

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 46	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No.* SR - 2017 - * 39	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 adopt rules pertaining to certain listing regulatory reporting and operational requirements."/>				
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="10/31/2017"/>	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 adopt rules pertaining to certain listing regulatory reporting and operational requirements. 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

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.⁴ The Exchange plans to begin a listing program in 2017 and is proposing to adopt rules pertaining to certain listing regulatory reporting and operational requirements, as described below.

Short-Interest Reporting

The Financial Industry Regulatory Authority ("FINRA"), the Nasdaq Stock Market ("Nasdaq") and the New York Stock Exchange ("NYSE") each have rules requiring that members of such self-regulatory organization ("SRO") record and report specified short positions in all customer and proprietary accounts.⁵ This data is also referred to as short interest. In the case of Nasdaq, the recording and reporting requirements apply to positions in securities listed on Nasdaq, while the FINRA and

⁴ See Securities Exchange Act Release No. 34-78101 (June 17, 2016), 81 FR 41141 (June 23, 2016) (File No. 10-222).

⁵ See FINRA Rule 4560, Nasdaq Rule 3360, and NYSE Rule 4560.

NYSE rules apply to all equity securities. The FINRA, Nasdaq and NYSE rules each require reporting on a bi-monthly basis by their member firms. FINRA, NYSE and Nasdaq firms provide their short position reports to FINRA through the Firm Gateway.⁶ Firms must report their mid-month short positions as of the close of business on the settlement date of the 15th of each month, or, where the 15th is a non-settlement date, on the preceding settlement date. Firms must report their end-of-month short positions as of the close of business on the last business day of the month on which transactions settle pursuant to FINRA and exchange rules. Both reports must be received by FINRA no later than the second business day after the reporting settlement date.

FINRA consolidates the short position reports submitted by each firm, and provides such reports to the relevant listing exchange for each listed security (i.e., NYSE, Nasdaq and Bats BZX Exchange, Inc. (“Bats”)). In order to provide transparency⁷ regarding aggregate short interest in equities securities, the listing exchanges publish the consolidated short interest data seven business days after the reporting settlement date. Similarly, FINRA publishes consolidated short interest data for securities that are not listed on an exchange on the same time frame. Short interest data is also used by FINRA for regulatory purposes, including to assess compliance with Regulation SHO.

IEX proposes to adopt a comparable rule requiring short interest recording and

⁶ FINRA members are required to report short interest positions through a web-based interface which is accessible via the Firm Gateway. See, Regulatory Notice 16-32 entitled “Short Interest Reporting” accessible at http://www.finra.org/sites/default/files/notice_doc_file_ref/Regulatory-Notice-16-32.pdf.

⁷ Short interest reporting and publication began in 1986 in connection with a study and recommendation by Irving M. Pollack (a former Commissioner of the SEC) on behalf of the National Association of Securities Dealers, Inc., the predecessor to FINRA.

reporting in securities listed on IEX by Members. Specifically, IEX proposes to adopt new Rule 3.293, entitled Short-Interest Reporting, that requires IEX Members, to the extent such information is not otherwise reported to FINRA in conformance with FINRA Rule 4560, to comply with FINRA Rule 4560 with respect to securities listed on IEX, as if such rule were part of IEX's rules, and to report required information in the form and manner specified by IEX. Thus, as proposed, IEX Members are subject to the following requirements:

(a) Each Member shall maintain a record of total "short" positions in all customer and proprietary firm accounts in securities listed on IEX⁸ and shall regularly report such information to FINRA in such a manner as may be prescribed by IEX. Reports shall be received by FINRA no later than the second business day after the reporting settlement date designated by IEX.

(b) Members shall record and report all gross short positions existing in each individual firm or customer account, including the account of a broker-dealer, that resulted from (1) a "short sale," as that term is defined in Rule 200(a) of SEC Regulation SHO, or (2) where the transaction(s) that caused the short position was marked "long," consistent with SEC Regulation SHO, due to the firm's or the customer's net long position at the time of the transaction. Members shall report only those short positions resulting from short sales that have settled or reached settlement date by the close of the reporting settlement date designated by IEX.

(c) The recording and reporting requirements shall not apply to:

(1) any sale by any person, for an account in which he has an interest, if such person owns the security sold and intends to deliver such security as soon as is possible without undue inconvenience or expense; and

(2) any sale by an underwriter, or any member of a syndicate or group participating in the distribution of a security, in connection with an over-allotment of securities, or any lay-off sale by such a person in connection with a distribution of securities through rights or a standby underwriting

⁸ FINRA Rule 4560(a) provides that the short interest recording and reporting requirements are not applicable to Restricted Equity Securities, as defined in FINRA Rule 6420 which further references the definition of "restricted security" in Rule 144(a)(3) under the Securities Act of 1933. Restricted securities are not eligible for listing on IEX since they are subject to trading restrictions, so this limitation is not necessary for inclusion in IEX Rule 3.293.

commitment.

While FINRA Rule 4560 requires such recording and reporting in all equity securities, not all IEX Members are also members of FINRA. Therefore, the Exchange believes that with the launch of its listing program, it is appropriate to add an IEX rule requiring recording and reporting of short interest positions in securities listed on IEX, so that IEX Members that are not FINRA members are subject to such requirements and their short positions in IEX listed securities will be consolidated for publication and available to FINRA for regulatory purposes.

Further, as proposed, IEX Rule 3.293 specifies that information required to be reported pursuant to FINRA Rule 4560 shall be reported to IEX in the form and manner specified by IEX.⁹ As proposed, IEX Rule 3.293 is substantially similar to FINRA Rule 4560 except that Members are only required to record and report short positions in securities listed on IEX. This limitation is substantially similar to Nasdaq Rule 3360, which also limits short interest reporting to securities listed on Nasdaq.¹⁰

Notification Requirements for Offering Participants

SEC Regulation M is designed to prevent manipulation by individuals with an interest in the outcome of an offering of securities, and prohibits activities and conduct that could artificially influence the market for an offered security.¹¹ Regulation M

⁹ IEX Members will use the FINRA Gateway to report short interest positions. IEX believes that virtually all IEX Members already have access to the FINRA Firm Gateway. To the extent there are any Members that do not already have access, FINRA will provide such Members with access to the Firm Gateway. Following effectiveness of this rule change, and prior to listing launch, IEX will disseminate a notice to Members advising of the reporting process and timelines.

¹⁰ See Nasdaq Rule 3360(a).

¹¹ See Securities Exchange Act Release No. 38067 (December 20, 1996), 62 FR 520 (January 3, 1997) (File No. S7-11-96) (Anti-Manipulation Rules Concerning Securities Offerings; Final

generally prohibits underwriters, broker-dealers, issuers and other persons participating in a distribution from directly or indirectly bidding for or purchasing the offered security (or inducing another person to do so) during the applicable “restricted period,”¹² which commences on the later of one or five business days prior to determination of the offering price¹³ or such time that a person becomes a distribution participant, and ends upon such person’s completion of participation in the distribution. Regulation M also governs certain market activities (i.e., stabilizing bids, syndicate covering transactions and penalty bids¹⁴) in connection with an offering and requires that notification of such activity be provided to the SRO with direct authority over the principal market in the United States for the security for which the syndicate covering transaction is effected or the penalty bid is imposed. In the case of a stabilizing bid, such notice must be provided to the market on which the stabilizing bid will be posted. Further, Regulation M prohibits any person from selling short a security that is the subject of a public offering and purchasing the security in the offering, if the short sale was effected during the restricted period.

