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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82636; File No. SR-IEX-2018-02]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt an IEX Enhanced Market Maker ("IEMM") Program

February 6, 2018

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 February 1, 2018, the Investors Exchange LLC ("IEX" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 ("Act"),[4] and Rule 19b-4 thereunder,[5] Investors Exchange LLC ("IEX" or "Exchange") is filing with the Securities and Exchange Commission ("Commission") proposed changes to adopt an IEX Enhanced Market Maker ("IEMM") program under Exchange Rule 11.170 (Market Quality

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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 CRF 240.19b-4.

Incentive Programs) (currently reserved), which is designed to enable Members[6] to qualify for transaction fee[7] reductions for providing meaningful and consistent support to market quality and price discovery by extensive quoting at and/or near the national best bid ("NBB") and/or the national best offer ("NBO") (collectively, the "NBBO").

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

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statement may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange is proposing to adopt an IEX Enhanced Market Maker ("IEMM") program under Exchange Rule 11.170 (Market Quality Incentive Programs) (currently reserved), which is designed to enable Members to qualify for transaction fee reductions for providing meaningful and consistent support to market quality and price discovery by extensive quoting at and/or near

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6 See IEX Rule 1.160(s).

7 See IEX Rules 15.110(a) and (c) ("Fee Schedule"). See also the Investors Exchange Fee Schedule, available on the Exchange public website.

the NBBO.

Background

In an effort to incentivize Members to submit displayed orders to the Exchange, the Exchange currently charges a relatively low fee of $0.0003 to Members for executions on IEX that provide or take resting interest with displayed priority[8] (i.e., an order or portion of a reserve order that is booked and ranked with display priority on the Order Book either as the IEX best bid or best offer ("BBO"), or at a less aggressive price).[9]

Furthermore, the Exchange currently charges $0.0009 per share (or 0.30% of the total dollar value of the transaction for securities priced below $1.00) to Members for executions on IEX that provide or take resting interest with non-displayed priority (i.e., an order or portion of a reserve order that is booked and ranked with non-display priority on the Order Book either at the

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8 This pricing is referred to by the Exchange as "Displayed Match Fee" with a Fee Code of 'L' provided by the Exchange on execution reports. See the Investors Exchange Fee Schedule, available on the Exchange public website.

9 The Displayed Match Fee is less than the Exchange's Non-Displayed Match Fee and substantially lower than the fee to add displayed liquidity on an exchange with a "taker-maker" fee structure (i.e., that charges liquidity providers) and to take displayed liquidity on an exchange with a "maker-taker" fee structure (i.e., that charges liquidity takers). For example, the New York Stock Exchange ("NYSE") trading fee schedule on its public website reflects fees to "take" liquidity ranging from $0.0024 - $0.0030 depending on the type of market participant, order and execution. Additionally, NYSE fees to "add" liquidity range from $0.0018-$0.0030 per share for shares executed in continuous trading. The Nasdaq Stock Market ("Nasdaq") trading fee schedule on its public website reflects fees to "remove" liquidity ranging from $0.0025-$0.0030 per share for shares executed in continuous trading at or above $1.00 or 0.30% of total dollar volume for shares executed below $1.00. Additionally, Nasdaq fees for "adding" liquidity range from $0.0001-$0.00305 per share for shares executed in continuous trading. The Cboe BZX Exchange ("Cboe BZX") trading fee schedule on its public website reflects fees for "removing" liquidity ranging from $0.0025-$0.0030, for shares executed in continuous trading at or above $1.00 or 0.30% of total dollar volume for shares executed below $1.00. Additionally, Cboe BZX fees for "adding" liquidity ranging from $0.0020-$0.0045 per share for shares executed in continuous trading.

NBBO midpoint or at a less aggressive price).[10] The Exchange does not charge any fee to Members for executions on IEX when the adding and removing order originated from the same Exchange Member.[11]

In addition to the pricing model above, and in contrast to its competitors, IEX has chosen to lower the cost barrier for Member firms to trade on the Exchange by not charging fees for membership, connectivity, or market data.[12] Moreover, IEX has made a conscious choice to not pay rebates to brokers in exchange for order flow, and instead has focused on earning order flow from market participants by designing a market that provides greater execution quality. The Exchange believes that, as a result of these priorities, it has created quantitatively superior trading outcomes for Members that choose to efficiently access the Exchange, as measured by various market quality metrics including effective spread, and opportunity for price improvement.[13] However, the Exchange believes that the financial incentives for brokers to route

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10 This pricing is referred to by the Exchange as "Non-Displayed Match Fee" with a Fee Code of 'I' provided by the Exchange on execution reports. See the Investors Exchange Fee Schedule, available on the Exchange public website.

11 This pricing is referred to by the Exchange as "Internalization Fee" with a Fee Code of 'S' provided by the Exchange on execution reports. Orders from different market participant identifiers of the same broker dealer, with the same Central Registration Depository registration number, are treated as originating from the same Exchange Member. See the Investors Exchange Fee Schedule, available on the Exchange public website.

12 See the Investors Exchange Fee Schedule, available on the Exchange public website.

13 See e.g., IEX's recent white paper that utilized publicly available quote and trade data to compare market quality across U.S. stock exchanges, which empirically found, *inter alia*, that on average IEX has the lowest effective spread, and the greatest opportunity for price improvement amongst all exchanges. A Comparison of Execution Quality across U.S. Stock Exchanges, Elaine Wah, Stan Feldman, Francis Chung, Allison Bishop, and Daniel Aisen, Investors Exchange (2017). Effective spread is commonly defined by market structure academics and market participants as twice the absolute difference between the trade price and prevailing NBBO midpoint at the time of a trade, and is generally meant to measure the cost paid when an incoming order executes against a resting order, and unlike quoted spread captures other features of a market center, such as hidden and

displayed orders to venues that pay rebates for such order flow has caused a stratification of displayed liquidity across the U.S. equities markets based on exchange pricing models. Specifically, maker-taker exchanges[14] dominate the U.S. equities trading landscape in market share, and displayed market share specifically.[15]

To compete with incumbent maker-taker exchanges for order flow without directly paying Members for such orders, the Exchange is proposing to offer an alternative fee-based incentive to Members that engage in trading activity that further improves market quality and price discovery on the Exchange. Importantly, the Exchange is not proposing to offer a rebate,[16] in that the Exchange is not paying one side of each transaction (i.e., the maker or taker). In fact, the Exchange is not making any direct payments to IEMMs, because, as discussed below, the proposed fee reductions will not be greater than the fees charged for executions on the Exchange (i.e., no single execution would result in a net credit from the Exchange to the Member).

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midpoint liquidity as well as market depth. Price improvement is in reference to the situation where an aggressive order is filled at a price strictly better than the inside quote (i.e., in the case of an aggressive buy (sell) order, receiving a fill at a price lower (higher) than the NBO (NBB)).

14 In the maker-taker pricing model, the liquidity provider (i.e., maker) receives a rebate when its order eventually executes, and the taker that trades against the resting order pays an access fee to the exchange.

