

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-81316; File No. SR-IEX-2017-10)

August 4, 2017

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 2, Relating to Auctions in IEX-Listed Securities, Dissemination of Auction-Related Market Data, and Trading Halts and Pauses

I. Introduction

On April 20, 2017, Investors Exchange LLC (“IEX” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt rules governing auctions in IEX-listed securities, provide for the dissemination of auction-related market data, and establish rules relating to trading halts and pauses. The proposed rule change was published for comment in the Federal Register on May 9, 2017.³ The Commission received one comment regarding the proposal.⁴ IEX responded to the comment on June 5, 2017.⁵ On June 22, 2017, pursuant to Section 19(b)(2) of the Act,⁶ the Commission extended the time for Commission action on the proposal until August 7, 2017.⁷ IEX filed Amendment No. 1 to the proposal on July 10, 2017. On July 19, 2017, IEX filed Amendment No 2 to the proposal,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 80583 (May 3, 2017), 82 FR 21634 (May 9, 2017) (“Notice”).

⁴ See letter from Joan C. Conley, Senior Vice President and Corporate Secretary, Nasdaq, to Brent J. Fields, Secretary, Commission, dated May 30, 2017 (“Nasdaq Letter”).

⁵ See letter from Sophia Lee, General Counsel, IEX, to Brent J. Fields, Secretary, Commission, dated June 5, 2017 (“IEX Response”).

⁶ 15 U.S.C. 78s(b)(2).

⁷ See Securities Exchange Act Release No. 80998 (June 22, 2017), 82 FR 29355 (June 28, 2017).

which superseded and replaced Amendment No. 1 in its entirety.⁸ The Commission is publishing this notice to solicit comment on Amendment No. 2 to the proposed rule change from interested persons and is approving the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 2

A. Overview

The Commission recently granted IEX's Form 1 application for registration as a national securities exchange.⁹ IEX's Form 1 application contained provisions, including standards for initial and continued listing on IEX, that would allow IEX to act as a primary listing exchange. In connection with its plans to become a primary listing exchange, IEX proposes to adopt new rules to govern auctions in IEX-listed securities and to amend certain related rule provisions concerning the same. In addition, IEX proposes to amend certain of its rules governing trading halts and the operation of certain aspects of LULD trading pauses.

⁸ As discussed more fully below, Amendment No. 2 revises the proposal to: (1) clarify the process for determining the auction match price; (2) modify certain definitions used to determine the auction match price to account for the requirement under the National Market System Plan to Implement a Tick Size Pilot Program ("Tick Size Pilot") that certain securities be traded in nickel increments; (3) modify the process for affecting incremental extensions of the period for accepting orders after a Limit Up-Limit Down ("LULD") trading pause; and (4) make other conforming and clarifying changes. To promote transparency of its proposed amendment, when IEX filed Amendment No. 2 with the Commission, it also submitted Amendment No. 2 as a comment letter to the file, which the Commission posted on its website and placed in the public comment file for SR-IEX-2017-10 (available at <https://www.sec.gov/comments/sr-iex-2017-10/iex201710-1865053-156219.pdf>). The Exchange also posted a copy of its Amendment No. 2 on its website (available at <https://iextrading.com/docs/rule-filings/SR-IEX-2017-10-Amendment-2.pdf>) when it filed Amendment No. 2 with the Commission.

⁹ See Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41142 (June 23, 2016) (File No. 10-222) ("Form 1 Order").

Specifically, the proposal will allow IEX to conduct the following auctions for IEX-listed securities: (1) an opening auction (“Opening Auction”); (2) a closing auction (“Closing Auction”); (3) an auction for an initial public offering (“IPO”) or the launch of a new issue (“IPO Auction”); (4) an auction following a trading halt in a security (“Halt Auction”); and (5) an auction to re-open a security after such security is subject to a LULD trading pause (“Volatility Auction”) (collectively, the “IEX Auctions”). The IEX Auctions will utilize a double auction process that is designed to maximize the number of shares executed at a single price (the “Auction Clearing Price”).¹⁰ The proposal also provides for the dissemination of auction-related market data, establishes rules (in addition to Volatility Auctions) relating to LULD trading pauses, and authorizes IEX to halt trading in securities listed or traded on IEX under certain circumstances when IEX deems it necessary to protect investors and the public interest.

