

Exchange's ability to fulfill its regulatory obligations, particularly with regard to the operation and resilience of its system and compliance with Regulation SHO. Moreover, the Exchange has represented, and assessed historical practices on the Exchange to verify, that it likely would be an uncommon occurrence for an order to lose time priority as a result of the change in functionality proposed herein. Thus, the proposed rule change appears to be designed to implicate a discrete and limited order book scenario. Further, the Commission believes that the proposed functionality, in addition to likely being implicated infrequently, will be fully transparent to market participants. Lastly, the Commission believes that the proposed change to Rule 2616(a)(5) to replace the phrase "cancelled or replaced" with the phrase "modified via a Cancel/Replace message" and the proposed conforming change to Rule 2614(e)(3) should enhance the clarity and consistency of the terminology used in the Exchange's rules, which should help mitigate the potential for market participant confusion.

For the reasons discussed above, the Commission finds that this proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest, and is not designed to permit unfair discrimination.

IV. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 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 No. SR-PEARL-2021-35 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 No. SR-PEARL-2021-35. The file numbers should be included on 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 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 such 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 publicly available. All submissions should refer to File No. SR-PEARL-2021-35 and should be submitted on or before November 29, 2021.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of the amended proposal in the **Federal Register**. In Amendment No. 1, the Exchange amended the proposal to: (1) Provide additional explanation and rationale for the proposed rule change; (2) describe how the proposed rule change should have minimal impact based on past trading activity on the Exchange; (3) enhance statements concerning each equity member's obligations to comply with Regulation SHO; and (4) correct minor typographical errors. Amendment No. 1 adds clarity and justification to the proposal, and does not alter the proposed change in system functionality from what is set forth in the Notice, which was subject to a full comment period. Accordingly, the Commission finds good cause, pursuant to Section

19(b)(2) of the Act,²⁵ to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²⁶ that the proposed rule change (SR-PEARL-2021-35), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁷

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-93505; File No. SR-IEX-2021-13]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend IEX Rule 11.330 To Retire the IEX Data Platform Data Product

November 2, 2021.

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 October 25, 2021, 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 Act,⁴ and Rule 19b-4 thereunder,⁵ IEX is filing with the Commission proposed changes to IEX Rule 11.330 to retire the IEX Data Platform data product. The Exchange has designated this rule change as "non-controversial" under Section 19(b)(3)(A)

²⁵ 15 U.S.C. 78s(b)(2).

²⁶ *Id.*

²⁷ 17 CFR 200.30-3(a)(12).

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.

of the Act⁶ and provided the Commission with the notice required by Rule 19b-4(f)(6) thereunder.⁷

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 is proposing to modify IEX Rule 11.330(a)(2) to retire the IEX Data Platform data product ("Data Platform"). As discussed below, IEX is proposing to retire the Data Platform because IEX has determined that because IEX offers the same data in the Data Platform through other data products, the costs associated with maintaining and updating the Data Platform outweigh the benefits of offering the Data Platform.

IEX's Data Platform is both a human readable data feed available through IEX's website that offers aggregated top of book quotations for all displayed orders resting on IEX's Order Book⁸ and last sale data ("TOPS Viewer"), and an application programming interface (the "API")⁹ that offers aggregated top of book and depth of book quotations for all displayed orders resting on the Order Book at each price level as well as last sale data, each in near real time.¹⁰ IEX understands that while both TOPS

Viewer and the API provide potentially useful market data, because they are internet based they are subject to the concomitant latency associated therewith and are thus not generally utilized for time-sensitive trading decisions but for informational and research purposes. For example, by the time market data is viewed or obtained by query or update it will typically be stale and not usable for determining IEX's current protected quote, midpoint or available depth of book liquidity.