15 See IEX's recent white paper that utilized publicly available quote and trade data to compare market quality across U.S. stock exchanges, which found that time at the inside (i.e., when an exchange is on either the NBB or the NBO, or both) appears to be strongly correlated with rebates for liquidity provision, as the exchanges at the inside more often are not only the largest but also those that employ a maker-taker pricing model. A Comparison of Execution Quality across U.S. Stock Exchanges, Elaine Wah, Stan Feldman, Francis Chung, Allison Bishop, and Daniel Aisen, Investors Exchange (2017).

16 See the SEC's Division of Trading and Markets' October 20, 2015 memorandum to the SEC's Market Structure Advisory Committee at 2, which states "…the maker-taker fee model is a pricing structure in which a market generally pays its members a per share rebate to provide (i.e., "make") liquidity in securities and assesses on them a fee to remove (i.e., "take") liquidity." (emphasis added).

Moreover, the proposed fee reductions would not be provided based on a direct one-to-one relationship with a Member's displayed liquidity providing executions, but instead are available to reduce the per-share cost of a Members displayed and non-displayed executions on the Exchange in return for meaningful and consistent support to market quality and price discovery by extensive quoting at and/or near the NBBO in IEX-listed securities.

IEMM Program

As proposed, a Member qualifying for designation as an IEMM reflects a commitment to provide meaningful and consistent support to market quality and price discovery by extensive quoting at and/or near the NBBO in IEX-listed securities for a significant portion of the day. The IEMM Program is designed to attract liquidity provision from both traditional market making firms, as well as from other market participants that are willing and able to act in a market making capacity and commit capital to support liquidity at and/or near the NBBO. In return for their contributions, such Members qualify for a lower per-share rate charged for both displayed and non-displayed executions subject to either the Displayed Match Fee or Non-Displayed Match Fee on the Exchange in securities priced at or above $1.00. The IEMM Program is designed to deepen IEX's liquidity pool at prices at and/or near the NBBO, which may narrow the bid-ask spread, dampen the market impact of shocks from liquidity demand, and support the quality of price discovery on IEX to the benefit of long term investors, and issuers.

The proposed IEMM Program provides two tiers, each of which would significantly contribute to market quality by providing liquidity at or near the NBBO in IEX-listed securities for a significant portion of the day. Members are eligible to qualify as an IEMM under one or both IEMM Tiers. Specifically, as proposed, any IEX Member that registers as an IEX Market Maker pursuant to Rule 11.150 in all securities listed on IEX (except pursuant to Supplementary

Material .01, as discussed below),[17] and satisfies the quoting criteria for one or more of the following tiers in each security listed on IEX over the course of the month that the security is listed on IEX,[18] may be designated as an IEMM:

- Inside Tier IEMM:
    - One or more of its MPIDs has a displayed order entered in a principal capacity of at least one round lot resting on the Exchange at the NBB and/or the NBO for an average of at least 20% of Regular Market Hours (the "NBBO Quoting Percentage");[19] and/or
- Depth Tier IEMM:
    - One or more of its MPIDs has a displayed order entered in a principal capacity of at least one round lot resting on the Exchange at the greater of 1 minimum price variation ("MPV") or 0.03% (i.e., 3 basis points) away from the NBBO (or more aggressive) for an average of at least 75% of Regular Market Hours (the "Depth Quoting Percentage").[20]

The Exchange proposes to calculate the NBBO Quoting Percentage by determining the average percent of time the Member is at the NBB or the NBO, or both the NBB and NBO, in each IEX-listed security during Regular Market Hours over the course of the month. On a monthly basis, IEX would determine whether a Member satisfied the NBBO Quoting Percentage for each IEX-listed security by calculating the following:

- The "NBB Quoting Time" is calculated by determining the aggregate amount of time that one or more of a Member's MPIDs has a displayed order entered in a principal capacity of at least one round lot in each IEX-listed security resting at the NBB during Regular Market Hours of each trading day for a calendar month that such security is listed on IEX;
- The "NBO Quoting Time" is calculated by determining the aggregate amount of time that one or more of a Member's MPIDs has a displayed order entered in a principal capacity of at least one round lot in each IEX-listed security resting at

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17 See proposed Rule 11.170(a)(1)(B).

18 See proposed Rule 11.170(a)(1)(C).

19 See proposed Rule 11.170(a)(1)(A)(i).

20 See proposed Rule 11.170(a)(1)(A)(ii).

the NBO during Regular Market Hours of each trading day for a calendar month that such security is listed on IEX; and

- The "NBBO Quoting Percentage" is calculated for each IEX-listed security by adding the security's NBB Quoting Time to the NBO Quoting Time and dividing the resulting sum by two (2), and then dividing the resulting quotient by the total amount of time during the Regular Market Session that the IEX-listed security was listed on IEX and not subject to a halt or pause in trading pursuant to IEX Rule 11.280 over the course of the calendar month.

The Exchange proposes to calculate the Depth Quoting Percentage by determining the average percent of time the Member is at the defined percentage away from the NBBO (or more aggressive) in each IEX-listed security during Regular Market Hours over the course of the month. On a monthly basis, IEX would determine whether the Member satisfied the Depth Quoting Percentage for each IEX-listed security by calculating the following:

- The "Bid Depth Quoting Time" is calculated by determining the aggregate amount of time that one or more of a Member's MPIDs has a displayed order entered in a principal capacity of at least one round lot in each IEX-listed security resting at the greater of 1 MPV or 0.03% away from the NBB (or more aggressive) during Regular Market Hours of each trading day for a calendar month that such security is listed on IEX;
- The "Offer Depth Quoting Time" is calculated by determining the aggregate amount of time that one or more of a Member's MPIDs has a displayed order entered in a principal capacity of at least one round lot in each IEX-listed security resting at the greater of 1 MPV or 0.03% away from the NBO during Regular Market Hours of each trading day of a calendar month that such security is listed on IEX; and
- The "Depth Quoting Percentage" is calculated for each IEX-listed security by adding the security's Bid Depth Quoting Time to the Offer Depth Quoting Time and dividing the resulting sum by two (2), and then dividing the resulting quotient by the total amount of time during the Regular Market Session that the IEX-listed security was listed on IEX and not subject to a halt or pause in trading pursuant to IEX Rule 11.280 over the course of the calendar month.[21]

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[21] The Exchange notes that the proposed NBBO Quoting Percentage calculation and the proposed Depth Quoting Percentage calculation are substantially similar to the calculations used by the New York Stock Exchange LLC ("NYSE") for purposes of calculating the quoting requirements of Supplemental Liquidity Providers pursuant to

Proposed Supplemental Material .01 provides a limited exception to the requirement that a Member must be a registered IEX Market Maker pursuant to Rule 11.150 in all securities listed on IEX. Specifically, a Member that is not a registered IEX Market Maker pursuant to Rule 11.150 in all securities listed on IEX (as required by subparagraph (a)(1)(B)) may still be designated as an IEMM if (i) a Member does not act as a market maker in one or more IEX-listed securities on any other national securities exchange, and (ii) the Market Maker provides documentation, satisfactory to IEX Regulation, substantiating that such Member is unable to act as a market maker in one or more particular securities listed on IEX (a) in order to comply with specified legal or regulatory requirements, or (b) operational restrictions not exceeding 90 calendar days from the date the security first lists on the Exchange. The documentation must specify the length of time such legal, regulatory requirement(s), or operational restriction is anticipated to persist. The proposed exception is designed to provide Members flexibility to address any legal or regulatory requirements, or temporary operational restrictions associated with their registration and acting as a Market Maker in a security listed on IEX, without eliminating the financial incentives that such Member may otherwise qualify for under the IEMM Program as a result of their quoting activity in other listed securities.[22]

For example, if a Member was to come into possession of material non-public information regarding an IEX-listed security, and on advice of counsel suspended all trading in

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NYSE Rule 107B(g) (Calculation of Quoting Requirement).