1. Auction Process

IEX will offer the following new order types specific to the IEX Auctions: Market-on-Open (“MOO”); Limit-on-Open (“LOO”); Market-on-Close (“MOC”); and Limit-on-Close (“LOC”).¹¹ To determine the Auction Clearing Price, IEX Auctions will consider orders that queue prior to the auction match (the “Auction Book”) and orders resting on the Exchange’s order book that are not on the Auction Book and are available for continuous trading (the

¹⁰ See Notice, supra note 3, 82 FR at 21634. The proposed rules establish a series of steps that IEX will follow to arrive at a single Auction Clearing Price. See proposed IEX Rules 11.350(c)(2)(B), 11.350(d)(2)(B), 11.350(e)(2)(C), 11.350(f)(2)(E), and 11.350(f)(3)(B)(ii). IEX states that its clearing price determination process is similar to the clearing price determination process used by The NASDAQ Stock Market LLC (“Nasdaq”). See Notice, supra note 3, 82 FR at 21644.

¹¹ See proposed IEX Rules 11.350(a)(20), 11.350(a)(21), 11.350(a)(24), and 11.350(a)(25). MOO and LOO orders will be available for Opening Auctions, IPO Auctions, and, in certain circumstances, Halt Auctions, while MOC and LOC orders will be available for Closing Auctions and, in certain circumstances, Volatility Auctions. See proposed IEX Rules 11.350(a)(20), 11.350(a)(21), 11.350(a)(24), and 11.350(a)(25).

“Continuous Book”) (collectively, the “Order Book”).¹² Orders resting on the Order Book will be ranked and maintained based on price-display-time priority.¹³

2. IEX Auction Information

For each IEX Auction beginning at a specified time, IEX will disseminate, and update every one second thereafter, the current status of price, size, order imbalance, auction collar, and other relevant auction-related information (“IEX Auction Information”).¹⁴ IEX will add IEX Auction Information to its Top of Book Quote and Last Sale feed (“TOPS”) and IEX Depth of Book and Last Sale feed (“DEEP”), and to the IEX Data Platform, which is available on IEX’s public website.¹⁵ IEX Auction Information will be available to IEX data recipients, and on IEX’s public website, free of charge.¹⁶

B. Opening Auctions

On each trading day, IEX will attempt to conduct an Opening Auction for all IEX-listed securities.¹⁷ IEX Users may submit orders to IEX at the beginning of the Pre-Market Session for participation in the Opening Auction, and orders designated for the Opening Auction Book will

¹² See proposed IEX Rules 11.350(a)(1) and 11.350(a)(4). The proposal amends IEX Rule 11.190(a)(2)(E) to allow market orders with a time-in-force of DAY to be entered in the Pre-Market, thereby permitting such orders to queue in IEX’s System for participation in the Opening Auction or in a Halt Auction. See Notice, supra note 3, 82 FR at 21636.

¹³ See proposed IEX Rule 11.350(b)(1). IEX represents that its proposed auction priority is substantially similar to the auction priority utilized by Nasdaq and Bats BZX Exchange, Inc. (“Bats”). See Notice, supra note 3, 82 FR at 21641.

¹⁴ See proposed IEX Rule 11.350(a)(9). See also Notice, supra note 3, 82 FR at 21657.

¹⁵ See proposed IEX Rule 11.330(a)(1)-(3). See also Notice, supra note 3, 82 FR at 21657.

¹⁶ See Notice, supra note 3, 82 FR at 21657 and 21667. IEX data recipients include IEX Members and non-Members that have entered into an agreement with IEX that permits them to receive IEX data. See Notice, supra note 3, 82 FR at 21657 n.92.

¹⁷ See proposed IEX Rule 11.350(c)(2).

be queued until the Opening Auction match.¹⁸ Between the Opening Auction Lock-in Time (two minutes prior to the Opening Auction match, i.e., 9:28 a.m.)¹⁹ and the Opening Auction match, Auction Eligible Orders on the Opening Auction Book may not be canceled or modified (i.e., they are “locked in”).²⁰ Between the Opening Auction Lock-in Time and the Opening Auction match, IEX will reject Hyper-aggressive Auction Orders upon entry.²¹ IEX represents that the rejection of Hyper-aggressive Auction Orders after the Lock-in Time is designed to minimize the increase of imbalances or large price swings resulting from aggressively priced orders in the Auction Book during the last minutes leading into the auction.²² IEX will accept LOO orders and limit orders with a time-in-force of DAY or GTX that are not Hyper-aggressive Orders until the Opening Auction Lock-out Time (i.e., 10 seconds prior to the Opening Auction match),²³ which will allow Users to continue to submit auction orders and offset auction imbalances via orders specifically designated for the Auction Book in the minutes leading up to the auction match.²⁴ Incoming orders to the Opening Auction Book that are received between the Opening

¹⁸ See proposed IEX Rule 11.350(c)(1)(A). IEX Rule 1.160(z) defines “Pre-Market Session” as the time between 8:00 a.m. and 9:30 a.m. Eastern Time.