IEX provides all of the data available in TOPS Viewer and the API through other market data products. Specifically, IEX's "TOPS"¹¹ feed contains all the data visible in the TOPS Viewer, and IEX's "DEEP"¹² feed contains all the data accessible via the API. Additionally, IEX's "HIST"¹³ offers TOPS and DEEP data on a T+1 basis for download from the Exchange's public website.¹⁴

The TOPS and DEEP feeds also include additional information that is not included in the TOPS Viewer or API. Specifically, IEX recently introduced TOPS and DEEP "snapshots" that allow subscribers of those feeds to download point-in-time snapshots of TOPS or DEEP in order to enable them to accelerate late start recovery (*i.e.*, if a data subscriber's connection to the data feed is delayed or interrupted, the snapshot will provide the subscriber with point-in-time data that it can use to sync up its trading operations going forward).¹⁵ In addition, IEX recently began disseminating a "Retail Liquidity Indicator" through both the TOPS and DEEP feeds, which is also distributed to the SIPs, but not to TOPS Viewer or the API.¹⁶

In view of the significant overlap in the data available in the Data Platform and in the TOPS and DEEP feeds, IEX has determined that the costs to maintain and update TOPS Viewer and the API are not warranted. IEX does not charge any fees to access either TOPS Viewer or the API, and thus has borne all costs for developing and supporting both data products. As with all businesses, IEX does not have unlimited

resources and has determined that it is no longer in its commercial interests to incur costs to maintain and update TOPS Viewer and the API. Accordingly, IEX proposes to retire TOPS Viewer and the API, delete the current IEX Rule 11.330(a)(2), and renumber subparagraphs (a)(3)–(a)(5) to (a)(2)–(a)(4).

IEX also believes this proposed rule change will eliminate any possible confusion that may arise from a market participant trying to access data elements in TOPS Viewer and the API that can only be found in the TOPS and DEEP data products. Along those lines, in advance of issuing a formal trading alert as discussed below, IEX has been advising users of TOPS Viewer and the API that pending the filing and effectiveness of this rule change, IEX intends to retire both data products after November 18, 2021.¹⁷

Implementation

This proposed rule change is effective on filing, and the Exchange expects to implement it on November 19, 2021 (meaning November 18, 2021 will be the last day that TOPS Viewer and the API will be available to users), following the expiration of the 30-day operative delay. IEX will provide at least ten (10) days' notice to Members¹⁸ and market participants of the implementation timeline.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and 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 Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest because it will continue to provide all market data currently available in TOPS Viewer and the API

¹⁷ Notification is being provided via website headers on the TOPS Viewer and API pages of IEX's website, with a comparable header returned with any API queries, in order to notify API users that might not visit the website. The notifications also inform any users of the API that IEX's market data will continue to be available via the TOPS and DEEP feeds, as well as through third party vendors of IEX market data.

¹⁸ See IEX Rule 1.160(s).

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4.

⁸ See IEX Rule 1.160(p).

⁹ The IEX API enables a market participant to query IEX market data through a computer to computer based protocol. Through such queries, a market participant can obtain a series of static views of the IEX order book, or, can receive periodic updates to the top of book for a particular security.

¹⁰ See IEX Rule 11.330(a)(2). The Data Platform would also include auction information (*see* IEX Rule 11.330(a)(2)) if there were any IEX-listed securities.

¹¹ See IEX Rule 11.330(a)(1).

¹² See IEX Rule 11.330(a)(3).

¹³ See IEX Rule 11.330(a)(5).

¹⁴ HIST data is available for download at <https://iextrading.com/trading/market-data/#hist-download>.

¹⁵ See Trading Alert No. 2021-003, available at <https://iextrading.com/alerts/#/135> and Trading Alert No. 2021-031, available at <https://iextrading.com/alerts/#/163>.

¹⁶ See Trading Alert 2021-036, <https://iextrading.com/alerts/#/169>; *see also*, Securities Exchange Act Release No. 92398 (July 13, 2021), 86 FR 38166 (July 19, 2021) (SR-IEX-2021-06).

through the TOPS and DEEP feeds. IEX appreciates that retail investors and other non-professional market participants may not be able to utilize TOPS or DEEP in lieu of TOPS Viewer or the API. However, IEX understands that the market data available in TOPS Viewer and through the API is also available to retail investors and other non-professional market participants through brokerage accounts that must be maintained to enter orders on IEX.¹⁹ Thus, the retirement of TOPS Viewer and the API will not adversely impact the ability of retail investors to access IEX market data when making investing decisions. Additionally, as discussed in the Purpose section, IEX's HIST data product allows anyone to download TOPS and DEEP data from IEX's public website on a T+1 basis, so the retirement of TOPS Viewer and the API will not adversely impact the ability of academics or other non-market participants to access historical IEX market data.