22 The Exchange notes that the proposed exception in Supplemental Material .01 would be inapplicable for the first IEX-listed security (whether the security is transferring from another primary listing market to IEX, or conducting an initial public offering on IEX), because a Member could not have otherwise qualified to be designated as an IEMM without having been a registered Market Maker in all other IEX-listed securities since there would be no other IEX-listed securities.

the security until the conflict was remediated, and but for the suspension of trading in the IEX-listed security, one or more of the Member's MPIDs order activity would have qualified the Member for designation as an IEMM under one or more of the proposed IEMM Tiers, such Member could request a legal exemption under Supplemental Material .01 by providing documentation, satisfactory to IEX Regulation, substantiating that it is unable to act as a market maker in the IEX-listed security (e.g., producing a letter from counsel advising to suspend trading).

Proposed Supplemental Material .02 provides that if a Member satisfies the requirement of registering as a Market Maker pursuant to Rule 11.150 in all securities listed on IEX after the first trading day of the calendar month, and remains registered for the remainder of the month, such Member is eligible for designation as an IEMM if the Member otherwise satisfies the applicable quoting requirements for the entire month to qualify for designation under one or more of the proposed IEMM Tiers. Proposed Supplemental Material .02 is designed to provide Members clarity regarding their eligibility for designation as an IEMM when their order activity over the course of a month satisfies the requirements of one of the applicable IEMM Tiers, but the Member is not a registered Market Maker in all securities listed on IEX as of the first trading day of the calendar month. The Exchange believes allowing Members to qualify for designation as an IEMM under these circumstances is appropriate and reasonable, because it avoids disparate treatment of Members that were not registered Market Makers as of the start of a calendar month, but otherwise provided meaningful and consistent support to market quality and price discovery by extensive quoting at and/or near the NBBO in IEX-listed securities for a significant portion of the day in compliance with the IEMM criteria.

For example, Member ABCD satisfied the quoting requirements of the Inside Tier and

the Depth Tier for all securities listed on IEX for each day of the 20 trading days during the month of September 2017, thereby satisfying the quoting requirements of the Inside Tier and the Depth Tier on average, per day, over the course of the month. Furthermore, Member ABCD did not satisfy the requirement of being registered in all securities listed on IEX until September 8, 2017 (5 trading days after the first trading day of the month), and remained registered in all securities listed on IEX for the remainder of the month. In this case, Member ABCD's order activity provided meaningful and consistent support to market quality and price discovery by extensive quoting at and/or near the NBBO in IEX-listed securities for a significant portion of each trading day, and would therefore be eligible for designation as an Inside Tier and Depth Tier IEMM.[23] The Exchange notes that Members that attempt to abuse Supplemental Material .02 by registering as a market maker in all securities listed on IEX at the end of a calendar month, only to terminate registration at the beginning of the following calendar month, would be subject to the 20 business day re-registration penalty under Rule 11.153(a)(Voluntary Termination of Registration), and therefore such Member is unlikely to be able to repeat this abusive pattern for the following trading month.[24]

Proposed Supplemental Material .03 provides that for purposes of determining the percentage of time during the Regular Market Session that a Member satisfied the NBBO

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23 The Exchange notes that this illustrative example contemplates Member ABCD satisfying the quoting requirements of the Inside Tier and Depth Tier on each trading day over the course of the month; however, it is possible that a Member may begin entering orders to satisfy the IEMM quoting requirements on or after the date the Member satisfies the requirement of being a registered Market Maker in all securities listed on IEX. In such case, the Member would need to exceed the quoting obligations for the Inside Tier and the Depth Tier on one or more trading days to satisfy the daily average requirement of proposed Rule 11.170(a)(1)(C).

24 Furthermore, the Exchange monitors Market Maker security registrations and terminations to identify anomalous patterns of security registrations and terminations, and would therefore identify this abusive pattern in a timely manner.

Quoting Percentage and Depth Quoting Percentage pursuant to subparagraph (a)(1)(A), the Exchange excludes the aggregate amount of time that a security is subject to a halt or pause in trading pursuant to IEX Rule 11.280. Proposed Supplemental Material .03 is designed to provide Members additional clarity regarding the Exchange's calculation for determining whether the order activity satisfied the applicable NBBO Quoting Percentage and Depth Quoting Percentage by accounting for scenarios where continuous trading is halted or paused pursuant to Rule 11.280, and therefore the IEMM would be unable to enter orders to meet satisfy [sic] the applicable requirements. The Exchange believes that not accounting for scenarios where continuous trading is halted or paused would be unreasonable, and inconsistent with the quoting requirements set forth in the proposed IEMM Tiers, because it would make the effective IEMM Tier quoting requirements variable, requiring additional order activity to satisfy the applicable quoting requirements for securities that are subject to a trading halt or pause. The Exchange notes that accounting for scenarios where continuous trading is halted or paused is also consistent with Rule 11.151(a)(2) regarding the obligations of registered Market Makers, which states in relevant part that Market Makers quoting obligations are suspended during a trading halt or pause.

For Members that qualify under one of the IEMM Tiers as defined above, IEX will reduce the fee charged per share executed on such Members':

- Non-displayed executions subject to the Non-Displayed Match Fee in securities priced at or above $1.00 by the amount that corresponds with the tier(s) under which the Member qualifies as an IEMM, subject to any applicable Depth Tier aggregate monthly savings cap, as set forth below (the "Non-Displayed Match Fee Discount"); and
- Displayed executions subject to the Displayed Match Fee in securities priced at or above $1.00 by the amount that corresponds with the tier(s) under which the Member qualifies as an IEMM, subject to any applicable Depth Tier aggregate

monthly savings cap, as set forth below (the "Displayed Match Fee Discount");[25]

As proposed, for Inside Tier IEMMs, the Displayed Match Fee Discount and the Non-Displayed Match Fee Discount results in a $0.0001 discount for each execution subject to the Displayed Match Fee and the Non-Displayed Match Fee, respectively, with no cap on aggregate monthly saving.[26] Moreover, Depth Tier IEMMs will receive a $0.0001 discount for each execution subject to the Displayed Match Fee and the Non-Displayed Match Fee, up to $20,000.00 in aggregate savings per month.[27]

If a Member qualifies under both the Inside Tier and the Depth Tier, any earned Non-Displayed Match Fee Discount and Displayed Match Fee Discount will be aggregated and applied to such Members' non-displayed executions and displayed executions subject to the Displayed Match Fee or Non-Displayed Match Fee in securities priced at or above $1.00, respectively, subject to the applicable Depth Tier aggregate monthly savings cap described above. Therefore, if a Member qualifies under both the Inside Tier and the Depth Tier, such Member will earn a combined $0.0002 discount across the Displayed Match Fee Discount and the Non-Displayed Match Fee Discount, subject to the Depth Tier aggregate monthly savings cap, after which the balance of such Member's executions will continue to receive the $0.0001 Displayed Match Fee Discount and the Non-Displayed Match Fee Discount with no cap on

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25 See proposed Rule 11.170(a)(3).