¹⁹ See proposed IEX Rule 11.350(a)(22).

²⁰ See proposed IEX Rules 11.350(a)(22) and 11.350(c)(1)(B).

²¹ See proposed IEX Rules 11.350(a)(22) and 11.350(c)(1)(B). For the Opening Auction, Hyper-aggressive Auction Orders are MOO orders and market orders with a TIF of DAY, as well as LOO orders and limit orders with a TIF of DAY or GTX to buy (sell) priced above (below) the latest upper (lower) threshold of the Opening/Closing Auction Collar calculated by the System. See proposed IEX Rules 11.350(a)(8)(A) and 11.350(a)(27) (defining “Opening/Closing Auction Collar”).

²² See Notice, supra note 3, 82 FR at 21666.

²³ See proposed IEX Rule 11.350(a)(23).

²⁴ See Notice, supra note 3, 82 FR at 21648. See also proposed IEX Rules 11.350(a)(1)(A) and 11.350(c)(1)(B). IEX states that allowing Users to offset imbalances on the Auction Book after the Lock-in Time is designed to promote stability and equilibrium leading into

Auction Lock-out Time (i.e., 10 seconds prior to the Opening Auction match) and the Opening Auction match will be rejected upon receipt.²⁵ IEX will begin to disseminate IEX Auction Information associated with the Opening Auction starting at the Opening Auction Lock-in Time, and will update it every one second thereafter.²⁶ Before IEX will perform the opening match in an IEX-listed security, the Opening Auction price must be at or within the Opening/Closing Auction Collar.²⁷ IEX will apply Opening Auction Contingency Procedures if a disruption occurs that prevents the execution of the Opening Auction.²⁸ These procedures are designed to ensure the orderly and timely opening of IEX-listed securities.²⁹

the auction match; consequently, these orders may not be cancelled or modified after entry. See Notice, supra note 3, 82 FR at 21648.

²⁵ See proposed IEX Rules 11.350(a)(23) and 11.350(c)(1)(C). Orders submitted to the Continuous Book after the Lock-out Time remain eligible for execution on the Continuous Book and in the upcoming Opening Auction match. See proposed IEX Rule 11.350(a)(23). IEX states that the Lock-out Time is designed to freeze the Auction Book and to provide Users with an opportunity to offset any remaining imbalance by submitting limit orders on the Continuous Book. See Notice, supra note 3, 82 FR at 21648.

²⁶ See proposed IEX Rule 11.350(c)(2)(A). See also IEX Rule 11.350(a)(9).

²⁷ See proposed IEX Rules 11.350(c)(2)(B)(iv), 11.350(a)(27) (defining “Opening/Closing Auction Collar”), and 11.350(a), Supplementary Material .01. IEX states that the default 10% threshold used to determine the Opening/Closing Auction Collar will provide an appropriate range within which price discovery may occur to maximize the number of shares executed in the auction. See Notice, supra note 3, 82 FR at 21646. IEX notes that a modification of the default threshold percentage values for the Opening/Closing Auction Collar would be subject to the requirements of Section 19(b)(1) of the Act, 15 U.S.C. 78s(b)(1), and Rule 19b-4 thereunder, 17 CFR 240.19b-4. See id. at 21646 n.51.

²⁸ See proposed IEX Rule 11.350(c)(4)(A).

²⁹ See Notice, supra note 3, 82 FR at 21649 and 21666.

C. Closing Auctions

On each trading day, IEX will attempt to conduct a Closing Auction for all IEX-listed securities.³⁰ Users will be able to submit orders for participation in the Closing Auction at the beginning of the Pre-Market Session,³¹ or at the beginning of the Order Acceptance Period for an IPO Auction.³² The Closing Auction Book consists of MOC and LOC orders, which will be queued until the Closing Auction match.³³ Between the Closing Auction Lock-in Time (i.e., 3:50 p.m. or 10 minutes prior to the end of the Regular Market Session on days that IEX is subject to an early closing),³⁴ and the Closing Auction match, orders on the Closing Auction Book may not be cancelled or modified.³⁵ Hyper-aggressive Auction Orders submitted between the Closing Auction Lock-in Time and the Closing Auction match will be rejected upon entry.³⁶ LOC orders that are not Hyper-aggressive Auction orders will be accepted until the Closing

³⁰ See proposed IEX Rule 11.350(d)(2).

³¹ See note 18, supra.

