

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 39	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No.* SR - 2017 - * 37	Amendment No. (req. for Amendments *)
Filing by Investors' Exchange LLC Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934				
Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>
			Section 19(b)(3)(B) * <input type="checkbox"/>	
			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"/>			
Description				
Provide a brief description of the action (limit 250 characters, required when Initial is checked *).				
<input type="text" value="Proposed rule change to amend Rule 11.152 to add provisions related to market maker withdrawals of quotations in securities listed on the Investors Exchange."/>				
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 *	<input type="text" value="Claudia"/>	Last Name *	<input type="text" value="Crowley"/>	
Title *	<input type="text" value="Chief Regulatory Officer"/>			
E-mail *	<input type="text" value="claudia.crowley@iextrading.com"/>			
Telephone *	<input type="text" value="(646) 343-2041"/>	Fax	<input type="text"/>	
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	<input type="text" value="10/19/2017"/>	<input type="text" value="Chief Regulatory Officer"/>		
By	<input type="text" value="Claudia Crowley"/>	<input type="text"/>		
(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.				
<input type="button" value="claudia.crowley@iextrading.com"/>				

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”),¹ and Rule 19b-4 thereunder,² Investors Exchange LLC (“IEX” or “Exchange”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend Rule 11.152 to add provisions related to Market Maker withdrawals of quotations in securities listed on IEX, remove an incorrect cross reference in paragraph (c), and to correct a typographical error in a cross-reference in paragraph (d). 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6)(iii).

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

Background

On June 17, 2016, the Commission granted IEX's application for registration as a national securities exchange under Section 6 of the Act including approval of rules applicable to the qualification, listing and delisting of companies on the Exchange. The Exchange plans to begin a listing program in the fourth quarter of 2017 and is proposing to amend Rule 11.152 to add provisions related to Market Maker withdrawals of quotations in securities listed on IEX.

IEX Rules 11.150 through 11.154 contain provisions applicable to IEX Market Makers, including registration, quotation obligations, withdrawal of quotations, voluntary termination of registration, and suspension and termination of quotations. Pursuant to Rule 11.151 a Member registered as a Market Maker is required to maintain a two-sided quotation within the designated percentage of the National Best Bid ("NBB") and National Best Offer ("NBO"),⁴ as appropriate.

⁴ As defined by Regulation NMS Rule 600(b)(42). 17 CFR 242.600.

IEX Rule 11.152 governs the requirements for a Market Maker to obtain excused withdrawal status thereby temporarily suspending its obligation to comply with the two-sided quotation obligation of Rule 11.151. Specifically, Rule 11.152 provides the ability for a Market Maker to obtain excused withdrawal status under the following circumstances:

- Systemic equipment problems – An IEX Market Maker that wishes to obtain excused withdrawal status based on a market maker's systemic equipment problems, such as defects in an IEX Market Maker's software or hardware systems or connectivity problems associated with the circuits connecting Exchange systems with the IEX Market Maker's systems, shall contact IEX Market Operations. IEX Market Operations may grant excused withdrawal status based on systemic equipment problems for up to five (5) business days, unless extended by IEX Market Operations.
- For securities listed on exchanges other than IEX – An IEX Market Maker that wishes to withdraw quotations shall contact IEX Regulation to obtain excused withdrawal status prior to withdrawing its quotations. Excused withdrawal status based on illness, vacations or physical circumstances beyond the Market Maker's control may be granted for up to five (5) business days, unless extended by IEX Regulation. Excused withdrawal status based on investment activity or advice of legal counsel, accompanied by a representation that the condition necessitating the withdrawal of quotations is not permanent in nature, may, upon written request, be granted for not more than sixty (60) days. The withdrawal of quotations because of pending news, a sudden influx of orders or price changes,

or to effect transactions with competitors shall not normally constitute acceptable reasons for granting excused withdrawal status, unless IEX has initiated a trading halt for Market Makers in the security, pursuant to IEX Rule 11.280.⁵

- Failure to maintain a clearing arrangement – Excused withdrawal status may be granted to an IEX Market Maker that fails to maintain a clearing arrangement with a registered clearing agency or with a Member of such an agency and is withdrawn from participation in the trade reporting service of the Exchange, thereby terminating its registration as an IEX Market Maker.⁶

Other than for systemic equipment problems, a Market Maker that wishes to withdraw quotations in a security shall contact IEX Regulation to obtain excused withdrawal status prior to withdrawing its quotations. Withdrawals of quotations shall be granted by IEX Regulation only upon satisfying one of the conditions specified in Rule 11.152, as described above.

Proposed Rule Change

IEX proposes to amend paragraph (c) of Rule 11.152 to add provisions for a Market Maker to obtain excused withdrawal status for securities listed on IEX. As proposed, a Market Maker in a security listed on IEX may obtain excused withdrawal status, thereby temporarily suspending its obligation to comply with the two-sided

⁵ Note, as described further below, the Exchange proposes to delete the final clause of this provision, which provides an exception for a trading halt initiated for Market Makers pursuant to IEX Rule 11.280. IEX Rule 11.280 (Limit Up-Limit Down Plan and Trading Halts), does not include a provision regarding a halt for Market Makers, and thus the cross-reference has no practical effect.