IEX and FINRA are parties to a regulatory services agreement pursuant to which

Rules). See also generally SEC Staff Legal Bulletin No. 9, Frequently Asked Questions About Regulation M (April 12, 2002 update) at <https://www.sec.gov/interps/legal/mrslb9.htm>.

¹² The term “restricted period” is defined in Rule 100(b) of Regulation M. See 17 CFR 242.100(b).

¹³ The term “offering price” means the price at which the security is to be or is distributed. See 17 CFR 242.100(b).

¹⁴See 17 CFR 242.100(b) (definitions of “stabilizing,” “syndicate covering transaction,” and “penalty bid”). Generally, a “stabilizing bid” is a bid that is intended to maintain the price of the offered security and is necessary to prevent or retard a decline in the security’s price. A “penalty bid” allows a lead underwriter to reclaim a selling concession paid to a syndicate member if that member’s customers sell their allocated shares in the immediate aftermarket. A “syndicate covering transaction” is generally defined as placing a bid or effecting a purchase to reduce a syndicate short position.

FINRA performs certain regulatory functions on behalf of IEX.¹⁵ IEX and FINRA also entered into an agreement to reduce regulatory duplication for IEX Members that are also members of FINRA whereby IEX has allocated certain regulatory responsibilities to FINRA pursuant to Rule 17d-2 under the Act.¹⁶ Compliance with Regulation M is included within the regulatory functions and responsibilities that FINRA performs with respect to IEX Members. As part of FINRA's program to monitor for compliance with Regulation M, FINRA reviews trading and quoting activity for prohibited purchases, bids or attempts to induce bids or purchases during the applicable restricted period and for prohibited short sales during the restricted period prior to the pricing of an offering. Thus, FINRA must receive pertinent distribution related information in a timely fashion to facilitate its review of IEX Members' compliance with Regulation M.

Accordingly, in preparation for becoming a listing market, the Exchange proposes to amend Rule 11.160, which is currently reserved, to adopt provisions requiring notification requirements for offering participants that are substantially identical to those specified in NYSE Rule 5190.¹⁷ As proposed, Rule 11.160 is entitled "Notification Requirements for Offering Participants" and includes the following provisions:

- Paragraph (a) provides general information and states that IEX Rule 11.160 sets forth the notice requirements applicable to Members participating in offerings of listed securities for purposes of monitoring compliance with the

¹⁵ See IEX Rule 1.160(hh).

¹⁶ See Securities Exchange Act Release No. 78434 (July 28, 2016), 81 FR 51256 (August 3, 2016) (File No. 4-700).

¹⁷ Proposed IEX Rule 11.160 is also substantially similar to FINRA Rule 5190, except that the FINRA rule has a broader scope since the IEX rule applies only to offerings in securities listed on IEX, and minor terminology differences.

provisions of SEC Regulation M. In addition, the paragraph notes that Members also must comply with all applicable rules governing the withdrawal of quotations in accordance with SEC Regulation M.

- Paragraph (b) states that the terms shall have the meanings as set forth in Rules 100 and 101 of SEC Regulation M: "actively traded", "affiliated purchaser", "covered security", "distribution", "distribution participant", "offering price", "penalty bid", "restricted period", "selling security holder", "stabilizing" and "syndicate covering transaction".
- Paragraph (c) is entitled "Notice Relating to Distributions of Listed Securities Subject to a Restricted Period Under SEC Regulation M" and sets forth the notification requirements applicable to distributions of listed securities that are "covered securities"¹⁸ subject to a restricted period under Rule 101 or 102 of Regulation M. Required notices must be provided in such form as specified by the Exchange with respect to: the Member's determination as to whether a one-day or five-day restricted period applies under Rule 101 of Regulation M and the basis for such determination, including the contemplated date and time of the commencement of the restricted period, the listed security name and symbol, and identification of the distribution participants and affiliated purchasers, no later than the business day prior to the first complete trading session of the applicable restricted period, unless later notification is necessary under specific circumstances; the pricing of the distribution,

¹⁸ The term "covered security" is defined in Rule 100(b) of Regulation M. See 17 CFR 242.100(b).

including the listed security name and symbol, the type of security, the number of shares offered, the offering price, the last sale before the distribution, the pricing basis, the SEC effective date and time, the trade date, the restricted period, and identification of the distribution participants and affiliated purchasers, no later than the close of business the next business day following the pricing of the distribution, unless later notification is necessary under specific circumstances; and the cancellation or postponement of any distribution for which prior notification of commencement of the restricted period has been submitted under paragraph (c)(1)(A) of Rule 11.160, immediately upon the cancellation or postponement of such distribution. If no Member is acting as a manager (or in a similar capacity) of such distribution, then each Member that is a distribution participant or affiliated purchaser shall provide the notice required under paragraph (c)(1) of Rule 11.160, unless another Member has assumed responsibility in writing for compliance therewith. Paragraph (c) also provides that any Member that is an issuer or selling security holder in a distribution of any listed security that is a covered security subject to a restricted period under Rule 102 of SEC Regulation M shall comply with the notice requirements of paragraph (c)(1) Rule 11.160, unless another Member has assumed responsibility in writing for compliance therewith.

- Paragraph (d) is entitled “Notice Relating to Distributions of “Actively Traded” Securities Under Regulation M” and sets forth the notification

requirements applicable to distributions of any listed security that is considered an “actively traded” security under Rule 101 of Regulation M. Required notices must be provided in such form as specified by the Exchange with respect to: the Member's determination that no restricted period applies under Rule 101 of SEC Regulation M and the basis for such determination; and the pricing of the distribution, including the listed security name and symbol, the type of security, the number of shares offered, the offering price, the last sale before the distribution, the pricing basis, the SEC effective date and time, the trade date, and identification of the distribution participants and affiliated purchasers. Paragraph (d) also provides that such notice shall be provided no later than the close of business the next business day following the pricing of the distribution, unless later notification is necessary under specific circumstances. Further if no Member is acting as a manager (or in a similar capacity) of such distribution, then each Member that is a distribution participant or an affiliated purchaser shall provide the notice required, unless another Member has assumed responsibility in writing for compliance therewith.

- Paragraph (e) is entitled “Notice of Stabilizing Bids, Penalty Bids and Syndicate Covering Transactions in Listed Securities” and sets forth the notification requirements for such activities. Required notices must be provided in such form as specified by the Exchange with respect to: the Member’s intention to conduct such activity, prior to placing or transmitting

the stabilizing bid, imposing the penalty bid or engaging in the first syndicate covering transaction, including identification of the listed security and its symbol and the date such activity will occur; and confirmation that the Member has placed or transmitted a stabilizing bid, imposed a penalty bid or engaged in a syndicate covering transaction, within one business day of completion of such activity, including identification of the listed security and its symbol, the total number of shares and the date(s) of such activity.