26 For example, if one or more of Member ABCD's MPIDs satisfied the obligations of the Insider Tier, all of Member ABCD's executions that are subject to the Non-Displayed Match Fee would be charged $0.0008, rather than $0.0009, and executions subject to the Displayed Match Fee would be charged $0.0002, rather than $0.0003.

27 For example, if one or more of Member ABCD's MPIDs satisfied the obligations of the Depth Tier, all of Member ABCD's executions that are subject to the Non-Displayed Match Fee would be charged $0.0008, rather than $0.0009, and executions subject to the Displayed Match Fee would be charged $0.0002, rather than $0.0003, up to $20,000.00 in aggregate savings per month.

aggregate monthly savings.[28] The Exchange notes that executions subject to the Crumbling Quote Remove Fee[29] are not eligible for the Displayed Match Fee Discount or the Non-Displayed Match Fee Discount. The Exchange further notes that the Displayed Match Fee Discount and Non-Displayed Match Fee Discount are not applicable to executions subject to the Internalization Fee.

IEMM Tier	**Quoting Requirements**	**Non-Displayed Match Fee Discount**	**Displayed Match Fee Discount**
Inside Tier	Displayed order resting at either the NBB or the NBO, or both the NBB and NBO, for 20% of the time during Regular Market Hours	$0.0001	$0.0001
Depth Tier	Displayed order resting at the greater of 1 MPV or 0.03% away from the NBBO (or more aggressive) for 75% of the time during Regular Market Hours	$0.0001 (up to $20,000.00 in aggregate savings, per month inclusive of Displayed Match Fee Discount savings)	$0.0001 (up to $20,000.00 in aggregate savings, per month inclusive of Non-Displayed Match Fee Discount savings)

The proposed Displayed Match Fee Discount and Non-Displayed Match Fee Discount

28 For example, if one or more of Member ABCD's MPIDs satisfied the obligations of the Inside Tier and the Depth Tier, all of Member ABCD's executions that are subject to the Non-Displayed Match Fee would be charged $0.0007, rather than $0.0009, and executions that are subject to the Displayed Match Fee would be charged $0.0001, rather than $0.0003, up to $20,000 in aggregate savings from the Depth Tier Displayed Match Fee Discount, and then the balance of Member ABCD's executions subject to the Non-Displayed Match Fee and Displayed Match Fee would be charged $0.0008 (rather than $0.0009), and $0.0002 (rather than $0.0003), respectively, with no cap on aggregate monthly savings.

29 See Fee Code Q (Crumbling Quote Remove Fee Indicator), along with the footnote appurtenant thereto in the Investors Exchange Fee Schedule, available on the Exchange public website, which together describe the applicable fee for executions that take liquidity during periods of quote instability as defined in Rule 11.190(g) that exceed the CQRF Threshold, which is equal to is equal to 5% of the sum of a Member's total monthly executions on IEX if at least 1,000,000 shares during the calendar month, measured on an MPID basis. See also Securities and Exchange Act Release No. 81484 (August 25, 2017) 82 FR 41446 (August 31, 2017) (SR-IEX-2017-27).

was developed after informal discussions with a variety of IEX Members, including traditional electronic market making firms, as well as other Members that have expressed interest in serving in a market maker capacity that are willing and able to commit capital to support extensive price discovery at and/or near the NBBO. The Exchange believes that, as a general matter, the practice of making markets refers to trading strategies that display bids to purchase and offers to sell a security in relatively equal proportion, with an expectation of profit by capturing the delta between the two prices (i.e., market makers try to capture the spread while avoiding the accumulation of a long or short position). However, the potential profits derived by market makers from capturing the spread is constrained by, among other things, the high likelihood of being adversely selected or "run-over" in fast-moving markets (i.e., the likelihood of buying (selling) a security shortly before the price moves down (up)). In order to incentivize market makers to display quotations despite the potential for adverse selection, other national securities exchanges offer a variety of pricing incentives that are centered on rebates.[30]

The Exchange has several reasons for proposing to offer a discount on displayed and non-displayed trading, in contrast to a rebate for displayed trading. First, as noted above, the

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[30] As described by Larry Harris of the USC Marshall School of Business in a 2013 paper regarding the maker-taker pricing model and its effects on market quotations, the first system to introduce the maker-taker scheme was Island ECN in 1997, which encouraged brokers to post customer limit orders in their systems that ultimately generated revenues for these brokers when these customer orders executed, and encouraged proprietary traders to make markets in their trading systems. Because takers paid the high access fee when trading with these orders, brokers and proprietary traders typically routed their taking orders first to traditional-fee exchanges (and off exchange-dealers) when the same prices were available at these other trading venues. The standing orders at maker-taker exchanges thus usually were the last orders to trade at their prices. Although this consequence was disadvantageous to the customers, in the absence of regulatory criticism of this obvious agency problem, the brokers continued to route customer orders to the ECNs to obtain the liquidity rebates. To remain competitive, all US equity exchanges ultimately adopted the maker-taker pricing model. See Larry Harris, "Maker-Taker Pricing Effects on Market Quotations" at 5 (Nov. 14, 2013).

Exchange has made a conscious choice not to pay exchange rebates to brokers in exchange for order flow, and instead has focused on earning order flow from market participants by designing a market that provides greater execution quality.

The Exchange has designed the IEMM Program as an alternative financial incentive for Members to display aggressively priced orders on the Exchange, avoiding the potential conflicts of interest inherent in the maker-taker pricing model. The Exchange believes that rebates paid for displayed liquidity, which are typically retained by the broker (in the case of agency orders), have the potential to distort broker order routing decisions at the expense of their investor clients. A similar conflict would exist if brokers acting as agent displayed customer order flow on IEX to qualify for designation as an IEMM in order to reap the benefits of the proposed Displayed Match Fee Discount and Non-Display Match Fee Discount without necessarily passing those decreased costs on to their investor clients.[31] However, this conflict only exists for market participants that represent customers as agent. Therefore, the Exchange has designed the IEMM Program to structurally eliminate this conflict by only considering a Member's principal orders when determining if such Member's order activity satisfied one or more IEMM Tiers.

In addition, the Exchange believes paying rebates to liquidity providers has a measurable

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[31] See the SEC's Division of Trading and Markets' October 20, 2015 memorandum to the SEC's Market Structure Advisory Committee at 17-18, which states in support that "the maker-taker pricing model presents a potential conflict of interest between brokers and their customers that results from the way in which fees and rebates are assessed. Broker-dealers that are members of an exchange pay fees to and receive rebates from the exchange for each transaction they execute on it, but broker-dealers typically do not pass back those fees and rebates to their customers. Accordingly, if a broker-dealer can earn a rebate for routing its customer's order to a certain venue – and keep that rebate for itself – the broker-dealer may have an incentive to route to the venue with the highest rebate, rather than diligently search out the venue likely to deliver the best execution of its customer's order. A similar conflict may exist for taker fees, as broker-dealers may seek to minimize their trading costs by routing to the execution venue with the lowest fees. Maker-taker fees, therefore, result in a potential misalignment between the broker's own interests and its obligation to seek the best execution for its customer's order."

impact on execution quality. For example, IEX's recent white paper (that utilized publicly available quote and trade data to compare market quality across U.S. stock exchanges) empirically found that on maker-taker exchanges (which dominate the U.S. equities trading landscape in market share) resting orders (i.e., the maker) on average experience greater adverse selection, less market stability around executions, significantly longer queues at the inside, and a lower probability of execution.[32] Accordingly, the Exchange believes the proposed IEMM Program offers an alternative financial incentive that avoids paying rebates for liquidity providing orders, and instead offers reduced transaction fees by way of the Displayed Match Fee Discount and the Non-Displayed Match Fee Discount that is designed to avoid the adverse impact to execution quality that the Exchange believes flow from the existing maker-taker pricing models, while still incentivizing Members to make displayed markets on the Exchange.