⁶ However, if IEX finds that the IEX Market Maker's failure to maintain a clearing arrangement is voluntary, the withdrawal of quotations will be considered voluntary and unexcused.

quotation obligation of Rule 11.151, under the following circumstances:

- Circumstances beyond the Market Maker's control – Excused withdrawal status based on circumstances beyond the IEX Market Maker's control,⁷ other than systemic equipment problems, may be granted for up to five (5) business days, unless extended by IEX Regulation.
- Legal or regulatory requirements – Excused withdrawal status based on demonstrated legal or regulatory requirements⁸, supported by appropriate documentation and accompanied by a representation that the condition necessitating the withdrawal of quotations is not permanent in nature, may, upon notification, be granted for not more than sixty (60) days (unless such request is required to be made pursuant to proposed amendments to paragraph (e) related to the Member that operates the Market Maker acting as a manager, distribution participant or affiliated purchaser of a distribution in the security for which it seeks excused withdrawal status).
- Religious holidays – Excused withdrawal status based on religious holidays may be granted only if written notice is received by IEX one business day in advance and is approved by IEX.
- Vacation – Excused withdrawal status based on vacation may be granted only if:
 - (A) The written request for withdrawal is received by IEX one business day in advance, and is approved by IEX;
 - (B) The request includes a list of securities for

⁷ Such circumstances would include, without limitation, unpredictable events such as jury duty, bomb threats or other physical security issues, the birth of a child, or sudden illness.

⁸ Such requirements would include, for example, possession of material nonpublic information regarding the security in question for which the Market Maker is seeking excused withdrawal status.

which withdrawal is requested; and (C) The request is made by an IEX Market Maker that meets the definition of a “Small Firm Member” pursuant to Definition Y of the FINRA Restated Certification of Incorporation, even if the IEX Market Maker is not a FINRA member.⁹

As proposed, the withdrawal of quotations because of pending news, a sudden influx of orders or price changes, or to effect transactions with competitors shall not constitute acceptable reasons for granting excused withdrawal status.

The Exchange also proposes to amend paragraph (e) of Rule 11.152, which is currently reserved, to add provisions to provide that excused withdrawal status may be granted to an IEX Market Maker that is a distribution participant or an affiliated purchaser in order to comply with SEC Rule 101 or 104 under the Act. As proposed, such excused withdrawal status may be granted under the following conditions:

- Subparagraph (e)(1) of Rule 11.152 provides that a member acting as a manager (or in a similar capacity) of a distribution of a security that is a subject security or reference security under SEC Rule 101 and any member that is a distribution participant or an affiliated purchaser in such a distribution that does not have a manager shall provide written notice to IEX Regulation and the Market Regulation Department of FINRA no later than the business day prior to the first entire trading session of the one-day or five-day restricted period under SEC Rule 101, unless later notification is necessary under the specific circumstances.
 - The notice required by subparagraph (e)(1) shall be provided by

⁹ In the event that FINRA’s definition of a “Small Firm Member” is changed, IEX will file a rule change to address any such change in proposed Rule 11.152(c)(1)(C).

submitting a completed Underwriting Activity Report that includes a request on behalf of each IEX Market Maker that is a distribution participant or an affiliated purchaser to withdraw the IEX Market Maker's quotations and includes the contemplated date and time of the commencement of the restricted period.

- The managing underwriter shall advise each IEX Market Maker that it has been identified as a distribution participant or an affiliated purchaser to IEX Regulation and that its quotations will be automatically withdrawn, unless a market maker that is a distribution participant (or an affiliated purchaser of a distribution participant) notifies IEX Regulation as required by subparagraph (e)(2) of Rule 11.152 of its intention not to participate in the prospective distribution in order to avoid having its quotations withdrawn. Further, subparagraph (e)(3) provides that if an IEX Market Maker that is a distribution participant withdraws its quotations in an IEX-listed security in order to comply with any provision of SEC Rules 101 or 104 and promptly notifies IEX Regulation of its action, the withdrawal shall be deemed an excused withdrawal. In addition, subparagraph (e)(3) provides that nothing in the subparagraph shall prohibit IEX from taking such action as is necessary under the circumstances against a Member and its associated persons for failure to contact IEX Regulation to obtain an excused withdrawal as required by subparagraphs (a) and (e) of Rule 11.152.
- Subparagraph (e)(5) of Rule 11.152 provides that a member acting as a manager (or in a similar capacity of a distribution subject to subparagraph (e)(1)) of Rule 11.152 shall submit a request on the Underwriting Activity Report to IEX Regulation and

the Market Regulation Department of FINRA to rescind the excused withdrawal status of distribution participants and affiliated purchasers, which request shall include the date and time of the pricing of the offering, the offering price, and the time the offering terminated, and, if not in writing, shall be confirmed in writing no later than the close of business the day the offering terminates.

As noted above, the Exchange proposes to delete the final clause of the final sentence in Rule 11.152(c) (described above), which states that the withdrawal of quotations because of pending news, a sudden influx of orders or price changes, or to effect transactions with competitors shall not normally constitute acceptable reasons for granting excused withdrawal status, but provides an exception for a trading halt initiated for Market Makers pursuant to IEX Rule 11.280. IEX Rule 11.280 (Limit Up-Limit Down Plan and Trading Halts), does not include a provision granting the Exchange authority to halt trading for Market Makers, and thus the cross-reference has no practical effect.¹⁰ The Exchange further proposes to make a conforming change to the preceding clause of the final sentence in Rule 11.152(c), to remove the qualifying term “normally” with regard to the circumstances that will not constitute acceptable reasons for granting excused withdrawal status, because such qualification is no longer necessary or applicable after the Exchange removed the exception for a trading halt initiated for Market Makers, as described above. The proposed deletion is designed to avoid any potential confusion amongst market makers regarding the reasons the Exchange would

¹⁰ The Exchange notes that this provision was inadvertently included in the Exchange’s original rule set, and is substantially similar to Nasdaq Rule 4619(c)(2), which provides an identical exception for a trading halt initiated for Nasdaq market makers pursuant to Nasdaq Rule 4120.

find acceptable for granting excused withdrawal status, and make the Exchange's rules more clear, concise, and accurate. Moreover, pursuant to Rule 11.151(a)(2), in the event a security is subject to a trading halt, the Market Maker's pricing obligations are suspended, and do not re-commence until after the first regular way transaction on the primary listing market in the security following such halt, as reported by the responsible single plan processor.