³² See proposed IEX Rule 11.350(d)(1)(A). The Order Acceptance Period for an IPO Auction begins at 8:00 a.m., unless otherwise specified. See proposed IEX Rule 11.350(a)(29)(A).

³³ See proposed IEX Rule 11.350(d)(1)(A).

³⁴ See proposed IEX Rule 11.350(a)(22).

³⁵ See proposed IEX Rule 11.350(d)(1)(B). However, between the Closing Auction Lock-in Time and five minutes before the Closing Auction match, On-Close orders may be cancelled if the User requests that IEX correct a legitimate error in the order (e.g., side, size, symbol, price, or duplication of an order). On-Close orders may not be cancelled or modified at or after five minutes before the Closing Auction match for any reason. See proposed IEX Rule 11.350(d)(1)(C).

³⁶ See proposed IEX Rule 11.350(d)(1)(B). For the Closing Auction, Hyper-aggressive Auction Orders are MOC and LOC orders to buy (sell) priced above (below) the latest upper (lower) threshold of the Opening/Closing Auction Collar calculated by the System. See proposed IEX Rule 11.350(a)(8)(B).

Auction Lock-out Time (i.e., 10 seconds prior to the Closing Auction match).³⁷ IEX believes that rejecting Hyper-aggressive Auction Orders for the Closing Auction after the Lock-in Time, while allowing LOC orders that are priced within the auction collar to be entered and eligible for execution in the Closing Auction until the Lock-out Time, will allow Users to continue to submit orders and offset imbalances on the Closing Auction Book in the minutes leading up to the auction match while attempting to avoid increasing auction imbalances resulting from aggressively priced orders in the Auction Book during the last ten minutes of the auction process.³⁸ Orders eligible for the Closing Auction Book received between the Closing Auction Lock-out Time and the Closing Auction match will be rejected.³⁹ At the beginning of the Closing Auction Lock-in Time, and updated every one second thereafter, IEX will disseminate IEX Auction Information associated with the Closing Auction.⁴⁰ Before IEX will perform the closing match in an IEX-listed security, the Closing Auction price must be within the Opening/Closing Auction Collar.⁴¹ When a disruption occurs that prevents the execution of the Closing Auction, IEX will apply either its Primary Closing Auction Contingency Procedures or

³⁷ See Notice, supra note 3, 82 FR at 21650 and proposed IEX Rule 11.350(a)(23) (defining “Lock-out Time”). IEX notes that the Lock-out Time for the Closing Auction is designed to provide Users with an opportunity to offset any remaining imbalance during a period of relative stability (while the Auction Book is locked) by submitting limit orders to the Continuous Book. See Notice, supra note 3, 82 FR at 21650.

³⁸ See Notice, supra note 3, 82 FR at 21650.

³⁹ See proposed IEX Rule 11.350(d)(1)(D).

⁴⁰ See proposed IEX Rule 11.350(d)(2)(A).

⁴¹ See proposed IEX Rules 11.350(d)(2)(B)(iv), 11.350(a)(27) (defining “Opening/Closing Auction Collar”), and 11.350(a), Supplementary Material .01.

its Secondary Closing Auction Contingency Procedures.⁴² These procedures are designed to ensure the orderly and timely closing of IEX-listed securities.⁴³

D. IPO Auctions

IEX will conduct an IPO Auction for an initial public offering or for the launch of a new issue.⁴⁴ Users will be able to submit Auction Eligible Orders for an IPO Auction beginning at the start of IEX's system hours (i.e., 8:00 a.m.), unless otherwise specified.⁴⁵ Such orders will be queued, and may be cancelled or modified, until the time of the auction match.⁴⁶ Thirty minutes prior to the scheduled auction match, IEX will begin to disseminate and update every one second IEX Auction Information associated with the IPO Auction.⁴⁷ IEX will generally attempt to conduct an auction for corporate IPOs at 10:15 a.m. and an auction for new issues at 9:30 a.m.⁴⁸ If IEX is unable to complete an IPO Auction before the end of Post-Market Hours (i.e., 5:00 p.m.), all open orders in the subject security on the Order Book will be canceled.⁴⁹ Likewise, if a disruption occurs that prevents the execution of an IPO Auction, IEX will publicly announce that

⁴² See proposed IEX Rule 11.350(d)(4).

⁴³ See Notice, supra note 3, 82 FR at 21666.

⁴⁴ See proposed IEX Rule 11.350(e).