Furthermore, the Exchange believes rebates have the circular effect of perpetuating the modern-day exchange practice of charging ever increasing prices for low latency connectivity and depth of book market data that is required for firms to compete for priority at the NBBO.[33]

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32 See A Comparison of Execution Quality across U.S. Stock Exchanges, Elaine Wah, Stan Feldman, Francis Chung, Allison Bishop, and Daniel Aisen, Investors Exchange (2017), which studied four dimensions of market quality—liquidity, execution costs, price discovery, and market stability—and within each category, examined the structural mechanics responsible for observed disparities in execution quality.

33 For example, according to a recent report published by Healthy Markets on U.S. equity market data, a market participant that wanted to purchase the fastest connections with the most relevant trading information for Cboe BZX Exchange, Inc. ("Cboe BZX"), Cboe BYX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., the Nasdaq Stock Market LLC ("Nasdaq"), Nasdaq PHLX LLC, Nasdaq BX, Inc., NYSE, NYSE American LLC, and NYSE Arca, Inc., has seen its costs rise from $72,150 per month on June 1, 2012 to $182,775 per month on June 1, 2017. See US Equity Market Data - How Conflicts of Interest Overwhelm an Outdated Regulatory Model & Market Participants, Healthy Markets (November 16, 2017). See also a comment letter on Securities Exchange Act Release No. 78556 (August 11, 2016) 81 FR 54877 (August 17, 2016) (SR-NYSE-2016-45) from David L. Cavicke, Chief Legal Officer, on behalf of Wolverine Trading LLC, Wolverine Execution Services LLC, and Wolverine Trading

Independent research has indicated that queue position (which is largely a function of relative speed), impacts execution quality. Specifically, being at the top of the queue has the potential to increase the chance of capturing the spread, reduces the likelihood of adverse selection, and reduces the time an order is providing a directional signal to the market (which can increase the risk of adverse selection).[34] Furthermore, being at the top of the queue also provides more certainty regarding the collection of exchange rebates for providing liquidity. However, because exchanges that pay rebates to members to add liquidity have the longest queues,[35] competing for queue position on maker-taker exchanges requires members to pay high fees for low latency connectivity and depth of book market data, because understanding the relative order of displayed quotes on an exchanges order book and having the ability to be the first order at a price level is critical for successfully establishing queue position. As a result, market makers are forced to pay to compete based on speed, in addition to competing on price to provide liquidity to the markets.

Secondly, Members that participate as market makers necessarily interact with the Exchange using displayed orders, but do not interact with the Exchange using displayed orders exclusively. In fact, many firms that participate as market makers use non-displayed orders as a part of their market making strategies to optimize returns on their displayed market making activities (e.g., a firm making a market in security XYZ that receives an execution at the NBB

Technologies LLC, opposing NYSE's proposal to increase fees for, among other things, connectivity and data feeds, noting that based on an analysis of their fee over an 8 year period, NYSE's market data and connectivity costs have increased by over 700%, for a total of at least $123,750 per month.

34 See KCG Market Insights, The Need For Speed: Its Important, Even for VWAP Strategies, Phil Mackintosh.

35 See A Comparison of Execution Quality across U.S. Stock Exchanges, Elaine Wah, Stan Feldman, Francis Chung, Allison Bishop, and Daniel Aisen, Investors Exchange (2017) at 21.

may offset that position by placing a non-displayed Discretionary Peg order to sell on IEX, which is protected from trading at the midpoint of the NBBO when IEX perceives the market to be unstable, pursuant to Rule 11.190(g)). For instance, during the fourth quarter of 2017, just over seventy-percent (70%) of the volume traded on IEX by Members that are currently registered market makers on the Exchange was subject to the Non-Displayed Match Fee.[36] Accordingly, the Exchange is proposing to offer both a Displayed Match Fee Discount, as well as a Non-Displayed Match Fee Discount. The proposed Displayed Match Fee Discount is designed to provide IEMM's relief from the fees incurred as a result of their increased displayed order activity. The proposed Non-Displayed Match Fee Discount is designed to incentivize Members by reducing the firms largest expense of trading on the Exchange (i.e., non-displayed executions). Lastly, based on informal discussions with Members that have expressed interest in the proposed IEMM Program, the Exchange believes that reducing the overall costs of trading on the Exchange for Members designated as IEMM's will provide a sufficient financial incentive to provide meaningful and consistent support to market quality and price discovery by extensive quoting at and/or near the NBBO in IEX-listed securities for a significant portion of the day.

The Exchange currently does not operate a listing market, but is preparing to launch a listings business for corporate issuers in 2018. Upon launch of the listing business, the Exchange expects to face intense competition from NYSE and Nasdaq, which the Exchange believes essentially operate as a duopoly in the U.S. listing market. Therefore, the Exchange has designed the proposed IEMM Program in part to address the significant competitive challenges it will face in establishing itself as a competitive listings market. Specifically, requiring IEMMs to be a

[36] The Exchange notes that because the proposed Non-Displayed Match Fee Discount is applied evenly across all of a Member's non-displayed executions that receive the Non-Displayed Match Fee, the benefits flow congruently across the various trading desks and clients (as applicable) at the Member firm.

registered IEX Market Makers in each security listed on IEX, and to qualify as an IEMM under one of the tiers described above in all securities listed on IEX (subject to the limited exception), is designed to attract issuers to list on the Exchange by providing enhanced liquidity incentives to market participants for IEX-listed securities that accrue to the benefit of issuers listed on IEX as well as market participants generally.

Pursuant to Rule 11.151, IEX registered Market Makers are required to comply with the two-sided quote and pricing obligations. This requirement is substantially identical to the requirements applicable to NYSE and Nasdaq market makers.[37] Based on informal discussions with various market participants, including some that act as registered market makers on other exchanges, the Exchange understands that the obligation for registered market makers to comply with the two-sided quote and pricing obligations is perceived to be a systemically burdensome obligation that presents regulatory risk.[38] Even firms with highly sophisticated trading technology and robust technology controls face unintended system outages and disruptions characteristic of complex systems, which may ultimately result in some "gap" in the market maker's required continuous quotations. In response to informal feedback from potential market makers, the Exchange recently proposed and the Commission approved a Market Maker Peg Order designed to simplify market maker compliance with IEX Rule 11.151.[39] However, notwithstanding the availability of the Market Maker Peg Order functionality, a market maker remains responsible for entering, monitoring, and resubmitting, as applicable, quotations that

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37 See NYSE Rule 107B(d), and Nasdaq Rule 4600.