All required notifications pursuant to IEX Rule 11.160 will be submitted by IEX Members to FINRA through the Firm Gateway.¹⁹ Upon effectiveness of this rule change and prior to the first IEX listing, the Exchange will disseminate a regulatory circular to Members advising of the form and manner for submission of required notifications through the FINRA Firm Gateway.

Short Sale Circuit Breaker Restriction

Rule 201 of Regulation SHO²⁰ provides for the imposition of a short sale circuit breaker, in a covered security by trading centers in the event that the price of a covered security²¹ decreases by 10% or more from the covered security's closing price as

¹⁹ Information regarding FINRA's Firm Gateway is available at: <http://www.finra.org/sites/default/files/NoticeDocument/p125975.pdf>. IEX believes that virtually all IEX Members that would be required to submit notifications pursuant to IEX Rule 11.160 already have access to the FINRA Firm Gateway. Generally, such Members must be members of FINRA in order to distribute shares to the public, unless such Member is an issuer or selling security holder in a distribution of a listed security pursuant to Rule 102 of Regulation M. To the extent there are any Members that fall into this exception, and do not already have access to the Firm Gateway, such Members will be provided with access to the Firm Gateway.

²⁰ 17 CFR 242.201.

²¹ 17 CFR 242.201(a)(1).

determined by the listing market²² for the covered security as of the end of regular trading hours²³ on the prior day. If the circuit breaker is triggered, paragraph (b)(1) of Rule 201 requires each trading center to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the execution or display of a short sale order of a covered security at a price that is less than or equal to the current national best bid (subject to certain specified exceptions) for the remainder of the trading day on which it is triggered and the following day.

Paragraph (b)(3) of Rule 201 further provides that the listing market for a covered security shall determine whether the price of such covered security has decreased by 10% or more from the covered security's closing price as of the end of regular trading hours on the prior day, and, if such decrease has occurred shall immediately notify the single plan processor responsible for consolidation of information for the covered security pursuant to Rule 603(b) of Regulation NMS.²⁴ The single plan processor must then disseminate this information, thereby triggering the short sale circuit breaker restriction.²⁵

Accordingly, in preparation for becoming a listing market, the Exchange proposes to amend IEX Rule 11.290 to adopt provisions regarding the required determinations and processes related to the short sale circuit breaker. As proposed, paragraph (b) of IEX Rule 11.290 is amended to add "Trigger Price" as a defined term with respect to the existing description of the Short Sale Price Test. Paragraph (c) of IEX Rule 11.290

²² 17 CFR 242.201(a)(3).

²³ 17 CFR 242.201(a)(7).

²⁴ 17 CFR 242.603(b).

²⁵ See, FAQ 1.3 of "Division of Trading and Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO."

(which is currently reserved) is titled “Determination of Trigger Price” and provides that, for covered securities for which the Exchange is the listing market, the System²⁶ shall determine whether a transaction in a covered security has occurred at a Trigger Price²⁷ and shall immediately notify the responsible single plan processor. Further, the System will not calculate the Trigger Price of a covered security outside of the Regular Market Session²⁸, and, if a covered security did not trade on the Exchange on the prior trading day (due to a trading halt, trading suspension, or otherwise), the Exchange’s determination of the Trigger Price shall be based on the last sale price on the Exchange for that security on the most recent day on which the security traded. In addition, the Exchange proposes to add provisions to paragraph (d)(1) of IEX Rule 11.290 to provide that the Exchange may lift the Short Sale Price Test²⁹ before the Short Sale Period³⁰ ends for securities for which the Exchange is the listing market if the Exchange determines pursuant to IEX Rule 11.270 that the triggering transaction was a clearly erroneous execution as soon as practicable following such determination. Further, the Exchange may also lift the Short Sale Price Test before the Short Sale Period ends, for a covered security for which the Exchange is the listing market, if the Exchange has been informed by another exchange or a self-regulatory organization (“SRO”) that a transaction in the covered security that occurred at the Trigger Price was a clearly erroneous execution, as

²⁶ The term “System” is defined in IEX Rule 1.160(nn).

²⁷ See amendments to Rule 11.290(b).

²⁸ See Rule 1.160(gg).

²⁹ The term “Short Sale Price Test” is defined in IEX Rule 11.290(b), and encompasses the restrictions of the short sale circuit breaker pursuant to Rule 201 of Regulation SHO. 17 CFR 242.201.

³⁰ The term “Short Sale Period” is defined in IEX Rule 11.290(d), and encompasses the duration of the short sale circuit breaker pursuant to Rule 201(b)(1)(ii) of Regulation SHO. 17 CFR 242.201(b)(1)(ii).

determined by the rules of that exchange or SRO. Finally, proposed paragraph (d)(2) of IEX Rule 11.290 provides that if the Exchange determines that the prior day's closing price for a listed security is incorrect in the System and resulted in an incorrect determination of the Trigger Price, the Exchange may correct the prior day's closing price and lift the Short Sale Price Test before the Short Sale Period ends.

As proposed, the amendments to IEX Rule 11.290 are substantially identical to Bats Rule 11.19.

b. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act, in general and with Sections 6(b)³¹ of the Act in general, and furthers the objectives of Sections 6(b)(5) of the Act,³² 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, 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 provides for certain listing regulatory reporting and operational requirements which are consistent with the public interest and the protection of investors.

Short-Interest Reporting

The Exchange believes that it is consistent with the Act to require IEX Members

³¹ 15 U.S.C. 78f.

³² 15 U.S.C. 78f(b)(5).

to record and report short interest in securities listed on IEX, to the extent not otherwise reported to FINRA. As discussed in the Purpose section, recording and reporting of short interest provides transparency regarding aggregate short interest and is also used by FINRA for regulatory purposes, including to assess compliance with Regulation SHO. The Exchange believes that requiring short interest recording and reporting by IEX Members in securities listed on IEX is thus consistent with the public interest and the protection of investors in support of these objectives. Further, the Exchange believes that the requirement that all IEX Members record and report short interest is equitable and not unfairly discriminatory because the requirement will result in all IEX Members being subject to such requirements, regardless of whether such Member is a member of FINRA.

The Exchange also notes that proposed Rule 3.293 is substantially identical to FINRA Rule 4560 and Nasdaq Rule 3360, as described in the Purpose section, and thus the Exchange does not believe it raises any new or novel issues not already considered by the Commission.