⁴⁵ See proposed IEX Rule 11.350(a)(29)(A) and Notice, supra note 3, 82 FR at 21652. The Order Acceptance Period may be automatically or manually extended under certain circumstances. See proposed IEX Rule 11.350(e)(2)(B). In addition, the Pre-Launch Period for an IPO may be extended under certain circumstances. See proposed IEX Rule 11.280(h)(8)(B). The underwriter, with the concurrence of IEX, may determine to postpone and reschedule the IPO at any point during the IPO Auction process. See proposed IEX Rule 11.280(h)(8)(B).

⁴⁶ See proposed IEX Rule 11.350(e)(1)(A)-(B) and Notice, supra note 3, 82 FR at 21652.

⁴⁷ See proposed IEX Rules 11.350(e)(2)(A) and 11.350(a)(5). The term "Post-Market Hours" or "Post-Market Session" refers to the time between 4:00 p.m. and 5:00 p.m. Eastern Time. See IEX Rule 1.160(aa).

⁴⁸ See Notice, supra note 3, 82 FR at 21653.

⁴⁹ See proposed IEX Rule 11.350(e)(1)(D).

the Order Acceptance Period for the IPO Auction will be reset, cancel all orders in that subject security, and disseminate a new schedule for the Order Acceptance Period and auction match.⁵⁰

E. Halt Auctions

IEX may initiate trading halts under certain circumstances in which the Exchange deems it necessary to protect investors and the public interest.⁵¹ Following a trading halt in an IEX-listed security pursuant to proposed IEX Rules 11.280(g)(1), (4), or (5), IEX will conduct a Halt Auction.⁵² IEX Users will be able to submit Auction Eligible Orders for a Halt Auction five minutes prior to the scheduled auction match.⁵³ Such orders will be queued, and may be cancelled or modified, until the time of the Halt Auction.⁵⁴ At the start of the Order Acceptance Period for a Halt Auction, IEX will begin to disseminate IEX Auction Information associated with the Halt Auction and will update that information every one second thereafter.⁵⁵ If there is

⁵⁰ See proposed IEX Rule 11.350(e)(4)(A).

⁵¹ See proposed IEX Rule 11.280(g). Proposed IEX Rule 11.280(h) establishes the procedures that IEX must follow to initiate or terminate a trading halt.

⁵² See proposed IEX Rule 11.350(e). Proposed IEX Rule 11.280(g)(1) allows IEX to halt trading to permit the dissemination of material news; IEX Rule 280(g)(4) allows IEX to halt trading in an American Depositary Receipt (“ADR”) or other security listed on IEX when the IEX-listed security or security underlying the ADR is listed on or registered with another national or foreign securities exchange or market, and that exchange or market, or a regulatory overseeing that exchange or market, halts trading in the security for regulatory reasons; and IEX Rule 11.280(g)(5) allows IEX to halt trading in a security listed on IEX when IEX requests information from the issuer relating to material news, the issuer’s ability to meet IEX listing qualification requirements, or any other information necessary to protect investors and the public interest.

⁵³ See IEX Rule 11.350(a)(29)(B) and Notice, supra note 3, 82 FR at 21652.

⁵⁴ See proposed IEX Rule 11.350(e)(1)(A)-(B) and Notice, supra note 3, 82 FR at 21652.

⁵⁵ See proposed IEX Rules 11.350(e)(2)(A) and 11.350(a)(5). IEX will extend the Order Acceptance Period automatically for one minute when there are unmatched shares from market orders on the Auction Book or the Indicative Clearing Price differs by the greater of five percent or fifty cents from any of the previous fifteen Indicative Clearing Prices

insufficient crossing interest to conduct a Halt Auction, no Halt Auction will occur and the security will be transitioned to continuous trading.⁵⁶ If IEX is unable to complete a Halt Auction before the end of Post-Market Hours (i.e., 5:00 p.m.), all open orders in the subject security on the Order Book will be canceled.⁵⁷ When a disruption occurs that prevents the execution of a Halt Auction, IEX will publicly announce that no Halt Auction will occur, cancel all orders in that subject security, and open the security for trading without an auction.⁵⁸

F. Volatility Auctions

IEX will conduct a Volatility Auction to re-open an IEX-listed security after that security is subject to a trading pause pursuant to the National Market System Plan to Address Extraordinary Market Volatility (“Limit Up-Limit Down Plan” or “LULD Plan”).⁵⁹ Orders may be submitted for a Volatility Auction during a five-minute Order Acceptance Period beginning immediately after the dissemination of the trading pause and are queued until the auction match.⁶⁰ Orders may be canceled or modified at any time prior to the auction match.⁶¹ IEX will begin to disseminate IEX Auction Information associated with the Volatility Auction

disseminations. See proposed IEX Rules 11.350(e)(2)(B)(i) and (ii) and 11.350(a)(9)(E) (defining “Indicative Clearing Price”).