38 See, e.g., NYSE Regulation v. IMC Financial Markets, Proceeding No. 2016-07-01311 (May 4, 2017); NYSE Regulation v. Virtu Financial BD LLC, Proceeding No. 2016-07-01267 (December 20, 2016).

39 See Securities Exchange Act Release No. 81482 (August 25, 2017), 82 FR 41452 (August 31, 2017) (SR-IEX-2017-22).

meet the requirements of Rule 11.151. The Exchange believes that incentives for Members to act as Market Makers generally, as well as to maintain tighter markets than required by IEX Rule 11.151, would enhance displayed liquidity in IEX-listed securities. Accordingly, the Exchange has designed the IEMM Program to address both goals, and believes the proposed IEMM Program will serve as an incentivize for Members to take on the obligations and attendant risks of registering as an IEX Market Maker, and to make tighter markets by providing the proposed alternative fee incentives to IEX Market Makers that also qualify as an IEMM.

Lastly, the Exchange is proposing to make non-substantive changes to the Exchange's Fee Schedule to replace and re-organize the asterisked footnotes with numbered footnotes, and make minor changes to capitalization for defined terms. This change is designed to make the Exchange's Fee Schedule clearer, and ensure that footnotes are listed in chronological order.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b)[40] of the Act in general, and furthers the objectives of Sections 6(b)(4)[41] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. Additionally, IEX believes that the proposed fees are consistent with the objectives of Section 6(b)(5)[42] of the Act in particular in that they are designed to promote just and equitable principles of trade, to remove impediments to a free and open market and national market system, and in general to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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[40] 15 U.S.C. 78f.

[41] 15 U.S.C. 78f(b)(4).

[42] 15 U.S.C. 78f(b)(5).

The proposed IEMM Program takes a narrowly tailored approach, designed to encourage Market Makers to provide meaningful and consistent support to market quality and price discovery by extensive quoting at and/or near the NBBO in IEX-listed securities, which benefits all market participants by deepening the Exchange's liquidity pool in such securities. IEX believes that to the extent Market Makers enter more aggressively priced displayed orders on the Exchange in response to the alternative fee based incentives, there will be increased liquidity on IEX, thereby contributing to public price discovery, consistent with the goal of enhancing market quality. Additionally, the Exchange believes that price discovery would be enhanced by potentially drawing more natural trading interest to the public markets, which would deepen liquidity and dampen the impact of shocks from liquidity demand. Further, to the extent price discovery is enhanced and more orders are drawn to the public markets, orders executed on IEX rather than being internalized on broker-operated platforms or executed on other alternative trading venues will have the benefit of exchange transparency, regulation, and oversight.

The Exchange believes that the proposed Displayed Match Fee Discount and Non-Displayed Match Fee Discount, which were developed after extensive informal discussions with various Members, are reasonable because they are designed to incentivize the entry of aggressively priced displayed orders by reducing the firms' largest expense of trading on the Exchange (i.e., non-displayed executions),[43] as well as accounting for the increased costs for displayed execution associated a Members increased displayed order activity. As noted in the Purpose section, based on informal discussions with Members that have expressed interest in the

[43] As discussed in the Purpose Section above, Members that participate as market makers necessarily interact with the Exchange using display orders, but do not interact with the Exchange using displayed orders exclusively. For instance, during the third quarter of 2017, just over seventy-percent (70%) of the volume traded on IEX by Members that are currently registered market makers on the Exchange was subject to the Non-Displayed Match Fee.

proposed IEMM Program, the Exchange believes that reducing the overall cost of trading on the Exchange for Members designated as IEMM's will provide a sufficient financial incentive to provide meaningful and consistent support to market quality and price discovery by extensive quoting at and/or near the NBBO in IEX-listed securities for a significant portion of the day.

The Exchange believes that applying a benefit to all of an IEMM's executions at or above $1.00 that are subject to the Displayed Match Fee and Non-Displayed Match Fee is reasonable, and consistent with an equitable allocation of fees, because, as noted above in the Purpose section, the proposed Displayed Match Fee Discount and Non-Displayed Match Fee Discount are applied evenly across all of a Member's displayed and non-displayed executions above $1.00 that receive the Displayed Match Fee and Non-Displayed Match Fee, thus the benefits flow congruently across the various trading desks and clients (as applicable) at the Member firm. Moreover, the Exchange believes that decisions on whether to act as a Market Maker on IEX are generally made at the firm level, and therefore providing a financial incentive to all of a Members' displayed and non-displayed trading on IEX is designed to incentivize Members to act as Market Makers on IEX. Furthermore, the Exchange believes that applying a benefit to all of an IEMM's executions that are subject to the Displayed Match Fee and Non-Displayed Match Fee is reasonable in that it is designed in part to compete with the per share rebates that other exchanges currently pay for adding liquidity, which the Exchange believes have a significant impact on order routing decisions, without directly paying Members for order flow. Instead, the Exchange has severed the direct one-to-one relationship between the financial incentive and a Members displayed liquidity providing executions, by instead offering a per-share reduction in the cost of a Members displayed and non-displayed executions on the Exchange in return for meaningful and consistent support to market quality and price discovery by extensive quoting at

and/or near the NBBO in IEX-listed securities. What is more, the Exchange believes that the applying a benefit to all of an IEMM's executions at or above $1.00 that are subject to the Displayed Match Fee and Non-Displayed Match Fee is reasonable in that it is also designed in part to address the significant competitive challenges the Exchange will face in launching a listings business by providing a sufficient benefit to Members that will act as a market maker in IEX-listed securities.

Furthermore, the Exchange believes that only a considering a Member's principal orders when determining if such Member's order activity satisfied one or more IEMM Tiers is reasonable and not unfairly discriminatory, because it is designed to avoid the potential conflicts of interest inherent in the maker-taker pricing model. As discussed in the Purpose section, the Exchange believes that rebates paid for displayed liquidity, which are typically retained by the broker (in the case of agency orders), have the potential to distort broker order routing decisions at the expense of their investor clients. A similar conflict would exist if brokers acting as agent displayed customer order flow on IEX to qualify for designation as an IEMM in order to reap the benefits of the proposed Non-Display Match Fee Discount and Display Match Fee Discount without necessarily passing those decreased costs on to their investor clients. [44] However, this

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[44] See the SEC's Division of Trading and Markets' October 20, 2015 memorandum to the SEC's Market Structure Advisory Committee at 17-18, which states in support that "the maker-taker pricing model presents a potential conflict of interest between brokers and their customers that results from the way in which fees and rebates are assessed. Broker-dealers that are members of an exchange pay fees to and receive rebates from the exchange for each transaction they execute on it, but broker-dealers typically do not pass back those fees and rebates to their customers. Accordingly, if a broker-dealer can earn a rebate for routing its customer's order to a certain venue – and keep that rebate for itself – the broker-dealer may have an incentive to route to the venue with the highest rebate, rather than diligently search out the venue likely to deliver the best execution of its customer's order. A similar conflict may exist for taker fees, as broker-dealers may seek to minimize their trading costs by routing to the execution venue with the lowest fees. Maker-taker fees, therefore, result in a potential misalignment between the broker's own

potential conflict only exists for market participants that represent customers as agent. Therefore, the Exchange believes that only a considering a Member's principal orders when determining if such Member's order activity satisfied one or more IEMM Tiers is reasonable and not unfairly discriminatory.