Notification Requirements for Offering Participants

The Exchange believes that it is consistent with the Act to require IEX Members that are offering participants to provide the specified notifications to IEX in such form as specified by IEX, which, as discussed in the Purpose section, will be to FINRA through the Firm Gateway. The Exchange believes that imposing the specified notification requirements, and specifying that notification be to FINRA through the Firm Gateway, is consistent with the public interest and the protection of investors, since FINRA must receive such notifications in order to monitor IEX Members and other market participants

for compliance with Regulation M. As described in the Purpose section, as part of FINRA's program to monitor for compliance with Regulation M, and pursuant to IEX regulatory services agreement with FINRA and allocation to FINRA pursuant to Rule 17d-2 under the Act, FINRA reviews trading and quoting activity for prohibited purchases, bids or attempts to induce bids or purchases during the applicable restricted period and for prohibited short sales during the restricted period prior to the pricing of an offering. Thus, FINRA must receive pertinent distribution related information in a timely fashion to facilitate its review of IEX Members' compliance with Regulation M. Accordingly, IEX believes that requiring such notifications is consistent with the protection of investors and the public interest.

Further, the Exchange believes that imposition of the notification requirements is equitable and not unfairly discriminatory because all IEX Members will be subject to such requirements in the same manner.

The Exchange also notes that the proposed amendments to Rule 11.160 are substantially identical to those specified in NYSE Rule 5190 and substantially similar to FINRA Rule 5190, as described in the Purpose section, and thus the Exchange does not believe that the proposed amendments raise any new or novel issues not already considered by the Commission.

Short Sale Circuit Breaker Restriction

The Exchange believes that it is consistent with the Act to amend IEX Rule 11.290 to adopt provisions regarding the required determinations and processes related to the short sale circuit breaker, as required by Rule 201 of Regulation SHO, as described in

the Purpose section. Further, the Exchange believes that the rule amendments are equitable and not unfairly discriminatory because such amendments will apply to all IEX Members in the same manner.

The Exchange also believes that the rule amendments are consistent with the Act, since they are designed to encourage fair and orderly trading and markets. Additionally, as proposed the rule amendments are substantially identical to Bats Rule 11.19, and thus the Exchange does not believe that the proposed amendments raise any new or novel issues not already considered by the Commission.

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 described in the Purpose and Statutory Basis sections, the proposed rule change effectuates listing regulatory reporting and operational requirements and is not designed to address or advance any competitive issues. To the contrary, the Exchange believes that the proposed rule change facilitates competition since it is designed to effectuate IEX's operation as a listing market thereby enhancing competition with the other listing markets.

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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A)³³ of the Act and Rule 19b-4(f)(6)³⁴ thereunder, in that it effects a change that (A) does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) by its terms does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. As discussed in the Purpose and Statutory Basis sections, the proposed rule change would adopt specified listing regulatory reporting and operational requirements in a manner that is substantially identical or similar (as described herein) to the rules of FINRA, NYSE, Nasdaq, and Bats. Accordingly, the Exchange believes that the proposed rule change is noncontroversial and satisfies the requirements of Rule 19b-4(f)(6)³⁵ in that it does not raise any new or novel issues not already considered by the Commission.

Furthermore, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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 adopts specified listing regulatory

³³ 15 U.S.C. 78s(b)(3)(A).

³⁴ 17 CFR 240.19b-4(f)(6).

³⁵ 17 CFR 240.19b-4(f)(6).

reporting and operational requirements. Waiver of the operative delay is, therefore, consistent with the protection of investors and the public interest because it will allow the Exchange to implement the proposed rule change upon effectiveness, and coincident with the Exchange's listing launch to the extent that occurs prior to 30-days following 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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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

The proposed rule change is based on FINRA, NYSE, Nasdaq, and Bats rules as described herein

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-2017-39)

Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt Rules Pertaining to Certain Listing Regulatory Reporting and Operational Requirements.

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 adopt rules pertaining to certain listing regulatory reporting and operational requirements. The Exchange has designated this proposal as non-controversial and provided the

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ 15 U.S.C. 78s(b)(1).

⁵ 17 CFR 240.19b-4.

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

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.⁷ The Exchange plans to begin a listing program in 2017 and is proposing to adopt rules pertaining to certain listing regulatory reporting and operational requirements, as described below.

Short-Interest Reporting

The Financial Industry Regulatory Authority ("FINRA"), the Nasdaq Stock Market ("Nasdaq") and the New York Stock Exchange ("NYSE") each have rules

⁶ 17 CFR 240.19b-4(f)(6)(iii).

⁷ See Securities Exchange Act Release No. 34-78101 (June 17, 2016), 81 FR 41141 (June 23, 2016) (File No. 10-222).

requiring that members of such self-regulatory organization (“SRO”) record and report specified short positions in all customer and proprietary accounts.⁸ This data is also referred to as short interest. In the case of Nasdaq, the recording and reporting requirements apply to positions in securities listed on Nasdaq, while the FINRA and NYSE rules apply to all equity securities. The FINRA, Nasdaq and NYSE rules each require reporting on a bi-monthly basis by their member firms. FINRA, NYSE and Nasdaq firms provide their short position reports to FINRA through the Firm Gateway.⁹ Firms must report their mid-month short positions as of the close of business on the settlement date of the 15th of each month, or, where the 15th is a non-settlement date, on the preceding settlement date. Firms must report their end-of-month short positions as of the close of business on the last business day of the month on which transactions settle pursuant to FINRA and exchange rules. Both reports must be received by FINRA no later than the second business day after the reporting settlement date.

FINRA consolidates the short position reports submitted by each firm, and provides such reports to the relevant listing exchange for each listed security (*i.e.*, NYSE, Nasdaq and Bats BZX Exchange, Inc. (“Bats”)). In order to provide transparency¹⁰ regarding aggregate short interest in equities securities, the listing exchanges publish the consolidated short interest data seven business days after the reporting settlement date. Similarly, FINRA publishes consolidated short interest data for securities that are not

⁸ See FINRA Rule 4560, Nasdaq Rule 3360, and NYSE Rule 4560.

⁹ FINRA members are required to report short interest positions through a web-based interface which is accessible via the Firm Gateway. See, Regulatory Notice 16-32 entitled “Short Interest Reporting” accessible at http://www.finra.org/sites/default/files/notice_doc_file_ref/Regulatory-Notice-16-32.pdf.

¹⁰ Short interest reporting and publication began in 1986 in connection with a study and recommendation by Irving M. Pollack (a former Commissioner of the SEC) on behalf of the National Association of Securities Dealers, Inc., the predecessor to FINRA.

listed on an exchange on the same time frame. Short interest data is also used by FINRA for regulatory purposes, including to assess compliance with Regulation SHO.

IEX proposes to adopt a comparable rule requiring short interest recording and reporting in securities listed on IEX by Members. Specifically, IEX proposes to adopt new Rule 3.293, entitled Short-Interest Reporting, that requires IEX Members, to the extent such information is not otherwise reported to FINRA in conformance with FINRA Rule 4560, to comply with FINRA Rule 4560 with respect to securities listed on IEX, as if such rule were part of IEX's rules, and to report required information in the form and manner specified by IEX. Thus, as proposed, IEX Members are subject to the following requirements:

(a) Each Member shall maintain a record of total "short" positions in all customer and proprietary firm accounts in securities listed on IEX¹¹ and shall regularly report such information to FINRA in such a manner as may be prescribed by IEX. Reports shall be received by FINRA no later than the second business day after the reporting settlement date designated by IEX.

