



8011-01P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83275; File No. SR-IEX-2018-10]

Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 11.410(a) to Update the Market Data Source That the Exchange Will Use to Determine the Top of Book Quotation for NYSE National in Anticipation of Its Planned Re-Launch

May 17, 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 May 10, 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 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

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.

proposed rule change to amend the table in Rule 11.410(a) to update the market data source that the Exchange will use to determine the Top of Book⁶ quotation for NYSE National, Inc. (“XCIS”) in anticipation of its planned re-launch. The Exchange has designated this rule change as “non-controversial” under Section 19(b)(3)(A) of the Act⁷ and provided the Commission with the notice required by Rule 19b-4(f)(6) thereunder.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 statements 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 the table in Rule 11.410(a) to update the market data source that the Exchange will use to determine the Top of Book quotation for XCIS

⁶ See IEX Rule 11.410(a)(1).

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4.

in anticipation of its planned re-launch.⁹ As specified in Rule 11.410(a)(2), the Exchange uses data from each away trading center that produces a Protected Quotation¹⁰ to determine its Top of Book quotation, as well as the NBBO¹¹ for certain reporting, regulatory and compliance systems within IEX.

Specifically, the Exchange proposes to amend and update the table specifying the primary and secondary sources for NYSE National (“XCIS”) in anticipation of the planned re-launch of XCIS on May 21, 2018.¹² As proposed, the Exchange will use securities information processor (“SIP”) data, i.e., CQS SIP data for securities reported under the Consolidated Quotation Services and Consolidated Tape Association plans and UTDF SIP data for securities reported under the Nasdaq Unlisted Trading Privileges national market system plan, to determine XCIS Top of Book quotes. No secondary source is proposed to be specified as SIP data will be used exclusively. While the Exchange uses proprietary market data feeds to determine the Protected Quotations of other away markets, as specified in Rule 11.410, it has determined to utilize the SIP quote feeds for XCIS for several reasons. First, XCIS quotations will not be included in the market data feeds that IEX currently subscribes to and consumes for NYSE Group exchanges.¹³ Although XCIS is not proposing charges for its proprietary market data, the

⁹ See NYSE Group Trader Update published on March 8, 2018 available at: https://www.nyse.com/publicdocs/nyse/markets/nyse/National_BC.pdf.

¹⁰ See IEX Rule 1.160(bb).

¹¹ See IEX Rule 1.160(u).

¹² See supra note 9.

¹³ See supra note 12. NYSE Group is the immediate parent company of XCIS and its national securities exchange affiliates. See Securities Exchange Act Release No. 82635 (February 6, 2018), 83 FR 6057 (February 12, 2018) (File No. SR-NYSENAT-2018-03).

Exchange notes that making the necessary technical changes to consume XCIS proprietary market data in time for XCIS' planned May 21, 2018 re-launch would divert technical resources from other higher priority initiatives. Second, the Exchange believes that XCIS will likely have relatively low market share,¹⁴ and accordingly does not believe that subscribing to an additional proprietary market data feed at this time is necessary in order to determine XCIS Top of Book quotes and enable the Exchange to comply with applicable requirements of Regulation NMS with respect to its Top of Book quotes. The Exchange also notes that other exchanges also use SIP market data feeds to determine Top of Book quotes for some away markets, including XCIS, pursuant to effective rule filings.¹⁵

The Exchange is also proposing a conforming change to Rule 11.410(a)(2) to reflect that, as proposed, the Exchange will not use proprietary market data feeds as the primary source from which it will determine Top of Book quotations for XCIS.

The Exchange is not proposing any other changes to Rule 11.410 with respect to its use of market data feeds and calculations of necessary price reference points. The proposed change merely specifies the market data feeds that the Exchange will use to determine XCIS Top of Book quotes, and does not alter the manner in which orders are handled or routed by the Exchange.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of

¹⁴ XCIS had overall market share of 0.02% for the week of January 30, 2017, immediately prior to ceasing operations.

¹⁵ See, e.g., Nasdaq Stock Market Rule 4759(a).

Section 6(b)¹⁶ of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act¹⁷ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest because it provides transparency with respect to the sources of market data that it will use to determine XCIS Top of Book quotes. For the reasons discussed in the Purpose section, the Exchange believes that use of SIP market data will enable it to determine XCIS Top of Book quotes and comply with applicable requirements of Regulation NMS. In addition, and as further noted in the Purpose section, other exchanges use SIP market data to determine Top of Book quotes for some away markets, including XCIS, so the proposed change does not raise any new or novel issues not already considered by the Commission.

The Exchange also believes it is consistent with the Act to make a conforming change to Rule 11.410(a)(2) so that provision is consistent with the table in Rule 11.410(a).

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 believes that the proposed update does not impact competition in any

¹⁶ 15 U.S.C. 78f.

¹⁷ 15 U.S.C. 78f(b)(5).

respect since its purpose is to enhance transparency and with respect to the operation of the Exchange and its use of market data feeds.

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 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 Act¹⁸ and Rule 19b-4(f)(6) thereunder.¹⁹

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act²⁰ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)²¹ 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 so that the proposal may become operative immediately upon filing, thus allowing IEX's proposed rule change to reflect in its rules, prior to the planned re-launch of XCIS, the source of market data that

¹⁸ 15 U.S.C. 78s(b)(3)(A).

¹⁹ 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

²⁰ 17 CFR 240.19b-4(f)(6).

²¹ 17 CFR 240.19b-4(f)(6)(iii).

the Exchange will utilize for determining XCIS Top of Book quotes. The Commission does not believe that any new or novel issues are raised by the proposal. For these reasons, the Commission believes the waiver of the 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 operative upon filing.²²

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 to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-IEX-2018-10 on the subject line.

Paper Comments:

²² For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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

All submissions should refer to File Number SR-IEEX-2018-10. This file number should be included in the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Section, 100 F Street, NE, Washington, DC 20549-1090. Copies of the filing will also be available for inspection and copying at the IEX's principal office and on its Internet website at www.iextrading.com. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you

wish to make available publicly. All submissions should refer to File Number SR-IEX-2018-10 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Eduardo A. Aleman,
Assistant Secretary.

²³ 17 CFR 200.30-3(a)(12).