Furthermore, while some Members may face unique financial and operational challenges that could pose practical limitations on their trading strategies, the Exchange notes that all Members are eligible to enter displayed orders in a principal capacity on the Exchange to the extent they are willing and able to commit capital to support price discovery at and/or near the NBBO. Accordingly, the Exchange believes it is reasonable and not unfairly discriminatory to only consider a Member's principal orders when determining if such Member's order activity satisfied one or more IEMM Tier.

Furthermore, the Exchange believes the exception from the requirement to be registered as a Market Maker in all IEX-listed securities as set forth in proposed Supplemental Material .01 is reasonable in that it provides Members flexibility to address any legal or regulatory requirements, or temporary operational restrictions associated with acting as a Market Maker in a security that is listed on IEX, without eliminating the financial incentives that such Member may otherwise qualify for under the IEMM Program as a result of their quoting activity in all other listed securities. The Exchange believes it is fair and equitable and not unfairly discriminatory to provide the limited exception to qualifying Market Makers because the exception provides narrowly tailored relief. IEX and other national securities exchange's rules already provide excused withdrawal relief from compliance with market maker quoting obligations based on legal or regulatory requirements, in recognition that there are circumstances in which it would be

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interests and its obligation to seek the best execution for its customer's order."

violative of legal and regulatory requirements for a firm to trade in a particular security.[45] As discussed above, these requirements could include, for example, participation in an offering of a security, or the possession of material nonpublic information. Similarly, IEX and other national securities exchange's rule provide excused withdrawal relief from compliance with market maker quoting obligations based on systemic equipment problems, in recognition of the technical complexities inherent in automated market making. The Exchange believes that the same considerations are applicable to participation in the IEMM Program, and it would be inappropriate to preclude a Market Maker from eligibility for the IEMM incentives based on bona fide legal or regulatory requirements or temporary operational restrictions. Thus, the Exchange does not believe that the limited exception raises any new or novel issues. Further, the exception will be granted to all Market Makers on a fair and equitable basis, if the Market Maker provides documentation satisfactory to IEX Regulation that substantiates the reasons for the requested exception.

The Exchange believes that proposed Supplemental Material .02 is reasonable in that it is designed to provide Members clarity regarding their eligibility for designation as an IEMM when their order activity over the course of a month satisfies the requirements of one of the applicable IEMM Tiers, but the Member is not a registered Market Maker in all securities listed on IEX as of the first trading day of the calendar month. Furthermore, Exchange believes allowing Members to qualify for designation as an IEMM under these circumstances is appropriate and reasonable, because it avoids disparate treatment of Members that were not registered Market Makers as of the start of a calendar month, but otherwise provided meaningful and consistent support to market quality and price discovery by extensive quoting at and/or near the NBBO in

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[45] See IEX Rule 11.152. See also NYSE Rule 107B(d), and Nasdaq Rule 4600.

IEX-listed securities for a significant portion of the day.

Moreover, the Exchange believes that proposed Supplemental Material .03 is reasonable in that it is designed to provide Members additional clarity regarding the Exchange's calculation for determining whether the order activity satisfied the applicable NBBO Quoting Percentage and Depth Quoting Percentage by accounting for scenarios where continuous trading is halted or paused pursuant to Rule 11.280, and therefore the IEMM would be unable to enter orders to meet satisfy [sic] the applicable requirements. The Exchange believes that not accounting for scenarios where continuous trading is halted or paused would be unreasonable, and inconsistent with the quoting requirements set forth in the proposed IEMM Tiers, because it would make the effective IEMM Tier quoting requirements variable, requiring additional order activity to satisfy the applicable quoting requirements for securities that are subject to a trading halt or pause. Furthermore, the Exchange notes that accounting for scenarios where continuous trading is halted or paused is also consistent with Rule 11.151(a)(2) regarding the obligations of registered Market Makers, which states in relevant part that Market Makers quoting obligations are suspended during a trading halt or pause.

The Exchange believes that the proposed Displayed Match Fee Discount and Non-Displayed Match Fee Discount for Members that qualify for designation as an IEMM is reasonable, in that IEX will continue to charge relatively low fees for all executed shares, and is in the range, or lower than, the fees many other exchanges charge for removing (i.e., taking) liquidity on maker-taker venues,[46] and consistent with Rule 610(c) of Regulation NMS.[47]

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[46] For example, the NYSE trading fee schedule on its public website reflects fees to "take" liquidity ranging from $0.0024 - $0.00275 depending on the type of market participant, order, and execution. The Nasdaq trading fee schedule on its public website reflects fees to "remove" liquidity ranging from $0.0030 per share for shares executed at or above $1.00 or 0.30% of total dollar volume for shares executed below $1.00. Cboe BZX

Furthermore, the Exchange believes that the proposed IEMM Program is consistent with the Act's requirement that the Exchange provide for an equitable allocation of fees, because Members that qualify for designation as an IEMM will provide benefits to all market participants by promoting price discovery and increasing the depth of liquidity available at and/or near the inside market. Such Members also benefit IEX by enhancing its competitiveness as a market center that attracts actionable orders. Accordingly, IEX believes that it is consistent with an equitable allocation of fees to offer the proposed Displayed Match Fee Discount and Non-Displayed Match Fee Discount on a Member's displayed and non-displayed executions at or above $1.00 in recognition of these benefits to the Exchange and its Members.

Moreover, the Exchange believes that not placing a cap on the aggregate monthly savings from the Displayed Match Fee Discount and Non-Displayed Match Fee Discount for Inside Tier IEMMs, and imposing the proposed cap on the aggregate monthly savings from the Displayed Match Fee Discount and Non-Displayed Match Fee Discount for the Depth Tier IEMMs is reasonable and consistent with an equitable allocation of fees, because such cap is designed to maintain congruity between the benefits provided by IEMMs to the Exchange and the broader market, and the financial incentives provided by the Exchange in return. Market Makers that qualify under the Inside Tier will provide enhanced price discovery and liquidity at the NBBO. Comparatively, while each proposed tier provides substantial benefits to the market, Market Makers that meet only the Depth Tier would provide depth of liquidity at prices near the NBBO, without necessarily providing enhanced price discovery and liquidity at the NBBO. Additionally,

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trading fee schedule on its public website reflects fees for "removing" liquidity ranging from $0.0030 for shares executed at or above $1.00 or 0.30% of total dollar volume for shares executed below $1.00, subject to certain limited exceptions for orders trading in the opening, IPO or halt auctions in Cboe BZX-listed securities.

[47] 17 CFR 242.610(c)(1).

the risk associated with a potential adverse execution for a Depth Tier IEMM is not as material as an Inside Tier IEMM. Thus, the Exchange believes the proposed IEMM Tiers and their corresponding fee incentives and caps are commensurate with the level of liquidity that the Member provides to the Exchange and its Members, and the risk associated with providing such liquidity, and are consistent with the Act. The Exchange notes that all Members are free to abstain from or discontinue participation in the proposed IEMM Program if the proposed fee reductions do not provide a sufficient incentive considering such Member's trading activity. Accordingly, the Exchange believes the proposed IEMM Tiers and their corresponding fee incentives and caps are reasonable and consistent with an equitable allocation of fees, and not unreasonably discriminatory.