(b) Members shall record and report all gross short positions existing in each individual firm or customer account, including the account of a broker-dealer, that resulted from (1) a "short sale," as that term is defined in Rule 200(a) of SEC Regulation SHO, or (2) where the transaction(s) that caused the short position was marked "long," consistent with SEC Regulation SHO, due to the firm's or the customer's net long position at the time of the transaction. Members shall report only those short positions resulting from short sales that have settled or reached settlement date by the close of the reporting settlement date designated by IEX.

(c) The recording and reporting requirements shall not apply to:

(1) any sale by any person, for an account in which he has an interest, if such person owns the security sold and intends to deliver such security as soon as is possible without undue inconvenience or expense; and

¹¹ FINRA Rule 4560(a) provides that the short interest recording and reporting requirements are not applicable to Restricted Equity Securities, as defined in FINRA Rule 6420 which further references the definition of "restricted security" in Rule 144(a)(3) under the Securities Act of 1933. Restricted securities are not eligible for listing on IEX since they are subject to trading restrictions, so this limitation is not necessary for inclusion in IEX Rule 3.293.

(2) any sale by an underwriter, or any member of a syndicate or group participating in the distribution of a security, in connection with an over-allotment of securities, or any lay-off sale by such a person in connection with a distribution of securities through rights or a standby underwriting commitment.

While FINRA Rule 4560 requires such recording and reporting in all equity securities, not all IEX Members are also members of FINRA. Therefore, the Exchange believes that with the launch of its listing program, it is appropriate to add an IEX rule requiring recording and reporting of short interest positions in securities listed on IEX, so that IEX Members that are not FINRA members are subject to such requirements and their short positions in IEX listed securities will be consolidated for publication and available to FINRA for regulatory purposes.

Further, as proposed, IEX Rule 3.293 specifies that information required to be reported pursuant to FINRA Rule 4560 shall be reported to IEX in the form and manner specified by IEX.¹² As proposed, IEX Rule 3.293 is substantially similar to FINRA Rule 4560 except that Members are only required to record and report short positions in securities listed on IEX. This limitation is substantially similar to Nasdaq Rule 3360, which also limits short interest reporting to securities listed on Nasdaq.¹³

Notification Requirements for Offering Participants

SEC Regulation M is designed to prevent manipulation by individuals with an interest in the outcome of an offering of securities, and prohibits activities and conduct

¹² IEX Members will use the FINRA Gateway to report short interest positions. IEX believes that virtually all IEX Members already have access to the FINRA Firm Gateway. To the extent there are any Members that do not already have access, FINRA will provide such Members with access to the Firm Gateway. Following effectiveness of this rule change, and prior to listing launch, IEX will disseminate a notice to Members advising of the reporting process and timelines.

¹³ See Nasdaq Rule 3360(a).

that could artificially influence the market for an offered security.¹⁴ Regulation M generally prohibits underwriters, broker-dealers, issuers and other persons participating in a distribution from directly or indirectly bidding for or purchasing the offered security (or inducing another person to do so) during the applicable “restricted period,”¹⁵ which commences on the later of one or five business days prior to determination of the offering price¹⁶ or such time that a person becomes a distribution participant, and ends upon such person’s completion of participation in the distribution. Regulation M also governs certain market activities (i.e., stabilizing bids, syndicate covering transactions and penalty bids¹⁷) in connection with an offering and requires that notification of such activity be provided to the SRO with direct authority over the principal market in the United States for the security for which the syndicate covering transaction is effected or the penalty bid is imposed. In the case of a stabilizing bid, such notice must be provided to the market on which the stabilizing bid will be posted. Further, Regulation M prohibits any person from selling short a security that is the subject of a public offering and purchasing the security in the offering, if the short sale was effected during the restricted period.

IEX and FINRA are parties to a regulatory services agreement pursuant to which

¹⁴ See Securities Exchange Act Release No. 38067 (December 20, 1996), 62 FR 520 (January 3, 1997) (File No. S7-11-96) (Anti-Manipulation Rules Concerning Securities Offerings; Final Rules). See also generally SEC Staff Legal Bulletin No. 9, Frequently Asked Questions About Regulation M (April 12, 2002 update) at <https://www.sec.gov/interps/legal/mrslb9.htm>.

¹⁵ The term “restricted period” is defined in Rule 100(b) of Regulation M. See 17 CFR 242.100(b).

¹⁶ The term “offering price” means the price at which the security is to be or is distributed. See 17 CFR 242.100(b).

¹⁷ See 17 CFR 242.100(b) (definitions of “stabilizing,” “syndicate covering transaction,” and “penalty bid”). Generally, a “stabilizing bid” is a bid that is intended to maintain the price of the offered security and is necessary to prevent or retard a decline in the security’s price. A “penalty bid” allows a lead underwriter to reclaim a selling concession paid to a syndicate member if that member’s customers sell their allocated shares in the immediate aftermarket. A “syndicate covering transaction” is generally defined as placing a bid or effecting a purchase to reduce a syndicate short position.

FINRA performs certain regulatory functions on behalf of IEX.¹⁸ IEX and FINRA also entered into an agreement to reduce regulatory duplication for IEX Members that are also members of FINRA whereby IEX has allocated certain regulatory responsibilities to FINRA pursuant to Rule 17d-2 under the Act.¹⁹ Compliance with Regulation M is included within the regulatory functions and responsibilities that FINRA performs with respect to IEX Members. As part of FINRA's program to monitor for compliance with Regulation M, FINRA reviews trading and quoting activity for prohibited purchases, bids or attempts to induce bids or purchases during the applicable restricted period and for prohibited short sales during the restricted period prior to the pricing of an offering. Thus, FINRA must receive pertinent distribution related information in a timely fashion to facilitate its review of IEX Members' compliance with Regulation M.

Accordingly, in preparation for becoming a listing market, the Exchange proposes to amend Rule 11.160, which is currently reserved, to adopt provisions requiring notification requirements for offering participants that are substantially identical to those specified in NYSE Rule 5190.²⁰ As proposed, Rule 11.160 is entitled "Notification Requirements for Offering Participants" and includes the following provisions:

- Paragraph (a) provides general information and states that IEX Rule 11.160 sets forth the notice requirements applicable to Members participating in offerings of listed securities for purposes of monitoring compliance with the provisions of SEC Regulation M. In addition, the paragraph notes that

¹⁸ See IEX Rule 1.160(hh).

¹⁹ See Securities Exchange Act Release No. 78434 (July 28, 2016), 81 FR 51256 (August 3, 2016) (File No. 4-700).

²⁰ Proposed IEX Rule 11.160 is also substantially similar to FINRA Rule 5190, except that the FINRA rule has a broader scope since the IEX rule applies only to offerings in securities listed on IEX, and minor terminology differences.

Members also must comply with all applicable rules governing the withdrawal of quotations in accordance with SEC Regulation M.