Finally, IEX proposes to correct a typographical in a cross-reference in paragraph (d) of Rule 11.152. As described above, paragraph (d) provides that excused withdrawal status may be granted to an IEX Market Maker that fails to maintain a clearing arrangement with a registered clearing agency or with a Member of such an agency and is withdrawn from participation in the trade reporting service of the Exchange, thereby terminating its registration as an IEX Market Maker. Paragraph (d) also provides that if IEX finds that the Market Maker's failure to maintain a clearance arrangement is voluntary, the withdrawal of quotations will be considered voluntary and unexcused pursuant to Rule 2.190. However, the reference to Rule 2.190 is incorrect and should instead reference Rule 11.153 which provides that a Market Maker may voluntarily terminate its registration in a security by withdrawing its two-sided quotation from the Exchange, and also describes the timeframes for registration after such a termination, including in the case of failure to maintain a clearance arrangement. Rule 2.190 governs voluntary termination of rights as a Member, which is not relevant to the provisions of paragraph (d), which relate to treating a voluntary failure to maintain a clearance arrangement as a voluntary termination of Market Maker registration. Accordingly, the Exchange proposes to correct this typographical error.

As proposed, the amendments to IEX Rule 11.152 would substantially conform the Rule to Nasdaq Stock Market LLC (“Nasdaq”) Rule 4619, with minor nonsubstantive differences in terminology. Further, the proposed changes to IEX Rule 11.152(e) do not include provisions for passive market making pursuant to Rule 103 of Regulation M, which only applies to Nasdaq registered market makers.¹¹

b. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act¹² in general, and furthers the objectives of Section 6(b)(5)¹³ of the Act in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change supports these objectives because it is designed to provide appropriate, objective and transparent criteria for an IEX Market Maker in securities listed on IEX to withdraw its quotations and obtain excused withdrawal status. The Exchange further believes that the proposed rule change is consistent with the protection of investors and the public interest because the criteria to obtain excused withdrawal status accommodate legitimate issues that may be periodically encountered by IEX Market Makers that warrant an excused withdrawal, and are not designed to enable IEX Market Makers to avoid or circumvent their market making obligations through inappropriate excused withdrawals. The proposed changes to IEX Rule 11.152 are

¹¹ 17 CFR 242.103.

¹² 15 U.S.C. 78f.

¹³ 15 U.S.C. 78f(b)(5).

substantially similar to existing provisions of Nasdaq Rule 4619, subject to several minor differences described below. Thus, the Exchange does not believe that this rule change raises any new or novel issues not already considered by the Commission. Further, the Exchange believes that the proposed rule change is reasonable, equitable, and not unfairly discriminatory because all IEX Market Makers will be subject to the same requirements for excused withdrawals in securities listed on IEX.

Specifically, the Exchange believes that it is consistent with the protection of investors and the public interest to allow a Market Maker to obtain excused withdrawal status based on circumstances outside the Market Maker's control for up to five business days, unless extended by IEX Regulation, to provide appropriate accommodation for unpredictable events such as jury duty, bomb threats or other physical security issues, the birth of a child, or sudden illness. While the Exchange anticipates that Market Makers will utilize automated algorithms and other systemic tools to comply with the applicable quoting requirements, such systemic tools nonetheless must be overseen by one or more individuals who may experience unpredictable events that require time off. The Exchange believes that the permitted time period of up to five business days, unless extended, is reasonable and comports with the length of time that unpredictable events generally last. The proposed amendments to Rule 11.152(c) in this regard are substantially identical to Nasdaq Rule 4619 (c) except for nonsubstantive terminology differences to refer to IEX rather than Nasdaq.

The Exchange additionally believes that it is consistent with the protection of investors and the public interest to allow a Market Maker to obtain excused withdrawal status based on demonstrated legal or regulatory requirements, for not more than 60 days,

as described in the Purpose section to provide appropriate relief when a Market Maker is prohibited from trading in a particular security, such as if a Market Maker is in possession of material nonpublic information regarding a security in which it is registered. The Exchange believes that 60 days is a reasonable amount of time for the legal or regulatory requirement to be resolved, and that if it persists beyond that time period it would be appropriate for the Market Maker to terminate its registration in the security in question. The proposed amendments to Rule 11.152(c) in this regard are substantially identical to Nasdaq Rule 4619(c) except for nonsubstantive terminology differences to refer to IEX rather than Nasdaq.

The Exchange also believes that it is consistent with the protection of investors and the public interest to allow a Market Maker to obtain excused withdrawal status based on religious holidays to provide for such observances by the individual(s) overseeing Market Maker systemic tools in the case of religious holidays when IEX is open. The proposed amendments to Rule 11.152(c) in this regard are substantially identical to Nasdaq Rule 4619(c) except for nonsubstantive terminology differences to refer to IEX rather than Nasdaq.

The Exchange further believes that it is consistent with the protection of investors and the public interest to allow a Market Maker to obtain excused withdrawal status based on vacation, but to limit such excused withdrawals to the circumstances described in the Purpose section, including that the Market Maker meets the definition of a FINRA Small Firm Member, even if the IEX Market Maker is not a FINRA member. The Exchange believes that Market Makers should generally be able to manage staff vacations so that it can oversee its market making activity, but recognizes that smaller

firms may not have adequate staff in this regard. The Exchange notes that Nasdaq Rule 4619 provides similar relief for vacations, but limits such relief to a market maker with three or fewer Nasdaq level 3 terminals, which it believes is designed to similarly identify smaller firms. Since IEX Market Makers will not use Nasdaq terminals to connect to IEX, the Exchange believes that reference to the FINRA definition of a Small Member Firm is an appropriate alternative measure to account for smaller firms that serve as IEX Market Makers. Other than this difference, the proposed amendments to Rule 11.152(c) in this regard are substantially identical to Nasdaq Rule 4619(c) except for nonsubstantive terminology differences to refer to IEX rather than Nasdaq.

