http://www.finra.org/sites/default/files/AppSupportDoc/p015111.pdf>.

¹⁴ 15 U.S.C. 78f.

¹⁵ 15 U.S.C. 78f(b)(5).

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.

With respect to the proposed change to add an exception to Rule 3.260 to permit bulk transfers under the specified circumstances, the Exchange believes that the exception is consistent with Section 6(b)(5) of the Act¹⁶ because the exception is narrowly drawn and includes protections designed to help prevent fraudulent and manipulative acts and protect investors and the public interest. The exception is limited to situations involving mergers and acquisitions of funds, changes of clearing members and exchange of funds used in sweep accounts. The Exchange does not believe that these situations raise concerns regarding abuse of discretion in customer accounts by the Member, but rather are more administrative in nature. In addition, and as described above, the exception to permit negative response letters in lieu of prior written authorization from customers for bulk exchanges includes four requirements that are designed to protect customers – the negative response letter must contain a tabular comparison of the nature and amount of the fees charged by each fund, the negative response letter must contain a comparative description of the investment objectives of each fund, a prospectus of the fund to be purchased must be included with the negative response letter, and the negative response feature may not be activated until at least 30 days after the date on which the letter was mailed. These protections provide relevant disclosures to customers regarding the bulk exchange and 30 days to potentially contact the Member to object to the exchange. Based on these considerations, IEX believes it is appropriate to include the exception provided in NASD Rule 2510(d) to eliminate the

¹⁶ 15 U.S.C. 78f(b)(5).

obstacles and provide the benefits identified by the NASD in adopting the exception.

Incorporating the exception into IEX Rule 3.260 would provide appropriate flexibility to allow IEX Members to perform bulk exchanges in the limited situations specified in the rule in an efficient manner that is designed to protect investors and the public interest, as well as to remove impediments to and perfect the mechanism of a free and open market and a national market system.

Further, as noted above, each IEX Member subject to Rule 3.260 must also be a FINRA member. In this regard, the Exchange believes that the proposed rule change will further the objectives of Section 6(b)(5) of the Act¹⁷ by providing greater harmonization between IEX and FINRA rules of similar purpose, enable IEX to incorporate IEX Rule 3.260 in its entirety into the pending 17d-2 Agreement between the Exchange and FINRA (subject to SEC approval), resulting in less burdensome and more efficient regulatory compliance. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system in accordance with Section 6(b)(5) of the Act.¹⁸

IEX believes that the proposed change to Rule 5.110(e) is consistent with Section 6(b)(5) of the Act¹⁹ because it will serve to correct an inadvertent omission in the rule thereby clarifying the applicable verification requirement for IEX Members. As discussed above in the Purpose section, IEX believes that the FINRA Form U4 verification requirements are designed to protect investors and the public interest by

¹⁷ 15 U.S.C. 78f(b)(5).

¹⁸ 15 U.S.C. 78f(b)(5).

¹⁹ 15 U.S.C. 78f(b)(5).

requiring verification at key times in a registered person's employment. In addition, and as noted above, FINRA has substantial expertise administering the CRD system and overseeing its members (and those of its client national securities exchanges) Form U4 reporting obligations through SEC approved rules.²⁰ Accordingly, IEX believes that the proposed rule change would further the objectives of Section 6(b)(5) of the Act²¹ by imposing appropriately balanced Form U4 verification requirements that are designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade. Further, the Exchange believes that providing greater harmonization between IEX and FINRA rules of similar purpose will result in less burdensome and more efficient regulatory compliance for IEX Members that are also FINRA members, and facilitate FINRA's performance of its regulatory performance under the pending 17d-2 Agreement (subject to SEC approval), thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, consistent with the objectives of Section 6(b)(5). In addition, alignment of IEX rules with FINRA rules will alleviate any confusion among market participants regarding the applicable verification requirements, including for IEX Members that are not FINRA members.