- Paragraph (b) states that the terms shall have the meanings as set forth in Rules 100 and 101 of SEC Regulation M: "actively traded", "affiliated purchaser", "covered security", "distribution", "distribution participant", "offering price", "penalty bid", "restricted period", "selling security holder", "stabilizing" and "syndicate covering transaction".
- Paragraph (c) is entitled "Notice Relating to Distributions of Listed Securities Subject to a Restricted Period Under SEC Regulation M" and sets forth the notification requirements applicable to distributions of listed securities that are "covered securities"²¹ subject to a restricted period under Rule 101 or 102 of Regulation M. Required notices must be provided in such form as specified by the Exchange with respect to: the Member's determination as to whether a one-day or five-day restricted period applies under Rule 101 of Regulation M and the basis for such determination, including the contemplated date and time of the commencement of the restricted period, the listed security name and symbol, and identification of the distribution participants and affiliated purchasers, no later than the business day prior to the first complete trading session of the applicable restricted period, unless later notification is necessary under specific circumstances; the pricing of the distribution, including the listed security name and symbol, the type of security, the number of shares offered, the offering price, the last sale before the

²¹ The term "covered security" is defined in Rule 100(b) of Regulation M. See 17 CFR 242.100(b).

distribution, the pricing basis, the SEC effective date and time, the trade date, the restricted period, and identification of the distribution participants and affiliated purchasers, no later than the close of business the next business day following the pricing of the distribution, unless later notification is necessary under specific circumstances; and the cancellation or postponement of any distribution for which prior notification of commencement of the restricted period has been submitted under paragraph (c)(1)(A) of Rule 11.160, immediately upon the cancellation or postponement of such distribution. If no Member is acting as a manager (or in a similar capacity) of such distribution, then each Member that is a distribution participant or affiliated purchaser shall provide the notice required under paragraph (c)(1) of Rule 11.160, unless another Member has assumed responsibility in writing for compliance therewith. Paragraph (c) also provides that any Member that is an issuer or selling security holder in a distribution of any listed security that is a covered security subject to a restricted period under Rule 102 of SEC Regulation M shall comply with the notice requirements of paragraph (c)(1) Rule 11.160, unless another Member has assumed responsibility in writing for compliance therewith.

- Paragraph (d) is entitled “Notice Relating to Distributions of “Actively Traded” Securities Under Regulation M” and sets forth the notification requirements applicable to distributions of any listed security that is considered an “actively traded” security under Rule 101 of Regulation M. Required notices must be provided in such form as specified by the Exchange

with respect to: the Member's determination that no restricted period applies under Rule 101 of SEC Regulation M and the basis for such determination; and the pricing of the distribution, including the listed security name and symbol, the type of security, the number of shares offered, the offering price, the last sale before the distribution, the pricing basis, the SEC effective date and time, the trade date, and identification of the distribution participants and affiliated purchasers. Paragraph (d) also provides that such notice shall be provided no later than the close of business the next business day following the pricing of the distribution, unless later notification is necessary under specific circumstances. Further if no Member is acting as a manager (or in a similar capacity) of such distribution, then each Member that is a distribution participant or an affiliated purchaser shall provide the notice required, unless another Member has assumed responsibility in writing for compliance therewith.

- Paragraph (e) is entitled “Notice of Stabilizing Bids, Penalty Bids and Syndicate Covering Transactions in Listed Securities” and sets forth the notification requirements for such activities. Required notices must be provided in such form as specified by the Exchange with respect to: the Member’s intention to conduct such activity, prior to placing or transmitting the stabilizing bid, imposing the penalty bid or engaging in the first syndicate covering transaction, including identification of the listed security and its symbol and the date such activity will occur; and confirmation that the Member has placed or transmitted a stabilizing bid, imposed a penalty bid or

engaged in a syndicate covering transaction, within one business day of completion of such activity, including identification of the listed security and its symbol, the total number of shares and the date(s) of such activity.

All required notifications pursuant to IEX Rule 11.160 will be submitted by IEX Members to FINRA through the Firm Gateway.²² Upon effectiveness of this rule change and prior to the first IEX listing, the Exchange will disseminate a regulatory circular to Members advising of the form and manner for submission of required notifications through the FINRA Firm Gateway.

Short Sale Circuit Breaker Restriction

Rule 201 of Regulation SHO²³ provides for the imposition of a short sale circuit breaker, in a covered security by trading centers in the event that the price of a covered security²⁴ decreases by 10% or more from the covered security's closing price as determined by the listing market²⁵ for the covered security as of the end of regular trading hours²⁶ on the prior day. If the circuit breaker is triggered, paragraph (b)(1) of Rule 201 requires each trading center to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the execution or display of a short sale order of a covered security at a price that is less than or equal to the current national best bid

²² Information regarding FINRA's Firm Gateway is available at: <http://www.finra.org/sites/default/files/NoticeDocument/p125975.pdf>. IEX believes that virtually all IEX Members that would be required to submit notifications pursuant to IEX Rule 11.160 already have access to the FINRA Firm Gateway. Generally, such Members must be members of FINRA in order to distribute shares to the public, unless such Member is an issuer or selling security holder in a distribution of a listed security pursuant to Rule 102 of Regulation M. To the extent there are any Members that fall into this exception, and do not already have access to the Firm Gateway, such Members will be provided with access to the Firm Gateway.

²³ 17 CFR 242.201.

²⁴ 17 CFR 242.201(a)(1).

²⁵ 17 CFR 242.201(a)(3).

²⁶ 17 CFR 242.201(a)(7).

(subject to certain specified exceptions) for the remainder of the trading day on which it is triggered and the following day.

Paragraph (b)(3) of Rule 201 further provides that the listing market for a covered security shall determine whether the price of such covered security has decreased by 10% or more from the covered security's closing price as of the end of regular trading hours on the prior day, and, if such decrease has occurred shall immediately notify the single plan processor responsible for consolidation of information for the covered security pursuant to Rule 603(b) of Regulation NMS.²⁷ The single plan processor must then disseminate this information, thereby triggering the short sale circuit breaker restriction.²⁸

Accordingly, in preparation for becoming a listing market, the Exchange proposes to amend IEX Rule 11.290 to adopt provisions regarding the required determinations and processes related to the short sale circuit breaker. As proposed, paragraph (b) of IEX Rule 11.290 is amended to add "Trigger Price" as a defined term with respect to the existing description of the Short Sale Price Test. Paragraph (c) of IEX Rule 11.290 (which is currently reserved) is titled "Determination of Trigger Price" and provides that, for covered securities for which the Exchange is the listing market, the System²⁹ shall determine whether a transaction in a covered security has occurred at a Trigger Price³⁰ and shall immediately notify the responsible single plan processor. Further, the System will not calculate the Trigger Price of a covered security outside of the Regular Market Session³¹, and, if a covered security did not trade on the Exchange on the prior trading

²⁷ 17 CFR 242.603(b).

²⁸ See, FAQ 1.3 of "Division of Trading and Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO."