Further, the Exchange believes that it is consistent with the protection of investors and the public interest to allow a Market Maker to obtain excused withdrawal status in order to comply with SEC Rule 101 or 104 under the Act on the conditions described in the Purpose section. The Exchange notes that Rules 101 and 104 are part of Regulation M, which governs the activities of underwriters, issuers, selling security holders, and others in connection with offerings of securities, and is intended to preclude manipulative conduct by persons with an interest in the outcome of an offering.¹⁴ The proposed amendments to IEX Rule 11.152(e) are designed to facilitate IEX Market Makers' compliance with SEC Rules 101 and 104 and support the objectives of Regulation M generally. The proposed changes to IEX Rule 11.152(e) in this regard are substantially identical to Nasdaq Rule 4619(e) except that they do not include provisions for passive market making pursuant to Rule 103 of Regulation M, which only applies to Nasdaq

¹⁴ Securities Exchange Act Release No. 34-38067 (January 3, 1997), 62 FR 520 (File No. S7-11-96).

registered market makers, as discussed in the Purpose section.

In addition, the Exchange believes that it is consistent with the Act to delete the final clause of Rule 11.152(c), as well as the related qualifying language in the preceding clause, because the proposed deletion is designed to avoid any potential confusion amongst market makers regarding the reasons the Exchange would find acceptable for granting excused withdrawal status, and make the Exchange's rules more clear, concise, and accurate.

Finally, the Exchange believes that it is consistent with the Act to correct the cross-reference typographical error in paragraph (d) of Rule 11.152 to promote clarity and consistency among market participants thereby facilitating investor protection and the public interest. The corrected cross-reference is substantially identical to the cross reference in Nasdaq Rule 4619(d) to Nasdaq Rule 4620, which in turn is substantially identical to IEX Rule 11.153.

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

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to provide appropriate, objective and transparent criteria for Market Maker excused withdrawals in securities listed on IEX. The Exchange does not believe that the proposed rule change will result in any burden on intramarket competition because all Market Makers will be subject to the same criteria. The Exchange also does not believe that the proposed rule change will result in any burden on intermarket competition, since Nasdaq has substantially similar criteria for excused withdrawals and other exchanges are free to adopt comparable criteria. The Exchange

also believes that the proposed rule change will serve to promote clarity and consistency, as noted in the Statutory Basis section, thereby reducing burdens on competition and facilitating investor protection.

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 effectiveness on filing as a “non-controversial” rule change in accordance with Section 19(b)(3)(A) of the Act¹⁵ and paragraph (f)(6) of Rule 19b-4 thereunder.¹⁶

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 is

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 C.F.R. 240.19b-4.

substantially identical to Nasdaq Rule 4619 and thus raises no new or novel issues that have not been previously considered by the Commission. Accordingly, the Exchange believes that the proposed rule change is eligible for immediate effectiveness.¹⁷

The Exchange respectfully requests that the Commission waive the 30-day operative delay period after which a proposed rule change under Rule 19b-4(f)(6) becomes effective. The proposed rule change is integral to the Exchange's launch of a listing program, which is designed enhance competition among listing exchanges. Waiver of the operative delay is, therefore, consistent with the protection of investors and the public interest because it will allow the Exchange to implement the proposed rule change to coincide with IEX's listing launch which may occur sooner than 30-days from effectiveness.

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.¹⁸

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

The proposed rule change is based on Nasdaq Rule 4619.

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

¹⁸ 15 U.S.C. 78s(b)(2)(B).

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

Not applicable.

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

Not applicable.

11. Exhibits

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

Exhibit 5 – Text of Proposed Rule Change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34 -); File No. SR-IEX-2017-37)

Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 11.152 to Add Provisions Related to Market Maker Withdrawals of Quotations in Securities Listed on the Investors Exchange.

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 Commission a proposed rule change to amend Rule 11.152 to add provisions related to Market Maker withdrawals of quotations in securities listed on IEX, remove an incorrect cross reference in paragraph (c), and to correct a typographical error in a cross-reference in paragraph (d). 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.⁶The 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

Background

On June 17, 2016, the Commission granted IEX’s application for registration as a national securities exchange under Section 6 of the Act including approval of rules applicable to the qualification, listing and delisting of companies on the Exchange. The Exchange plans to begin a listing program in the fourth quarter of 2017 and is proposing to amend Rule 11.152 to add provisions related to Market Maker withdrawals of quotations in securities listed on IEX.

IEX Rules 11.150 through 11.154 contain provisions applicable to IEX Market Makers, including registration, quotation obligations, withdrawal of quotations, voluntary

⁶ 17 CFR 240.19b-4(f)(6)(iii).

termination of registration, and suspension and termination of quotations. Pursuant to Rule 11.151 a Member registered as a Market Maker is required to maintain a two-sided quotation within the designated percentage of the National Best Bid (“NBB”) and National Best Offer (“NBO”),⁷ as appropriate.

IEX Rule 11.152 governs the requirements for a Market Maker to obtain excused withdrawal status thereby temporarily suspending its obligation to comply with the two-sided quotation obligation of Rule 11.151. Specifically, Rule 11.152 provides the ability for a Market Maker to obtain excused withdrawal status under the following circumstances:

- Systemic equipment problems – An IEX Market Maker that wishes to obtain excused withdrawal status based on a market maker's systemic equipment problems, such as defects in an IEX Market Maker's software or hardware systems or connectivity problems associated with the circuits connecting Exchange systems with the IEX Market Maker's systems, shall contact IEX Market Operations. IEX Market Operations may grant excused withdrawal status based on systemic equipment problems for up to five (5) business days, unless extended by IEX Market Operations.
- For securities listed on exchanges other than IEX – An IEX Market Maker that wishes to withdraw quotations shall contact IEX Regulation to obtain excused withdrawal status prior to withdrawing its quotations. Excused withdrawal status based on illness, vacations or physical circumstances beyond the Market Maker's control may be granted for up to five (5) business days, unless extended by IEX

⁷ As defined by Regulation NMS Rule 600(b)(42). 17 CFR 242.600.