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, as amended. The proposed rule change is not designed to address any competitive issues but rather to provide greater harmonization among Exchange and FINRA rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance for

²⁰ See, Release No. 34-73966, File No. SR-FINRA-2014-038 (December 30, 2014); 80 FR 546 (January 6, 2015).

²¹ 15 U.S.C. 78f(b)(5).

common members and facilitating FINRA's performance of its regulatory performance on the pending 17d-2 Agreement (subject to SEC approval). Moreover, harmonization of the specified IEX's rules with FINRA rules will promote competition by removing disparate requirements between IEX Members and FINRA members.

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)²² of the Act and Rule 19b-4(f)(6)²³ 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)²⁴ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),²⁵ 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

²² 15 U.S.C. 78s(b)(3)(A).

²³ 17 CFR 240.19b-4(f)(6).

²⁴ 17 CFR 240.19b-4(f)(6).

²⁵ 17 CFR 240.19b-4(f)(6)(iii).

proposal may become operative at the time of the launch of its operation as a national securities exchange.

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)²⁶ 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-2016-12 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.

²⁶ 15 U.S.C. 78s(b)(2)(B).

All submissions should refer to File Number SR-IEX-2016-12. 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. 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-2016-12 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.²⁷

²⁷ 17 CFR 200.30-3(a)(12).

Exhibit 5 – Text of Proposed Rule Change

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

Rule 3.260. Discretionary Accounts

(a) – (c) – No change.

(d) Exceptions

This IEX Rule shall not apply to:

(1) discretion as to the price at which or the time when an order given by a customer for the purchase or sale of a definite amount of a specified security shall be executed, except that the authority to exercise time and price discretion will be considered to be in effect only until the end of the business day on which the customer granted such discretion, absent a specific, written contrary indication signed and dated by the customer. This limitation shall not apply to time and price discretion exercised in an institutional account, as defined in IEX Rule 5.110 pursuant to valid Good-Till-Canceled instructions issued on a "not-held" basis. Any exercise of time and price discretion must be reflected on the order ticket[.];

(2) bulk exchanges at net asset value of money market mutual funds ("funds") utilizing negative response letters provided:

(A) The bulk exchange is limited to situations involving mergers and acquisitions of funds, changes of clearing members and exchanges of funds used in sweep accounts;

(B) The negative response letter contains a tabular comparison of the nature and amount of the fees charged by each fund;

(C) The negative response letter contains a comparative description of the investment objectives of each fund and a prospectus of the fund to be purchased; and

(D) The negative response feature will not be activated until at least 30 days after the date on which the letter was mailed.

Rule 5.110. Supervision

(a) – (d) – No change.

(e) Responsibility of Member to Investigate Applicants for Registration

Each member shall ascertain by investigation the good character, business reputation, qualifications and experience of an applicant before the member applies to register that applicant with IEX and before making a representation to that effect on the application for registration.

If the applicant previously has been registered with IEX or another self-regulatory organization, the member shall review a copy of the applicant's most recent Form U5, including any amendments thereto, within 60 days of the filing date of an application for registration, or demonstrate to IEX that it has made reasonable efforts to do so. In conducting its review of the Form U5, the member shall take such action as may be deemed appropriate.

The member shall also review an applicant's employment experience to determine if the applicant has been recently employed by a Futures Commission Merchant or an Introducing Broker that is notice-registered with the SEC pursuant to Section 15(b)(11) of the Exchange Act. In such a case, the member shall also review a copy of the applicant's most recent CFTC Form 8-T, including any amendments thereto, within 60 days of the filing date of an application for registration, or demonstrate to IEX that it has made reasonable efforts to do so. In conducting its review of a Form 8-T, the member shall take such action as may be deemed appropriate.

In addition, each member shall establish and implement written procedures reasonably designed to verify the accuracy and completeness of the information contained in an applicant's initial or transfer Form U4 no later than 30 calendar days after the form is filed with IEX. Such procedures shall, at a minimum, provide for a search of reasonably available public records to be conducted by the member, or a third-party service provider, to verify the accuracy and completeness of the information contained in the applicant's Form U4.

(f) – No change.

Supplementary Material – No change.