²⁹ The term "System" is defined in IEX Rule 1.160(nn).

³⁰ See amendments to Rule 11.290(b).

³¹ See Rule 1.160(gg).

day (due to a trading halt, trading suspension, or otherwise), the Exchange's determination of the Trigger Price shall be based on the last sale price on the Exchange for that security on the most recent day on which the security traded. In addition, the Exchange proposes to add provisions to paragraph (d)(1) of IEX Rule 11.290 to provide that the Exchange may lift the Short Sale Price Test³² before the Short Sale Period³³ ends for securities for which the Exchange is the listing market if the Exchange determines pursuant to IEX Rule 11.270 that the triggering transaction was a clearly erroneous execution as soon as practicable following such determination. Further, the Exchange may also lift the Short Sale Price Test before the Short Sale Period ends, for a covered security for which the Exchange is the listing market, if the Exchange has been informed by another exchange or a self-regulatory organization ("SRO") that a transaction in the covered security that occurred at the Trigger Price was a clearly erroneous execution, as determined by the rules of that exchange or SRO. Finally, proposed paragraph (d)(2) of IEX Rule 11.290 provides that if the Exchange determines that the prior day's closing price for a listed security is incorrect in the System and resulted in an incorrect determination of the Trigger Price, the Exchange may correct the prior day's closing price and lift the Short Sale Price Test before the Short Sale Period ends.

As proposed, the amendments to IEX Rule 11.290 are substantially identical to Bats Rule 11.19.

2. Statutory Basis

³² The term "Short Sale Price Test" is defined in IEX Rule 11.290(b), and encompasses the restrictions of the short sale circuit breaker pursuant to Rule 201 of Regulation SHO. 17 CFR 242.201.

³³ The term "Short Sale Period" is defined in IEX Rule 11.290(d), and encompasses the duration of the short sale circuit breaker pursuant to Rule 201(b)(1)(ii) of Regulation SHO. 17 CFR 242.201(b)(1)(ii).

IEX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act, in general and with Sections 6(b)³⁴ of the Act in general, and furthers the objectives of Sections 6(b)(5) of the Act,³⁵ 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, 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 provides for certain listing regulatory reporting and operational requirements which are consistent with the public interest and the protection of investors.

Short-Interest Reporting

The Exchange believes that it is consistent with the Act to require IEX Members to record and report short interest in securities listed on IEX, to the extent not otherwise reported to FINRA. As discussed in the Purpose section, recording and reporting of short interest provides transparency regarding aggregate short interest and is also used by FINRA for regulatory purposes, including to assess compliance with Regulation SHO. The Exchange believes that requiring short interest recording and reporting by IEX Members in securities listed on IEX is thus consistent with the public interest and the protection of investors in support of these objectives. Further, the Exchange believes that the requirement that all IEX Members record and report short interest is equitable and not unfairly discriminatory because the requirement will result in all IEX Members being

³⁴ 15 U.S.C. 78f.

³⁵ 15 U.S.C. 78f(b)(5).

subject to such requirements, regardless of whether such Member is a member of FINRA.

The Exchange also notes that proposed Rule 3.293 is substantially identical to FINRA Rule 4560 and Nasdaq Rule 3360, as described in the Purpose section, and thus the Exchange does not believe it raises any new or novel issues not already considered by the Commission.

Notification Requirements for Offering Participants

The Exchange believes that it is consistent with the Act to require IEX Members that are offering participants to provide the specified notifications to IEX in such form as specified by IEX, which, as discussed in the Purpose section, will be to FINRA through the Firm Gateway. The Exchange believes that imposing the specified notification requirements, and specifying that notification be to FINRA through the Firm Gateway, is consistent with the public interest and the protection of investors, since FINRA must receive such notifications in order to monitor IEX Members and other market participants for compliance with Regulation M. As described in the Purpose section, as part of FINRA's program to monitor for compliance with Regulation M, and pursuant to IEX regulatory services agreement with FINRA and allocation to FINRA pursuant to Rule 17d-2 under the Act, FINRA reviews trading and quoting activity for prohibited purchases, bids or attempts to induce bids or purchases during the applicable restricted period and for prohibited short sales during the restricted period prior to the pricing of an offering. Thus, FINRA must receive pertinent distribution related information in a timely fashion to facilitate its review of IEX Members' compliance with Regulation M. Accordingly, IEX believes that requiring such notifications is consistent with the protection of investors and the public interest.

Further, the Exchange believes that imposition of the notification requirements is equitable and not unfairly discriminatory because all IEX Members will be subject to such requirements in the same manner.

The Exchange also notes that the proposed amendments to Rule 11.160 are substantially identical to those specified in NYSE Rule 5190 and substantially similar to FINRA Rule 5190, as described in the Purpose section, and thus the Exchange does not believe that the proposed amendments raise any new or novel issues not already considered by the Commission.

Short Sale Circuit Breaker Restriction

The Exchange believes that it is consistent with the Act to amend IEX Rule 11.290 to adopt provisions regarding the required determinations and processes related to the short sale circuit breaker, as required by Rule 201 of Regulation SHO, as described in the Purpose section. Further, the Exchange believes that the rule amendments are equitable and not unfairly discriminatory because such amendments will apply to all IEX Members in the same manner.

The Exchange also believes that the rule amendments are consistent with the Act, since they are designed to encourage fair and orderly trading and markets. Additionally, as proposed the rule amendments are substantially identical to Bats Rule 11.19, and thus the Exchange does not believe that the proposed amendments raise any new or novel issues not already considered by the Commission.

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 described in the Purpose and Statutory Basis sections, the proposed rule change effectuates listing regulatory reporting and operational requirements and is not designed to address or advance any competitive issues. To the contrary, the Exchange believes that the proposed rule change facilitates competition since it is designed to effectuate IEX's operation as a listing market thereby enhancing competition with the other listing markets.

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)³⁶ of the Act and Rule 19b-4(f)(6)³⁷ 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)³⁸ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),³⁹ 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

³⁶ 15 U.S.C. 78s(b)(3)(A).

³⁷ 17 CFR 240.19b-4(f)(6).

³⁸ 17 CFR 240.19b-4(f)(6).

³⁹ 17 CFR 240.19b-4(f)(6)(iii).

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) becomes effective. The proposed rule change adopts specified listing regulatory reporting and operational requirements. Waiver of the operative delay is, therefore, consistent with the protection of investors and the public interest because it will allow the Exchange to implement the proposed rule change upon effectiveness, and coincident with the Exchange's listing launch to the extent that occurs prior to 30-days following 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)⁴⁰ 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

⁴⁰ 15 U.S.C. 78s(b)(2)(B).

- Send an email to rule-comments@sec.gov. Please include File Number SR-IEX-2017-39 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-2017-39. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-IEX-2017-39 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.⁴¹

⁴¹ 17 CFR 200.30-3(a)(12).

Exhibit 5 – Text of Proposed Rule Change

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

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Rule 3.293. Short-Interest Reporting.