Regulation. Excused withdrawal status based on investment activity or advice of legal counsel, accompanied by a representation that the condition necessitating the withdrawal of quotations is not permanent in nature, may, upon written request, be granted for not more than sixty (60) days. The withdrawal of quotations because of pending news, a sudden influx of orders or price changes, or to effect transactions with competitors shall not normally constitute acceptable reasons for granting excused withdrawal status, unless IEX has initiated a trading halt for Market Makers in the security, pursuant to IEX Rule 11.280.⁸

- Failure to maintain a clearing arrangement – Excused withdrawal status may be granted to an IEX Market Maker that fails to maintain a clearing arrangement with a registered clearing agency or with a Member of such an agency and is withdrawn from participation in the trade reporting service of the Exchange, thereby terminating its registration as an IEX Market Maker.⁹

Other than for systemic equipment problems, a Market Maker that wishes to withdraw quotations in a security shall contact IEX Regulation to obtain excused withdrawal status prior to withdrawing its quotations. Withdrawals of quotations shall be granted by IEX Regulation only upon satisfying one of the conditions specified in Rule 11.152, as described above.

Proposed Rule Change

IEX proposes to amend paragraph (c) of Rule 11.152 to add provisions for a

⁸ Note, as described further below, the Exchange proposes to delete the final clause of this provision, which provides an exception for a trading halt initiated for Market Makers pursuant to IEX Rule 11.280. IEX Rule 11.280 (Limit Up-Limit Down Plan and Trading Halts), does not include a provision regarding a halt for Market Makers, and thus the cross-reference has no practical effect.

⁹ However, if IEX finds that the IEX Market Maker's failure to maintain a clearing arrangement is voluntary, the withdrawal of quotations will be considered voluntary and unexcused.

Market Maker to obtain excused withdrawal status for securities listed on IEX. As proposed, a Market Maker in a security listed on IEX may obtain excused withdrawal status, thereby temporarily suspending its obligation to comply with the two-sided quotation obligation of Rule 11.151, under the following circumstances:

- Circumstances beyond the Market Maker's control – Excused withdrawal status based on circumstances beyond the IEX Market Maker's control,¹⁰ other than systemic equipment problems, may be granted for up to five (5) business days, unless extended by IEX Regulation.
- Legal or regulatory requirements – Excused withdrawal status based on demonstrated legal or regulatory requirements¹¹, supported by appropriate documentation and accompanied by a representation that the condition necessitating the withdrawal of quotations is not permanent in nature, may, upon notification, be granted for not more than sixty (60) days (unless such request is required to be made pursuant to proposed amendments to paragraph (e) related to the Member that operates the Market Maker acting as a manager, distribution participant or affiliated purchaser of a distribution in the security for which it seeks excused withdrawal status).
- Religious holidays – Excused withdrawal status based on religious holidays may be granted only if written notice is received by IEX one business day in advance and is approved by IEX.

¹⁰ Such circumstances would include, without limitation, unpredictable events such as jury duty, bomb threats or other physical security issues, the birth of a child, or sudden illness.

¹¹ Such requirements would include, for example, possession of material nonpublic information regarding the security in question for which the Market Maker is seeking excused withdrawal status.

- Vacation – Excused withdrawal status based on vacation may be granted only if:
 - (A) The written request for withdrawal is received by IEX one business day in advance, and is approved by IEX; (B) The request includes a list of securities for which withdrawal is requested; and (C) The request is made by an IEX Market Maker that meets the definition of a “Small Firm Member” pursuant to Definition Y of the FINRA Restated Certification of Incorporation, even if the IEX Market Maker is not a FINRA member.¹²

As proposed, the withdrawal of quotations because of pending news, a sudden influx of orders or price changes, or to effect transactions with competitors shall not constitute acceptable reasons for granting excused withdrawal status.

The Exchange also proposes to amend paragraph (e) of Rule 11.152, which is currently reserved, to add provisions to provide that excused withdrawal status may be granted to an IEX Market Maker that is a distribution participant or an affiliated purchaser in order to comply with SEC Rule 101 or 104 under the Act. As proposed, such excused withdrawal status may be granted under the following conditions:

- Subparagraph (e)(1) of Rule 11.152 provides that a member acting as a manager (or in a similar capacity) of a distribution of a security that is a subject security or reference security under SEC Rule 101 and any member that is a distribution participant or an affiliated purchaser in such a distribution that does not have a manager shall provide written notice to IEX Regulation and the Market Regulation Department of FINRA no later than the business day prior to the first

¹² In the event that FINRA’s definition of a “Small Firm Member” is changed, IEX will file a rule change to address any such change in proposed Rule 11.152(c)(1)(C).

entire trading session of the one-day or five-day restricted period under SEC Rule 101, unless later notification is necessary under the specific circumstances.

- The notice required by subparagraph (e)(1) shall be provided by submitting a completed Underwriting Activity Report that includes a request on behalf of each IEX Market Maker that is a distribution participant or an affiliated purchaser to withdraw the IEX Market Maker's quotations and includes the contemplated date and time of the commencement of the restricted period.
- The managing underwriter shall advise each IEX Market Maker that it has been identified as a distribution participant or an affiliated purchaser to IEX Regulation and that its quotations will be automatically withdrawn, unless a market maker that is a distribution participant (or an affiliated purchaser of a distribution participant) notifies IEX Regulation as required by subparagraph (e)(2) of Rule 11.152 of its intention not to participate in the prospective distribution in order to avoid having its quotations withdrawn. Further, subparagraph (e)(3) provides that if an IEX Market Maker that is a distribution participant withdraws its quotations in an IEX-listed security in order to comply with any provision of SEC Rules 101 or 104 and promptly notifies IEX Regulation of its action, the withdrawal shall be deemed an excused withdrawal. In addition, subparagraph (e)(3) provides that nothing in the subparagraph shall prohibit IEX from taking such action as is necessary under the circumstances against a Member and its associated persons for failure to contact IEX Regulation to obtain an excused withdrawal as required by subparagraphs (a) and (e) of Rule 11.152.