⁵⁶ See proposed IEX Rule 11.350(e)(2)(C).

⁵⁷ See proposed IEX Rule 11.350(e)(1)(D). See also IEX Rule 1.160(aa) (defining “Post-Market Hours”).

⁵⁸ See proposed IEX Rule 11.350(e)(4)(B).

⁵⁹ See proposed IEX Rule 11.350(f). See also, e.g., Securities Exchange Act Release Nos. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (approving LULD Plan); 80455 (April 13, 2017), 82 FR 18519 (April 19, 2017) (approving thirteenth amendment to LULD Plan).

⁶⁰ See proposed IEX Rules 11.350(f)(1)(A), 11.350(a)(29)(C), and 11.350(f)(1)(B). The Order Acceptance Period for a Volatility Auction may be extended under certain circumstances. See proposed IEX Rules 11.350(f)(2)(C) and (D).

⁶¹ See proposed IEX Rule 11.350(f)(1)(C).

commencing at the start of the Order Acceptance Period for such auction, and will update that information every one second thereafter.⁶² Before IEX will perform the Volatility Auction match, the Volatility Auction price must be at or within the Volatility Auction Collar.⁶³ When a disruption occurs that prevents the execution of the Volatility Auction, IEX will apply its Volatility Auction Contingency Procedures.⁶⁴

In place of its normal Closing Auction procedures, IEX will close an IEX-listed security using a Volatility Auction when the IEX-listed security is paused pursuant to IEX Rule 11.280(e) at or after the Closing Auction Lock-in Time, or when the Order Acceptance Period for a Volatility Auction for a security paused before the Closing Auction Lock-Time pursuant to IEX Rule 11.280(e) would otherwise be extended to a time after the Closing Auction Lock-in Time.⁶⁵

In addition, IEX proposes several amendments to IEX Rule 11.280 relating to LULD trading pauses.⁶⁶ In Amendment No. 2, IEX states that it intends to continue coordinating with

⁶² See proposed IEX Rules 11.350(f)(2)(A) and 11.350(a)(5).

⁶³ See proposed IEX Rules 11.350(f)(2)(B); 11.350(a)(31) (defining “Volatility Auction Collar”); 11.350(a), Supplementary Material .02. IEX states that its proposed Volatility Auction Collar functionality is consistent with the commitment made by each primary listing exchange set forth in the twelfth amendment to the LULD Plan to file rule changes with the Commission under Section 19(b) of the Act to amend its respective trading practice for automated re-openings following a trading pause consistent with a standardized approach agreed to by LULD Plan participants that would allow for extensions of an LULD trading pause if equilibrium cannot be met for a re-opening price within specified parameters. See Securities Exchange Act Release No. 79845 (January 19, 2017), 82 FR 8551 (January 26, 2017) (“LULD Plan Twelfth Amendment Approval Order”) and Notice, *supra* note 3, 82 FR at 21646.

⁶⁴ See proposed IEX Rule 11.350(f)(2)(H).

⁶⁵ See proposed IEX Rule 11.350(f)(3).

⁶⁶ In particular, IEX proposes to amend IEX Rule 11.280 to provide that Auction Eligible Orders on the Auction Book are not price slid or canceled due to LULD price bands; that the Exchange may declare an LULD trading pause for a NMS Stock listed on the Exchange during a straddle state; and that following a trading pause, the Exchange will re-open trading in IEX-listed securities pursuant to the procedures set forth in proposed

other LULD Plan participants and the Securities Information Processors (“SIPs”) regarding the implementation timeline of changes to the SIPs pursuant to the twelfth amendment to the LULD Plan to support dissemination of certain data related to re-opening auctions after LULD trading pauses.⁶⁷

G. Additional Changes

IEX proposes to adopt several additional provisions relating to IEX Auctions. New IEX Rule 11.350(g) will address the handling during Opening, Closing, Halt, and Volatility Auctions of short sale orders for covered securities not marked short exempt when the Short Sale Price Test of Rule 201 of Regulation SHO (“Short Sale Price Test”) is in effect.⁶⁸

In addition, new IEX Rule 11.350(h) will allow IEX to adjust the timing of or suspend an IEX Auction with prior notice to Users when, in IEX’s judgment, the interests of a fair and orderly market require such action. IEX believes that this discretion is necessary to give IEX latitude to adapt to quickly changing, volatile market conditions that may negatively impact market participants.⁶⁹

IEX Rule 11.350(f). See proposed IEX Rules 11.280(e)(5)(F) and (e)(7) and (8). In addition, the revised rule indicates that trading in non-IEX-listed securities will re-open upon receipt of the Price Bands from the single plan processor responsible for consolidation of information for the security. See proposed IEX Rule 11.280(e)(8).