To the extent such information is not otherwise reported to FINRA in conformance with FINRA Rule 4560, IEX Members shall comply with FINRA Rule 4560, with respect to securities listed on IEX, as if such rule were part of IEX's rules. Information required to be reported pursuant to this Rule shall be reported to IEX in the form and manner specified by IEX.

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Rule 11.160. Notification Requirements for Offering Participants.

[Reserved.]

(a) General.

This IEX Rule 11.160 sets forth the notice requirements applicable to all Members participating in offerings of listed securities for purposes of monitoring compliance with the provisions of SEC Regulation M. In addition to the requirements under this IEX Rule 11.160, Members also must comply with all applicable rules governing the withdrawal of quotations in accordance with SEC Regulation M.

(b) Definitions.

For purposes of this Rule, the following terms shall have the meanings as set forth in Rules 100 and 101 of SEC Regulation M: "actively traded", "affiliated purchaser", "covered security", "distribution", "distribution participant", "offering price", "penalty bid", "restricted period", "selling security holder", "stabilizing" and "syndicate covering transaction".

(c) Notice Relating to Distributions of Listed Securities Subject to a Restricted Period Under SEC Regulation M

(1) A Member acting as a manager (or in a similar capacity) of a distribution of any listed security that is a covered security subject to a restricted period under Rule 101 of SEC Regulation M shall provide written notice to the Exchange, in such form as specified by the Exchange, of the following:

(A) the Member's determination as to whether a one-day or five-day restricted period applies under Rule 101 of SEC Regulation M and the basis for such determination, including the contemplated date and time of the commencement of the restricted period, the listed security name and symbol, and identification of the distribution participants and affiliated purchasers, no later than the business day

prior to the first complete trading session of the applicable restricted period, unless later notification is necessary under specific circumstances;

(B) the pricing of the distribution, including the listed security name and symbol, the type of security, the number of shares offered, the offering price, the last sale before the distribution, the pricing basis, the SEC effective date and time, the trade date, the restricted period, and identification of the distribution participants and affiliated purchasers, no later than the close of business the next business day following the pricing of the distribution, unless later notification is necessary under specific circumstances;

(C) the cancellation or postponement of any distribution for which prior notification of commencement of the restricted period has been submitted under paragraph (c)(1)(A) above, immediately upon the cancellation or postponement of such distribution; and

(D) If no Member is acting as a manager (or in a similar capacity) of such distribution, then each Member that is a distribution participant or affiliated purchaser shall provide the notice required under this paragraph (c)(1), unless another Member has assumed responsibility in writing for compliance therewith.

(2) Any Member that is an issuer or selling security holder in a distribution of any listed security that is a covered security subject to a restricted period under Rule 102 of SEC Regulation M shall comply with the notice requirements of paragraph (c)(1), unless another Member has assumed responsibility in writing for compliance therewith.

(d) Notice Relating to Distributions of "Actively Traded" Securities Under SEC Regulation M

A Member acting as a manager (or in a similar capacity) of a distribution of any listed security that is considered an "actively traded" security under Rule 101 of SEC Regulation M shall provide written notice to the Exchange, in such form as specified by the Exchange, of the following:

(1) the Member's determination that no restricted period applies under Rule 101 of SEC Regulation M and the basis for such determination; and

(2) the pricing of the distribution, including the listed security name and symbol, the type of security, the number of shares offered, the offering price, the last sale before the distribution, the pricing basis, the SEC effective date and time, the trade date, and identification of the distribution participants and affiliated purchasers.

Such notice shall be provided no later than the close of business the next business day following the pricing of the distribution, unless later notification is necessary under specific circumstances.

If no Member is acting as a manager (or in a similar capacity) of such distribution, then each Member that is a distribution participant or an affiliated purchaser shall provide the notice

required under this paragraph (d), unless another Member has assumed responsibility in writing for compliance therewith.

(e) Notice of Stabilizing Bids, Penalty Bids and Syndicate Covering Transactions in Listed Securities

A Member placing or transmitting a stabilizing bid, imposing a penalty bid, or engaging in a syndicate covering transaction in connection with an offering of a listed security pursuant to Rule 104 of SEC Regulation M shall, unless another Member has assumed responsibility in writing for compliance with this paragraph (e), provide written notice to the Exchange, in such form as specified by the Exchange, of the following:

(1) the Member's intention to conduct such activity, prior to placing or transmitting the stabilizing bid, imposing the penalty bid or engaging in the first syndicate covering transaction, including identification of the listed security and its symbol and the date such activity will occur; and

(2) confirmation that the Member has placed or transmitted a stabilizing bid, imposed a penalty bid or engaged in a syndicate covering transaction, within one business day of completion of such activity, including identification of the listed security and its symbol, the total number of shares and the date(s) of such activity.

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Rule 11.290. Short Sales

Marking. All sell orders entered into the Exchange must be marked long, short, or short exempt.

(a) No change.

(b) Short Sale Price Test. The System shall not execute, route to an away trading center, or display a short sale order not marked short exempt with respect to a covered security at a price that is less than or equal to the current national best bid if the price of that security decreases by 10% or more, as determined by the listing market for the covered security, from the covered security's closing price on the listing market as of the end of the Regular Market Session on the prior day (the "Trigger Price").

(c) [Reserved] Determination of Trigger Price. For covered securities for which the Exchange is the listing market, the System shall determine whether a transaction in a covered security has occurred at a Trigger Price and shall immediately notify the responsible single plan processor.

(1) The System will not calculate the Trigger Price of a covered security outside of the Regular Market Session.

(2) If a covered security did not trade on the Exchange on the prior trading day (due to a trading halt, trading suspension, or otherwise), the Exchange's determination of

the Trigger Price shall be based on the last sale price on the Exchange for that security on the most recent day on which the security traded.

(d) Duration of Short Sale Price Test. If the Short Sale Price Test is triggered by the listing market with respect to a covered security, the Short Sale Price Test shall remain in effect until the close of trading on the next trading day, as provided for in Regulation SHO Rule 201(b)(1)(ii) (the "Short Sale Period").

(1) If the Exchange determines pursuant to IEX Rule 11.270 that the Short Sale Price Test for a covered security was triggered because of a clearly erroneous execution[on the Exchange], the Exchange may lift the Short Sale Price Test before the Short Sale Period ends for securities for which the Exchange is the listing market or, for securities listed on another market, [will] notify the [listing] other market of the Exchange's determination that the triggering transaction was a clearly erroneous execution as soon as practicable following such determination. The Exchange may also lift the Short Sale Price Test before the Short Sale Period ends, for a covered security for which the Exchange is the listing market, if the Exchange has been informed by another exchange or a self-regulatory organization ("SRO") that a transaction in the covered security that occurred at the Trigger Price was a clearly erroneous execution, as determined by the rules of that exchange or SRO.

(2) If the Exchange determines that the prior day's closing price for a listed security is incorrect in the System and resulted in an incorrect determination of the Trigger Price, the Exchange may correct the prior day's closing price and lift the Short Sale Price Test before the Short Sale Period ends.

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