- Subparagraph (e)(5) of Rule 11.152 provides that a member acting as a manager (or in a similar capacity of a distribution subject to subparagraph (e)(1)) of Rule 11.152 shall submit a request on the Underwriting Activity Report to IEX Regulation and the Market Regulation Department of FINRA to rescind the excused withdrawal status of distribution participants and affiliated purchasers, which request shall include the date and time of the pricing of the offering, the offering price, and the time the offering terminated, and, if not in writing, shall be confirmed in writing no later than the close of business the day the offering terminates.

As noted above, the Exchange proposes to delete the final clause of the final sentence in Rule 11.152(c) (described above), which states that the withdrawal of quotations because of pending news, a sudden influx of orders or price changes, or to effect transactions with competitors shall not normally constitute acceptable reasons for granting excused withdrawal status, but provides an exception for a trading halt initiated for Market Makers pursuant to IEX Rule 11.280. IEX Rule 11.280 (Limit Up-Limit Down Plan and Trading Halts), does not include a provision granting the Exchange authority to halt trading for Market Makers, and thus the cross-reference has no practical effect.¹³ The Exchange further proposes to make a conforming change to the preceding clause of the final sentence in Rule 11.152(c), to remove the qualifying term “normally” with regard to the circumstances that will not constitute acceptable reasons for granting excused withdrawal status, because such qualification is no longer necessary or applicable after the Exchange removed the exception for a trading halt initiated for

¹³ The Exchange notes that this provision was inadvertently included in the Exchange’s original rule set, and is substantially similar to Nasdaq Rule 4619(c)(2), which provides an identical exception for a trading halt initiated for Nasdaq market makers pursuant to Nasdaq Rule 4120.

Market Makers, as described above. The proposed deletion is designed to avoid any potential confusion amongst market makers regarding the reasons the Exchange would find acceptable for granting excused withdrawal status, and make the Exchange's rules more clear, concise, and accurate. Moreover, pursuant to Rule 11.151(a)(2), in the event a security is subject to a trading halt, the Market Maker's pricing obligations are suspended, and do not re-commence until after the first regular way transaction on the primary listing market in the security following such halt, as reported by the responsible single plan processor.

Finally, IEX proposes to correct a typographical error in a cross-reference in paragraph (d) of Rule 11.152. As described above, paragraph (d) provides that excused withdrawal status may be granted to an IEX Market Maker that fails to maintain a clearing arrangement with a registered clearing agency or with a Member of such an agency and is withdrawn from participation in the trade reporting service of the Exchange, thereby terminating its registration as an IEX Market Maker. Paragraph (d) also provides that if IEX finds that the Market Maker's failure to maintain a clearance arrangement is voluntary, the withdrawal of quotations will be considered voluntary and unexcused pursuant to Rule 2.190. However, the reference to Rule 2.190 is incorrect and should instead reference Rule 11.153 which provides that a Market Maker may voluntarily terminate its registration in a security by withdrawing its two-sided quotation from the Exchange, and also describes the timeframes for registration after such a termination, including in the case of failure to maintain a clearance arrangement. Rule 2.190 governs voluntary termination of rights as a Member, which is not relevant to the provisions of paragraph (d), which relate to treating a voluntary failure to maintain a clearance

arrangement as a voluntary termination of Market Maker registration. Accordingly, the Exchange proposes to correct this typographical error.

As proposed, the amendments to IEX Rule 11.152 would substantially conform the Rule to Nasdaq Stock Market LLC (“Nasdaq”) Rule 4619, with minor nonsubstantive differences in terminology. Further, the proposed changes to IEX Rule 11.152(e) do not include provisions for passive market making pursuant to Rule 103 of Regulation M, which only applies to Nasdaq registered market makers.¹⁴

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act¹⁵ in general, and furthers the objectives of Section 6(b)(5)¹⁶ of the Act in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change supports these objectives because it is designed to provide appropriate, objective and transparent criteria for an IEX Market Maker in securities listed on IEX to withdraw its quotations and obtain excused withdrawal status. The Exchange further believes that the proposed rule change is consistent with the protection of investors and the public interest because the criteria to obtain excused withdrawal status accommodate legitimate issues that may be periodically encountered by IEX Market Makers that warrant an excused withdrawal, and are not designed to enable IEX Market Makers to avoid or circumvent their market making obligations through

¹⁴ 17 CFR 242.103.

¹⁵ 15 U.S.C. 78f.

¹⁶ 15 U.S.C. 78f(b)(5).

inappropriate excused withdrawals. The proposed changes to IEX Rule 11.152 are substantially similar to existing provisions of Nasdaq Rule 4619, subject to several minor differences described below. Thus, the Exchange does not believe that this rule change raises any new or novel issues not already considered by the Commission. Further, the Exchange believes that the proposed rule change is reasonable, equitable, and not unfairly discriminatory because all IEX Market Makers will be subject to the same requirements for excused withdrawals in securities listed on IEX.