The Exchange further believes it is appropriate not to consider executions subject to the Crumbling Quote Remove Fee as eligible for the Displayed Match Fee Discount or Non-Displayed Match Fee Discount. A Member's executions that are subject to the Crumbling Quote Remove Fee are necessarily a part of a trading strategy that the Exchange believes evidences a form of predatory latency arbitrage that leverages low latency proprietary market data feeds and connectivity along with predictive models to chase short-term price momentum and successfully target resting orders at unstable prices. Furthermore, if the Exchange were to apply the Displayed Match Fee Discount and Non-Displayed Match Fee Discount to executions that are subject to the Crumbling Quote Remove Fee, it would frustrate its fundamental purpose of disincentivizing predatory trading strategies to further incentivize additional resting liquidity, including displayed liquidity, on IEX. Thus, a Member that is able to simultaneously meet an IEMM Tier while also executing orders that are subject to the Crumbling Quote Remove Fee, should not be afforded the benefit of the Displayed Match Fee Discount or Non-Displayed Match Fee Discount on such

executions.

The Exchange further believes it is appropriate not to consider executions subject to the Internalization Fee as eligible for the Displayed Match Fee Discount or Non-Displayed Match Fee Discount. A Member's executions that are subject to the Internalization Fee are provided at no cost to the Member. If the Exchange were to apply the Displayed Match Fee Discount and Non-Displayed Match Fee Discount to executions that are subject to the Internalization Fee, it would provide a net credit to the Member (i.e., pay a rebate). As described above, the Exchange has made a conscious choice to not pay rebates to brokers in exchange for order flow, and instead has focused on earning order flow from market participants by designing a market that provides greater execution quality.[48] Thus, the Exchange proposes to not further discount an execution which is already provided free of charge.

The Exchange notes that other market centers offer a diverse range of fee based incentives to their members for trading activity that they believe improves market quality.[49] Similarly, the Exchange believes the proposed IEMM Program is designed to further improve market quality on the Exchange and across the broader market. While the Exchange believes the proposed IEMM Program is distinguishable from the fee based incentives offered by other

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48 See supra note 15.

49 See, e.g., Nasdaq Rule 7014 (Market Quality Incentive Programs), which includes a variety of programs that offer fee based incentives to Nasdaq members that meet certain trading requirements. For example, the Nasdaq Qualified Market Maker ("QMM") Program allows Nasdaq members to qualify as a QMM if they are registered Nasdaq market makers, quote at the NBBO for a specified period of time in a specified number of securities, and are not assessed any "Excess Order Fee" under Nasdaq Rule 7018. In order to incentivize members to qualify as QMM's, Nasdaq offers a series of rebates per share executed, which vary depending on the QMM's percentage of consolidated volume in the applicable security and which market center the security is listed on. Moreover, Nasdaq offers qualified QMM's a reduced fee for removing liquidity on Nasdaq, which varies depending on what market the security is listed on. See Nasdaq Rule 7014(d)-(e).

market centers in so far as the Exchange is not proposing to offer a rebate, the underlying goals and policy considerations are substantially similar. Thus, the Exchange believes the proposed IEMM Program does not pose any new or novel concepts not already considered by the Commission in connection with the current fee based market quality incentive programs offered by other market centers.

The Exchange further believes that the IEMM Program is reasonable and consistent with an equitable allocation of fees, and not unfairly discriminatory, because the IEMM Program is available to all market participants that qualify for designation as an IEMM, regardless of the size of the firm or its trading volumes. The Exchange notes that all Members that satisfy the applicable requirements are eligible for designation as an IEMM on a fair and equal basis. Moreover, the Exchange believes that the proposed IEMM Tiers that Members may qualify under for designation as an IEMM are consistent with an equitable allocation of fees, because, as discussed in the purpose section above, the proposed fee reductions and the corresponding caps for Depth Tier IEMM's are commensurate with the level of liquidity that the Member provides to the Exchange and its Members.

In conclusion, for the reasons discussed above, the Exchange believes that the proposed IEMM Program is consistent with Sections 6(b)(4) and 6(b)(5) of the Act in that it does not permit unfair discrimination between customers, issuers, brokers, or dealers, and is designed 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.

Lastly, the Exchange believes that the proposed non-substantive changes to the Exchange's Fee Schedule to replace and re-organize the asterisked footnotes with numbered

footnotes, and make minor changes to capitalization for defined terms is reasonable, and consistent with the protection of investors and the public interest, in that it is designed to make the Exchange's Fee Schedule clearer, and ensure that footnotes are listed in chronological order.

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

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposed IEMM Program and corresponding fee reductions will increase competition and draw additional volume to the Exchange. Furthermore, in order to compete with incumbent maker-taker exchanges for order flow without directly paying Members for such orders with rebates, the Exchange is proposing to offer an alternative fee-based incentive to Members that engage in trading activity that enhances market quality and price discovery on the Exchange. Importantly, the Exchange operates in a highly competitive market in which market participants can readily favor competing venues if fee schedules at other venues are viewed as more favorable. Consequently, the Exchange believes that the degree to which IEX fees could impose any burden on competition is extremely limited, and does not believe that such fees would burden competition of Members or competing venues in a manner that is not necessary or appropriate in furtherance of the purposes of the Act.

Moreover, as noted above, upon launch of the listing business for corporate issuers in 2018, the Exchange expects to face intense competition from NYSE and Nasdaq, which the Exchange believes essentially operate as a duopoly in the U.S. listing market. Therefore, the Exchange has designed the proposed IEMM Program in part to address the significant

competitive challenges it will face in establishing itself as a competitive listings market. Specifically, requiring IEMMs to be a registered IEX Market Maker in each security listed on IEX, and to qualify as an IEMM under one of the tiers described above in all securities listed on IEX, is designed to enhance execution quality in such securities, which the Exchange believes will also encourage issuers to choose to list on IEX. Thus, the Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the proposed rule change may serve as a catalyst for increasing intermarket competition in the highly-concentrated U.S. listings market, which the Exchange believes currently operates as a duopoly dominated by NYSE and Nasdaq.

Furthermore, the Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because while some Members may face unique financial and operational challenges that could pose practical limitations on their trading strategies, the proposed fee incentives are available to all Members that choose to register as a market maker and adjust their trading activity to qualify for designation as an IEMM. Further, as noted above, the proposed fee reductions are designed to encourage Members to add liquidity at prices that benefit all IEX Members, and thus will not impose any burden on intramarket competition that is not appropriate in furtherance of the purposes of the Act.

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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii)[50] of the Act.

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)[51] 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 e-mail to rule-comments@sec.gov. Please include File Number SR-IEX-2018-02 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

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50 15 U.S.C. 78s(b)(3)(A)(ii).

51 15 U.S.C. 78s(b)(2)(B).

All submissions should refer to File Number SR-IEX-2018-02. This file number should be included on the subject line if e-mail 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 Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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-2018-02, 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.[52]

Eduardo A. Aleman,

Assistant Secretary.

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[52] 17 CFR 200.30-3(a)(12).

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