⁶⁷ See Amendment No. 2, supra note 8, at 44-45. See also LULD Plan Twelfth Amendment Approval Order, supra note 63, 82 FR at 8553-54 n.22 (expecting LULD participants to implement the twelfth amendment no later than six months after the date of the order); 80549 (April 28, 2017), 82 FR 20928 (May 4, 2017) (extending the time frame to implement the LULD twelfth amendment to no later than the end of the third quarter of 2017).

⁶⁸ See proposed IEX Rule 11.350(g). IEX notes that a security in an IPO Auction will never be subject to the Short Sale Price Test because there will have been no prior trading in the security. See Notice, supra note 3, 82 FR at 21656-57.

⁶⁹ See Notice, supra note 3, 82 FR at 21657.

New IEX Rule 11.350(i) provides that, for purposes of Rule 611(b)(3) of Regulation NMS and section VI(D)(6) of Tick Size Pilot, orders executed pursuant to IEX Auctions may trade-through or trade-at the price of any other trading center's Manual or Protected Quotations if the transaction that traded-at or constituted a trade-through was a single-priced opening, re-opening, or closing transaction at the trading center.

Finally, new IEX Rule 11.350(j) specifies that, for purposes of the Rule, references to a.m. and p.m. mean Eastern Time.

III. Summary of Comments and IEX's Response

As noted above, the Commission received one comment regarding the proposal, and a response to the comment from IEX.⁷⁰ In its proposal, IEX expresses its intention to disseminate “substantially the same information” as the IEX Auction Information through the Consolidated Quotation System operated by the Consolidated Tape Association (“CTA”) securities information processor, “pending approval by the Operating Committee of the CTA.”⁷¹ IEX states that “[f]ollowing such approval, IEX will amend Rule 11.330 to reflect this additional means of dissemination.”⁷² The commenter expresses the view that any Commission approval of the current proposal “should not be construed as approval for dissemination of [IEX Auction Information] data through the CQS,” and that the Commission, if it approves the proposal, should make clear that its approval of the proposal does not constitute an approval of the inclusion of IEX Auction Information in the CQS.⁷³ The commenter further states that “there are serious legal and policy impediments to the dissemination of IEX Auction Information...

⁷⁰ See Nasdaq Letter, supra note 4; and IEX Response, supra note 5.

⁷¹ See Notice, supra note 3, 82 FR at 21657.

⁷² See id. at 21657 n.134.

⁷³ Nasdaq Letter, supra note 4, at 2.

through the facilities of the CQ Plan,” and “that an opportunity for public comment and formal action by the Commission, either in the context of a proposed CQ Plan amendment or a proposed rule change, is needed to ensure that these issues are given adequate consideration.”⁷⁴ The commenter acknowledges, however, that this issue is not directly before the Commission at this time.⁷⁵

IEX submitted a letter in response to the comment letter, which acknowledges that the dissemination of IEX Auction Information through the CQS would require action by the CTA Operating Committee.⁷⁶ IEX states that it would file a separate proposed rule change with the Commission that would be subject to notice and comment if it decides to pursue such dissemination.⁷⁷

The Commission believes that IEX’s response addresses the concern raised by the commenter. The Commission notes that IEX’s proposal and proposed rule text do not provide for the dissemination of IEX Auction Information through the facilities of the CQ Plan. Accordingly, despite IEX’s statement in the current proposal of its intention to pursue such dissemination in the future, the issue is not presently before the Commission as part of the current proposal.

IV. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with the requirements of the Act and the rules and regulations

⁷⁴ Id. at 3.

⁷⁵ Id. at 3 n.3.

⁷⁶ See IEX Response, supra note 5, at 1.

⁷⁷ See id. at 1-2.

thereunder applicable to a national securities exchange.⁷⁸ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁷⁹ which requires, among other things, that the rules of a national securities exchange be 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, 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. This order approves the proposed rule change in its entirety, although only certain more significant aspects of the proposed rules are discussed below.

In its filing, IEX notes that its auctions were designed based on its understanding of how the auctions work on other primary listing exchanges, including the New York Stock Exchange, NYSE Arca, Nasdaq, and Bats.⁸⁰ IEX further notes that its proposed auctions contain a number of attributes that are “substantially similar to existing exchange auction models, and will therefore be familiar” to Users.⁸¹ In addition, the Commission notes that the price determination process in the IEX Auctions is substantially similar to the opening process that the Commission recently approved IEX to use for non-IEX-listed securities.⁸²

⁷⁸ In approving this proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁷⁹ 15 U.S.C. 78f(b)(5).