Additionally, IEX believes that retiring TOPS Viewer and the API will allow it to dedicate more resources to the maintenance of and enhancements to the TOPS and DEEP feeds. This reallocation of IEX's limited resources should serve to help remove impediments to a free and open market, in furtherance of the protection of investors and the public interest.

Finally, IEX notes that nothing in the Act requires IEX to provide a near real-time online version of its market data or any API with near real-time access to IEX's depth of book data product. No other exchange offers an online version or API that provides depth of book data analogous to the IEX API. One other exchange family, the Cboe exchanges, offers a similar, human readable, top of book viewer on its website free of charge.²⁰ The only other human readable top of book viewer offered by an exchange is offered by Nasdaq, which charges \$76/month per professional subscriber and \$15/month per non-professional subscriber to access the human readable top of book viewer.²¹

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 proposal is designed to enhance IEX's competitiveness with other markets by enabling IEX to focus its limited resources on the continued maintenance and enhancement of its TOPS and DEEP feeds. Nothing in this rule change will impact the ability of any other exchange to offer or not offer comparable market data products. Further, elimination of TOPS Viewer and the API will not adversely impact any equities exchanges or other competing venues of IEX since IEX will continue to provide its market data through the TOPS and DEEP feeds. In this regard, IEX does not believe that such exchanges and venues utilize either for other than informational purposes since their non-continuous nature is not well suited for operating a trading market. For example, by the time market data is viewed or obtained by query or update it will typically be stale and not usable for determining IEX's protected quote.

The Exchange also 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. All market participants will continue to be able to obtain IEX's market data through the TOPS and DEEP feeds, and as discussed in the Purpose section, there is more data available in the TOPS and DEEP feeds than in the TOPS Viewer and the API. Thus, this proposal will impact all market participants equally, any of which can obtain IEX market data through the TOPS and DEEP feeds, or through a third-party vendor.

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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section

19(b)(3)(A) of the Act²² and Rule 19b-4(f)(6)²³ thereunder.

The Exchange has asked the Commission to waive the 30-day operative delay in order to discontinue the optional internet-based TOPS Viewer and API by November 18, 2021 because doing so: (1) Will allow developers to make code changes in advance of any year-end "code freezes," and (2) would not adversely impact the ability of persons to access the same IEX market data.²⁴ The Commission finds that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Specifically, waiver of the operative delay will allow the Exchange to retire these optional market data products in a timely fashion well in advance of year-end code freezes and better focus its resources on its core market data feeds. In addition, according to the Exchange, the same and more IEX market data is available to market participants and others, through the Exchange's TOPS, DEEP and HIST data products. The proposal does not, therefore, present any novel issues and, accordingly, the Commission designates the proposal operative upon filing.²⁵

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 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:

²² 15 U.S.C. 78s(b)(3)(A).

²³ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

²⁴ 17 CFR 240.19b-4(f)(6)(iii).

²⁵ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁹ Only a Member may enter an order directly on IEX. Thus, retail investors and other market participants that are not Members must maintain an account with a Member of IEX in order to do so.

²⁰ See https://www.cboe.com/us/equities/market_statistics/book_viewer/.

²¹ See <https://www.nasdaq.com/solutions/nasdaq-bookviewer#pricing>.

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-2021-13 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-2021-13. 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, 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 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-2021-13 and should be submitted on or before November 29, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁶

J. Matthew DeLesDernier,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-93511]

**Self-Regulatory Organizations;
Financial Industry Regulatory
Authority, Inc.; Declaration of
Effectiveness of the Fingerprint Plan of
the Financial Industry Regulatory
Authority, Inc.**

November 2, 2021.

On October 28, 2021, the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("Commission" or "SEC") a new fingerprint plan ("Plan")¹ pursuant to Rule 17f-2(c)² under the Securities Exchange Act of 1934 ("Exchange Act" or "Act").³ The Plan supersedes and replaces FINRA's current fingerprint plan, which was declared effective for the Commission by the Division of Trading and Markets, pursuant to delegated authority, on May 2, 2006 ("FINRA's 2006 Plan").⁴