Specifically, the Exchange believes that it is consistent with the protection of investors and the public interest to allow a Market Maker to obtain excused withdrawal status based on circumstances outside the Market Maker's control for up to five business days, unless extended by IEX Regulation, to provide appropriate accommodation for unpredictable events such as jury duty, bomb threats or other physical security issues, the birth of a child, or sudden illness. While the Exchange anticipates that Market Makers will utilize automated algorithms and other systemic tools to comply with the applicable quoting requirements, such systemic tools nonetheless must be overseen by one or more individuals who may experience unpredictable events that require time off. The Exchange believes that the permitted time period of up to five business days, unless extended, is reasonable and comports with the length of time that unpredictable events generally last. The proposed amendments to Rule 11.152(c) in this regard are substantially identical to Nasdaq Rule 4619 (c) except for nonsubstantive terminology differences to refer to IEX rather than Nasdaq.

The Exchange additionally believes that it is consistent with the protection of investors and the public interest to allow a Market Maker to obtain excused withdrawal

status based on demonstrated legal or regulatory requirements, for not more than 60 days, as described in the Purpose section to provide appropriate relief when a Market Maker is prohibited from trading in a particular security, such as if a Market Maker is in possession of material nonpublic information regarding a security in which it is registered. The Exchange believes that 60 days is a reasonable amount of time for the legal or regulatory requirement to be resolved, and that if it persists beyond that time period it would be appropriate for the Market Maker to terminate its registration in the security in question. The proposed amendments to Rule 11.152(c) in this regard are substantially identical to Nasdaq Rule 4619(c) except for nonsubstantive terminology differences to refer to IEX rather than Nasdaq.

The Exchange also believes that it is consistent with the protection of investors and the public interest to allow a Market Maker to obtain excused withdrawal status based on religious holidays to provide for such observances by the individual(s) overseeing Market Maker systemic tools in the case of religious holidays when IEX is open. The proposed amendments to Rule 11.152(c) in this regard are substantially identical to Nasdaq Rule 4619(c) except for nonsubstantive terminology differences to refer to IEX rather than Nasdaq.

The Exchange further believes that it is consistent with the protection of investors and the public interest to allow a Market Maker to obtain excused withdrawal status based on vacation, but to limit such excused withdrawals to the circumstances described in the Purpose section, including that the Market Maker meets the definition of a FINRA Small Firm Member, even if the IEX Market Maker is not a FINRA member. The Exchange believes that Market Makers should generally be able to manage staff

vacations so that it can oversee its market making activity, but recognizes that smaller firms may not have adequate staff in this regard. The Exchange notes that Nasdaq Rule 4619 provides similar relief for vacations, but limits such relief to a market maker with three or fewer Nasdaq level 3 terminals, which it believes is designed to similarly identify smaller firms. Since IEX Market Makers will not use Nasdaq terminals to connect to IEX, the Exchange believes that reference to the FINRA definition of a Small Member Firm is an appropriate alternative measure to account for smaller firms that serve as IEX Market Makers. Other than this difference, the proposed amendments to Rule 11.152(c) in this regard are substantially identical to Nasdaq Rule 4619(c) except for nonsubstantive terminology differences to refer to IEX rather than Nasdaq.

Further, the Exchange believes that it is consistent with the protection of investors and the public interest to allow a Market Maker to obtain excused withdrawal status in order to comply with SEC Rule 101 or 104 under the Act on the conditions described in the Purpose section. The Exchange notes that Rules 101 and 104 are part of Regulation M, which governs the activities of underwriters, issuers, selling security holders, and others in connection with offerings of securities, and is intended to preclude manipulative conduct by persons with an interest in the outcome of an offering.¹⁷ The proposed amendments to IEX Rule 11.152(e) are designed to facilitate IEX Market Makers' compliance with SEC Rules 101 and 104 and support the objectives of Regulation M generally. The proposed changes to IEX Rule 11.152(e) in this regard are substantially identical to Nasdaq Rule 4619(e) except that they do not include provisions for passive market making pursuant to Rule 103 of Regulation M, which only applies to Nasdaq

¹⁷ Securities Exchange Act Release No. 34-38067 (January 3, 1997), 62 FR 520 (File No. S7-11-96).

registered market makers, as discussed in the Purpose section.

In addition, the Exchange believes that it is consistent with the Act to delete the final clause of Rule 11.152(c), as well as the related qualifying language in the preceding clause, because the proposed deletion is designed to avoid any potential confusion amongst market makers regarding the reasons the Exchange would find acceptable for granting excused withdrawal status, and make the Exchange's rules more clear, concise, and accurate.

Finally, the Exchange believes that it is consistent with the Act to correct the cross-reference typographical error in paragraph (d) of Rule 11.152 to promote clarity and consistency among market participants thereby facilitating investor protection and the public interest. The corrected cross-reference is substantially identical to the cross reference in Nasdaq Rule 4619(d) to Nasdaq Rule 4620, which in turn is substantially identical to IEX Rule 11.153.

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

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to provide appropriate, objective and transparent criteria for Market Maker excused withdrawals in securities listed on IEX. The Exchange does not believe that the proposed rule change will result in any burden on intramarket competition because all Market Makers will be subject to the same criteria. The Exchange also does not believe that the proposed rule change will result in any burden on intermarket competition, since Nasdaq has substantially similar criteria for excused withdrawals and other exchanges are free to adopt comparable criteria. The Exchange

also believes that the proposed rule change will serve to promote clarity and consistency, as noted in the Statutory Basis section, thereby reducing burdens on competition and facilitating investor protection.

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)¹⁸ of the Act and Rule 19b-4(f)(6)¹⁹ 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)²⁰ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),²¹ 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.

The Exchange respectfully requested that the Commission waive the 30-day operative delay period after which a proposed rule change under Rule 19b-4(f)(6)

¹⁸ 15 U.S.C. 78s(b)(3)(A).

¹⁹ 17 CFR 240.19b-4(f)(6).

²⁰ 17 CFR 240.19b-4(f)(6).

²¹ 17 CFR 240.19b-4(f)(6)(iii).

becomes effective. The proposed rule change is integral to the Exchange's launch of a listing program, which is designed enhance competition among listing exchanges. Waiver of the operative delay is, therefore, consistent with the protection of investors and the public interest because it will allow the Exchange to implement the proposed rule change to coincide with IEX's listing launch which may occur sooner than 30-days from effectiveness.

