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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80118; File No. SR-IEX-2017-05]

February 28, 2017

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt DEEP, a New Depth of Book Market Data Feed, Rename TOPS Viewer to IEX Data Platform, and Include Depth of Book Market Data Therein

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 15, 2017, 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 Investors Exchange LLC (“IEX” or the “Exchange”) is filing with the Commission a proposed rule change to amend Rule 11.330(a)(3) to adopt a new market data product to be known as DEEP, which is an uncompressed data feed that provides aggregated depth of book quotations for all displayed orders for securities traded on IEX, and execution information (i.e., last sale information) for executions on the Exchange. Additionally, the Exchange proposes to amend Rule 11.330(a)(2) in order to change the name of its data feed

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.

currently known as TOPS Viewer to IEX Data Platform, and to add aggregated depth of book quotations for up to ten (10) price levels to the IEX Data Platform. 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.⁶

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

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

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

1. Purpose

The Exchange proposes to amend Rule 11.330(a)(3) to describe a new market data product to be known as DEEP. Currently, the Exchange offers TOPS, an uncompressed data feed that provides aggregated top of book quotations for all displayed orders resting on the Order Book and execution information (i.e., last sale information) for executions on the Exchange. The data disseminated on TOPS is also available via TOPS Viewer through the Exchange's public website. Both TOPS and TOPS Viewer are provided free of charge. Based on informal

⁶ 17 CFR 240.19b-4(f)(6)(iii).

discussion with market participants and other Users, the Exchange has determined that there is demand for a depth of book feed offering. Accordingly, the Exchange proposes to amend Rule 11.330(a)(3) to offer DEEP. As proposed, DEEP will disseminate, on a real-time basis,⁷ aggregated depth of book quotations for all displayed orders resting on the Order Book at each price level for securities traded on IEX (i.e., displayed top of book and full depth of book quotations) and execution information (i.e., last sale information) for executions on the Exchange. DEEP will be provided free of charge.

Consistent with IEX's existing approach whereby data disseminated on TOPS is also available via TOPS Viewer through the Exchange's public website, IEX is proposing to continue this paradigm by also providing aggregated depth of book quotations for all displayed orders resting on the Order Book for up to ten (10) price levels that are disseminated through DEEP via the Exchange's public website. Accordingly, the Exchange proposes to amend Rule 11.330(a)(2) to modify the name of its data product currently known as TOPS Viewer, and instead title it the IEX Data Platform, to reflect that such platform will provide a suite of data that includes data disseminated by TOPS and a subset of data disseminated by DEEP.

As is the case currently with respect to TOPS and TOPS Viewer, the aggregated best bid and offer ("BBO") and last sale information disseminated through DEEP and the IEX Data Platform will also be reported under the Consolidated Tape Association ("CTA") Plan or the Nasdaq/UTP Plan. The Exchange will release such information to DEEP and the IEX Data Platform in compliance with Rule 603(a) of Regulation NMS, which requires that exchanges

⁷ Rule 11.510(b)(2) describes the application of the POP to outbound communications from the Exchange, which impacts DEEP in the same manner as all other data products offered by the Exchange. Specifically, as specified therein, the POP "is designed to provide all Participants with an equivalent 350 microseconds of latency from the System at the primary data center to the Exchange-provided network interface at the IEX POP."

distribute market data on terms that are “fair and reasonable” and “not unreasonably discriminatory,” and prohibits an exchange from releasing data relating to quotes and trades to its customers through proprietary feeds before it sends its quotes and trade reports for inclusion in the consolidated feeds.⁸

The Exchange plans to implement the proposed changes during the second quarter of 2017 pending completion of necessary technology changes and subject to effectiveness of this proposed rule change. The Exchange will announce the implementation date of the proposed changes by Trader Alert at least 10 business days in advance of such implementation date and within 90 days of effectiveness of this proposed rule change.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act⁹ in general, and with Section 6(b)(5) of the Act,¹⁰ in particular. DEEP will be provided consistent with the purposes of Section 6(b)(5) of the Act.¹¹ Moreover, the proposed rule change is not designed to permit unfair discrimination among customers, issuers, and brokers; and is designed 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 proposed rule change is designed to promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national

⁸ See Regulation NMS, 70 FR 37496, 37567 (June 29, 2005) (adopting release); see also Concept Release, 75 FR at 3601 (January 21, 2010).

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(4), (5).

¹¹ 15 U.S.C. 78f(b)(5).

market system by providing quotation and transaction information to market participants. The Exchange also believes this proposal is consistent with Section 6(b)(5) of the Act because it is designed to protect investors and the public interest and promote just and equitable principles of trade by providing transparency regarding displayed orders in the IEX System, and also provides market participants with the option to receive IEX BBO and last sale information otherwise than under the CTA and Nasdaq/UTP Plans. Further, the proposal would not permit unfair discrimination because the information will be available to all market participants and market data vendors on an equivalent basis, and without charge. In addition, any market participant that wishes to receive IEX BBO and last sale information via the CTA and Nasdaq/UTP Plans will still be able to do so.

The Exchange also believes that the proposed rule change is consistent with Section 11(A) of the Act¹² in that it supports (1) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets and (2) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Furthermore, the proposed rule change is consistent with Rule 603 of Regulation NMS,¹³ which provides that any national securities exchange which distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are fair and reasonable and not unreasonably discriminatory. As noted above, the Exchange will provide DEEP to Members and other recipients of Exchange data on terms that are fair and reasonable and not unreasonably discriminatory in that DEEP will be provided free of charge. Furthermore, DEEP would be accessed and subscribed to on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make this data

¹² 15 U.S.C. 78k-1.

¹³ See 17 CFR 242.603.

available. Accordingly, distributors and subscribers can discontinue their use at any time and for any reason.

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 is not proposing to charge a fee for DEEP or the IEX Data Platform, and will make both available to market participants on a fair and impartial basis, and on terms that are not unreasonably discriminatory. In addition, the Exchange believes that providing aggregated depth of book quotations as described above is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system by providing investors with alternative market data, as well as to compete with other exchanges that offer similar market data products, such as those currently offered by the New York Stock Exchange, Inc. ("NYSE"), the Nasdaq Stock Market LLC ("Nasdaq"), and BZX Exchange, Inc. ("Bats").¹⁴

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.

¹⁴ See, e.g., Nasdaq Rule 7023(a)(1)(C), which describes the Nasdaq TotalView as a depth-of-book data feed that includes all orders and quotes from all Nasdaq members displayed in the Nasdaq Market Center as well as the aggregate size of such orders and quotes at each price level in the execution functionality of the Nasdaq Market Center; See also NYSE OpenBook Aggregated, available at <http://www.nyxdata.com/nysedata/Default.aspx?tabid=1421>, which provides a real-time view of the NYSE limit order book including the aggregated size at each price level; See Bats Rule 11.22(a) and 11.22(c), which describe the Bats TCP Depth and Multicast Depth feeds as an uncompressed data feed that offers depth of book quotations and execution information based on equity orders entered into the System; See also Bats Rule 11.22(m), which describes the BZX Summary Depth feed as a data feed that offers aggregated two-sided quotations for all displayed orders entered into the System for up to five (5) price levels.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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)¹⁵ of the Act and Rule 19b-4(f)(6) thereunder.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

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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.

¹⁷ 15 U.S.C. 78s(b)(2)(B).

- Send an email to rule-comments@sec.gov. Please include File Number SR-IEX-2017-05 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.

All submissions should refer to File Number SR-IEX-2017-05. 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, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also 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-2017-05 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

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¹⁸ 17 CFR 200.30-3(a)(12).

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