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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-85260; File No. SR-IEX-2019-02]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Postpone Implementation of a Rule Change to Reject Market Orders with a Time-in-Force of DAY that are Entered in the Pre-Market Session for Non-IEX-Listed Securities

March 6, 2019

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 27, 2019, 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 and II 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 IEX is filing with the Commission a proposed rule change to postpone implementation of a rule change to reject market orders with a time-in-force⁶ of DAY that are entered in the Pre-Market Session⁷ for non-IEX-listed securities, including for the Opening Process for non-IEX-listed securities pursuant to IEX Rule 11.231 (the “Opening

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 [sic] 240.19b-4.

⁶ See Rule 11.190(c).

⁷ See Rule 1.160(z).

Process”). The Exchange has designated this rule change as “non-controversial” under Section 19(b)(3)(A) of the Act.⁸

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

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statement [sic] 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

On January 28, 2019 the Exchange filed an immediately effective proposed rule change to amend Rules 11.190(a)(2)(E)(iii) and 11.220(a)(2)(A) to reject market orders with a time-in-force of DAY that are entered in the Pre-Market Session for non-IEX-listed securities, including for the Opening Process (“original rule change”).⁹ The original rule change is subject to a 30-day operative delay ending on February 28, 2019.

The Exchange had anticipated that the technical changes necessary to implement the original rule change would be completed in time to enable implementation on February 28, 2019.

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ See Securities Exchange Act Release No. 85036 (February 1, 2019), 84 FR 2596 (February 7, 2019).

However, due to unforeseen delays, the technical changes are not yet complete. As a result, the Exchange is now proposing to implement the original rule change within ninety (90) days of the filing of this rule change. The Exchange will notify market participants via a Trading Alert once a specific implementation date is determined and provide at least ten (10) days' notice thereof.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b)¹⁰ of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act¹¹ in particular, in that it 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. Specifically, the proposed rule change is consistent with the Act because it will allow the Exchange to complete technical changes necessary to implement the original rule change in a thorough and risk averse [sic] manner, thereby protecting investors. Further, the ten (10) days' notice to market participants of the implementation date for the original rule filing is consistent with the Act because it will provide appropriate transparency to market participants regarding the change.

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. Postponing implementation of the original rule change will allow the Exchange to implement the original rule change in a thorough and risk averse [sic] manner, and is not designed for any competitive purpose.

¹⁰ 15 U.S.C. 78f.

¹¹ 5 U.S.C. 78f(b)(5).

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

Because the foregoing 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 Act¹² and Rule 19b-4(f)(6) thereunder.¹³

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act¹⁴ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹⁵ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Exchange believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it would permit the Exchange to implement the proposed rule change to extend the implementation date on or prior to expiration of the operative delay to the original rule change, thereby avoiding any potential confusion on the part of market participants as to when the original rule change will be implemented. The Commission believes that waiver of the operative delay will allow the

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five 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.

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁵ 17 CFR 240.19b-4(f)(6)(iii).

proposal to become operative without delay and thereby provide certainty to Exchange members as to the implementation of the prior proposed rule change. The Commission further notes that the proposal does not raise any new or novel issues. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.¹⁶

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)¹⁷ 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-IEEX-2019-02 on the subject line.

Paper Comments:

¹⁶ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁷ 15 U.S.C. 78s(b)(2)(B).

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

All submissions should refer to File Number SR-IEX-2019-02. 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; the Commission does not edit personal identifying information from submissions. You should

submit only information that you wish to make available publicly. All submissions should refer to File Number SR-IEX-2019-02 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.¹⁸

Eduardo A. Aleman
Deputy Secretary

¹⁸ 17 CFR 200.30-3(a)(12).

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