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)²² 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-

²² 15 U.S.C. 78s(b)(2)(B).

2017-37 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-2017-37. 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-2017-37 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.²³

²³ 17 CFR 200.30-3(a)(12).

Exhibit 5 – Text of Proposed Rule Change

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

CHAPTER 11. TRADING RULES

Rule 11.152. Withdrawal of Quotations

(a) – (b) No Change

(c) (1) For IEX-listed securities, excused withdrawal status based on circumstances beyond the IEX Market Maker's control, other than systemic equipment problems, may be granted for up to five (5) business days, unless extended by IEX Regulation. Excused withdrawal status based on demonstrated legal or regulatory requirements, supported by appropriate documentation and accompanied by a representation that the condition necessitating the withdrawal of quotations is not permanent in nature, may, upon notification, be granted for not more than sixty (60) days (unless such request is required to be made pursuant to paragraph (e) below). Excused withdrawal status based on religious holidays may be granted only if written notice is received by IEX one business day in advance and is approved by IEX. Excused withdrawal status based on vacation may be granted only if:

(A) The written request for withdrawal is received by IEX one business day in advance, and is approved by IEX

(B) The request includes a list of securities for which withdrawal is requested; and

(C) The request is made by an IEX Market Maker that meets the definition of a “Small Firm Member” pursuant to Definition Y of the FINRA Restated Certification of Incorporation, even if the IEX Market Maker is not a FINRA member.

The withdrawal of quotations because of pending news, a sudden influx of orders or price changes, or to effect transactions with competitors shall not constitute acceptable reasons for granting excused withdrawal status.

(2) For securities listed on exchanges other than IEX, an IEX Market Maker that wishes to withdraw quotations shall contact IEX Regulation to obtain excused withdrawal status prior to withdrawing its quotations. Excused withdrawal status based on illness, vacations or

physical circumstances beyond the Market Maker's control may be granted for up to five (5) business days, unless extended by IEX Regulation. Excused withdrawal status based on investment activity or advice of legal counsel, accompanied by a representation that the condition necessitating the withdrawal of quotations is not permanent in nature, may, upon written request, be granted for not more than sixty (60) days. The withdrawal of quotations because of pending news, a sudden influx of orders or price changes, or to effect transactions with competitors shall not [normally] constitute acceptable reasons for granting excused withdrawal status[, unless IEX has initiated a trading halt for Market Makers in the security, pursuant to IEX Rule 11.280].

(d) Excused withdrawal status may be granted to an IEX Market Maker that fails to maintain a clearing arrangement with a registered clearing agency or with a Member of such an agency and is withdrawn from participation in the trade reporting service of the Exchange, thereby terminating its registration as an IEX Market Maker. Provided however, that if IEX finds that the IEX Market Maker's failure to maintain a clearing arrangement is voluntary, the withdrawal of quotations will be considered voluntary and unexcused pursuant to IEX Rule [2.190] 11.153 and the Rule 11 Series governing the Exchange. IEX Market Makers that fail to maintain a clearing relationship will have their Exchange system status set to "suspend" and be thereby prevented from entering, or executing against, any quotes/orders in the System.

(e) [Reserved] Excused withdrawal status may be granted to an IEX Market Maker that is a distribution participant or an affiliated purchaser in order to comply with SEC Rule 101 or 104 under the Act on the following conditions:

(1) A member acting as a manager (or in a similar capacity) of a distribution of a security that is a subject security or reference security under SEC Rule 101 and any member that is a distribution participant or an affiliated purchaser in such a distribution that does not have a manager shall provide written notice to IEX Regulation and the Market Regulation Department of FINRA no later than the business day prior to the first entire trading session of the one-day or five-day restricted period under SEC Rule 101, unless later notification is necessary under the specific circumstances.

(A) The notice required by subparagraph (e)(1) of this Rule shall be provided by submitting a completed Underwriting Activity Report that includes a request on behalf of each IEX Market Maker that is a distribution participant or an affiliated purchaser to withdraw the IEX Market Maker's quotations and includes the contemplated date and time of the commencement of the restricted period.

(B) The managing underwriter shall advise each IEX Market Maker that it has been identified as a distribution participant or an affiliated purchaser to IEX Regulation and that its quotations will be automatically withdrawn, unless a market maker that is a distribution participant (or an affiliated purchaser of a distribution participant) notifies IEX Regulation as required by subparagraph (e)(2), below.

(2) An IEX Market Maker that has been identified to IEX Regulation as a distribution participant (or an affiliated purchaser of a distribution participant) shall promptly notify IEX Regulation and the manager of its intention not to participate in the prospective distribution in order to avoid having its quotations withdrawn.

(3) If an IEX Market Maker that is a distribution participant withdraws its quotations in an IEX-listed security in order to comply with any provision of SEC Rules 101 or 104 and promptly notifies IEX Regulation of its action, the withdrawal shall be deemed an excused withdrawal. Nothing in this subparagraph shall prohibit IEX from taking such action as is necessary under the circumstances against a Member and its associated persons for failure to contact IEX Regulation to obtain an excused withdrawal as required by subparagraphs (a) and (e) of this Rule.

(4) Reserved.

(5) A member acting as a manager (or in a similar capacity of a distribution subject to subparagraph (e)(1)) of this Rule shall submit a request to IEX Regulation and the Market Regulation Department of FINRA to rescind the excused withdrawal status of distribution participants and affiliated purchasers, which request shall include the date and time of the pricing of the offering, the offering price, and the time the offering terminated, and, if not in writing, shall be confirmed in writing no later than the close of business the day the offering terminates. The request by this subparagraph may be submitted on the Underwriting Activity Report.

(f) – (g) No change.