FINRA states that it is adopting the Plan due to the age of FINRA's current fingerprint processing platform, and the availability of more modern alternatives offered by private vendors approved by the Federal Bureau of Investigation ("FBI") to channel fingerprints.⁵ Therefore, as discussed in more detail below, FINRA states that in order to continue to facilitate compliance with the fingerprinting requirement in Section 17(f)(2) of the Exchange Act, it is transitioning to a new fingerprinting process for broker-dealer personnel (of both FINRA members and other broker-dealers) and for FINRA personnel using the services of an FBI-approved channeler ("FBI-Approved Channel Partner").⁶ FINRA will continue at this

¹ Attached hereto as Exhibit A. See also Letter from Richard Pullano, Vice President and Associate General Counsel, FINRA, to Devin Ryan, Assistant Director, Office of Chief Counsel, Division of Trading and Markets, dated October 28, 2021 ("FINRA Letter"), available at <https://www.finra.org/sites/default/files/2021-11/fingerprint-plan.pdf>.

² 17 CFR 240.17f-2(c).

³ 15 U.S.C. 78a et seq.

⁴ See Exchange Act Release No. 53751 (May 2, 2006), 71 FR 27299 (May 10, 2006) (Declaration of Effectiveness of the Fingerprint Plan of the National Association of Securities Dealers, Inc.). FINRA will continue to channel fingerprints for these personnel consistent with the 2006 Fingerprint Plan until the new fingerprinting process set forth in the Plan is fully implemented.

⁵ See FINRA Letter at 1.

⁶ See also *infra* Section 2. The FBI-Approved Channel Partner is one of a limited number of entities approved by the FBI to submit fingerprints to the FBI and receive the results on behalf of an organization using that information for authorized non-criminal justice purposes (e.g., employment suitability, licensing determinations, etc.). The FBI reviews and approves all outsourced channeling

time its current role as the channeler for processing fingerprints of transfer agent and clearing agency personnel that are submitted to FINRA.⁷

For the reasons discussed below, the Commission finds that, pursuant to Rule 17f-2(c) of the Exchange Act, the Plan is not inconsistent with the public interest and the protection of investors and, therefore, declares the Plan to be effective.

1. Applicable Standard

Section 17(f)(2) of the Act provides, in pertinent part, that every member of a national securities exchange, broker, dealer, registered transfer agent and registered clearing agency, and national securities association (as well as others), shall require that each of its partners, directors, officers, and employees be fingerprinted and shall submit such fingerprints, or cause the same to be submitted, to the Attorney General of the United States for identification and appropriate processing.⁸ However, in accordance with Exchange Act Rule 17f-2(c), the fingerprinting requirement of Section 17(f)(2) may be satisfied by submitting appropriate and complete fingerprint cards to, among others, a registered national securities association (such as FINRA) which, pursuant to a plan filed with and declared effective by, the Commission, forwards such fingerprint cards to the Attorney General of the United States ("Attorney General") or its designee for identification and appropriate processing.⁹ Under Rule 17f-2(c), such fingerprinting plans—like FINRA's 2006 Plan and this Plan—shall not become effective unless it is declared effective

relationships consistent with its outsourcing standards and protocols. As outlined in the September 28, 2021 letter from the FBI's National Crime Prevention and Privacy Compact Council Office ("CCO Letter"), the FBI has reviewed and conditionally granted permission to FINRA to use a specified FBI-Approved Channel Partner contingent upon FINRA filing a fingerprint plan with the Commission and the Commission declaring that fingerprint plan effective. See FINRA Letter at 2, n.4 (discussing the CCO Letter, available at <https://www.finra.org/sites/default/files/2021-11/fingerprint-plan.pdf>). The terms of the CCO Letter are incorporated by reference in the Plan. See Exhibit A at 1, n. 3.

⁷ See also *infra* Section 3. FINRA notes that it is seeking to identify an alternative approach that would enable transfer agents and clearing agencies to efficiently fulfill their obligations to fingerprint their personnel, but would not involve FINRA acting in a channeler role. FINRA notes that, for the last two years, transfer agent and clearing agency personnel have accounted for less than two percent of the fingerprints processed by FINRA. FINRA intends to work with the Commission, FBI and the transfer agent and clearing agency communities to identify this alternative approach. See FINRA Letter at 1.

⁸ 15 U.S.C. 78q(f)(2).

⁹ 17 CFR 240.17f-2(c).

²⁶ 17 CFR 200.30-3(a)(12).