⁸⁰ See Notice, supra note 3, 82 FR at 21634.

⁸¹ See id.

⁸² See IEX Rule 11.231 and Securities Exchange Act Release No. 81195 (July 24, 2017), 82 FR 35250 (July 28, 2017) (order approving File No. SR-IEX-2017-11).

IEX states that its proposal is integral to its future operation of a listing market,⁸³ and that the proposed rules will benefit issuers and investors by allowing IEX to provide companies with an additional listing option.⁸⁴ IEX believes that the operation of IEX Auctions for securities listed on IEX will assist in the price discovery process and help to ensure a fair and orderly market for securities listed on IEX.⁸⁵ IEX further believes that its auction is designed to provide a transparent, efficient, and robust process for aggregating trading interest submitted by a broad range of market participants to be matched at a single clearing price.⁸⁶

IEX's auction process is designed to match orders at a single price that maximizes the number of shares to be executed.⁸⁷ IEX has designed the IEX Auctions to be conducted within specified periods of time and in accordance with specified order entry, calculation, price, and execution priority parameters. IEX may adjust the timing of or suspend IEX Auctions with prior notice to Users, whenever, in the judgement of the Exchange, the interests of a fair and orderly market so require.⁸⁸ IEX's auction rules are designed to open, close, or re-open trading in each IEX-listed security by matching as much interest as possible at a price determined through an objective process set forth in the proposed rules.

Finally, the Commission believes that the proposed rules relating to Volatility Auctions are designed to further the goal of establishing a standardized approach for how primary listing exchanges will conduct certain aspects of an automated re-opening following an LULD trading

⁸³ The Commission notes that it has separately approved rules for the qualification, listing, and delisting of companies on IEX. See Form 1 Order, supra note 9.

⁸⁴ See Notice, supra note 3, 82 FR at 21662.

⁸⁵ See id.

⁸⁶ See id.

⁸⁷ See id. at 21642.

⁸⁸ See proposed IEX Rule 11.350(h).

pause, which should help to provide certainty for market participants regarding how a security would re-open following an LULD trading pause, regardless of the listing exchange.⁸⁹

V. Solicitation of Comments on Amendment No. 2

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 2 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-2017-10 on the subject line.

Paper comments:

- 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-IEX-2017-10. 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

⁸⁹ See Securities Exchange Act Release Nos. 79846 (January 19, 2017), 82 FR 8548 (January 26, 2017) (order approving File No. SR-NYSEArca-2016-130); 79884 (January 26, 2017), 82 FR 8968 (February 1, 2017) (order approving File No. SR-BatsBZX-2016-61); and 79876 (January 25, 2017), 82 FR 8888 (January 31, 2017) (order approving File No. SR-Nasdaq-2016-131).

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; 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-2017-10, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

VI. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 2

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 2, prior to the thirtieth day after the date of publication of the notice of Amendment No. 2 in the Federal Register. The Commission believes that the proposed changes to the description of the process for determining the Auction Clearing Price that were included in Amendment No. 2 add clarity to the price determination process without materially changing the proposal from what the Exchange originally filed. Additionally, the Commission believes that the proposed addition of a rounding process to prevent certain Tick Size Pilot securities from trading in an impermissible increment eliminates a potential conflict between the Tick Size Pilot and IEX Auctions. Further, the Commission believes that the proposed modification of the process for affecting incremental extensions of the period for accepting orders after an LULD trading pause will clarify the process and ensure consistency with the standardized approach agreed to by the LULD Plan participants. The Commission does not believe that any of the changes proposed in Amendment No. 2 introduce novel concepts, but rather add detail to better

reflect in the proposed rule text how the proposed IEX Auctions would work for IEX-listed securities, and also reconciles the proposed IEX Auctions with the tick-size requirements of the Tick Size Pilot.

Accordingly, for the reasons noted above, the Commission finds good cause for approving the proposed rule change, as modified by Amendment No. 2, on an accelerated basis, pursuant to Section 19(b)(2) of the Act.⁹⁰

⁹⁰ 15 U.S.C. 78s(b)(2).

VII. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁹¹ that the proposed rule change (SR-IEX-2017-10), as modified by Amendment No. 2, is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹²

Eduardo A. Aleman
Assistant Secretary

⁹¹ Id.

⁹² 17 CFR 200.30-3(a)(12).