SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-83147; File No. SR-IEX-2018-09)

May 1, 2018

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify its Fee Schedule to Charge a More Deterministic Fee of $0.0003 Per Share for Executions at or Above $1.00 that Result from Removing Liquidity With an Order that is Executable at the Far Side of the NBBO

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 April 20, 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, II and III 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 "Exchange") is filing with the Securities and Exchange Commission ("Commission") a proposed rule change to modify its Fee Schedule, pursuant to IEX Rule 15.110(a) and (c), to charge a more deterministic fee of $0.0003 per share for executions at or above $1.00 that result from removing liquidity with an order that is executable at the far side of the NBBO[6] (the "Spread-Crossing Remove

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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.

6 As defined by Regulation NMS Rule 600(b)(42). 17 CFR 242.600.

Fee"). Consistent with the Exchange's existing Fee Schedule, executions below $1.00 will be 0.30% of the total dollar value of the transaction. Changes to the Fee Schedule pursuant to this proposal are effective upon filing and will be operative on May 1, 2018.

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 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 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 modify its Fee Schedule, pursuant to IEX Rule 15.110(a) and (c), to charge a more deterministic fee of $0.0003 per share for executions at or above $1.00 that result from removing liquidity with an order that is executable at the far side of the NBBO (i.e., a buy order that is executable at the NBO or higher, or a sell order that is executable at the NBB or lower). In an effort to incentivize Members to submit displayed orders to the Exchange, the Exchange currently charges a fee of $0.0003 per share (or 0.30% of the total dollar value of the transaction for securities priced below $1.00) to Members for executions on IEX that provide or take resting interest with displayed priority (i.e., an order or portion of a reserve order that is booked and ranked with display priority on the Order Book).[7] Furthermore, the Exchange currently charges \$0.0009 per share (or 0.30% of the total dollar value of the transaction for securities priced below \$1.00) to Members for executions on IEX that provide or take resting interest with non-displayed priority (i.e., an order or portion of a reserve order that is booked and ranked with non-displayed priority on the Order Book).[8] The Exchange does not charge any fee to Members for executions on IEX when the adding and removing order originated from the same Exchange Member.[9]

After informal discussions with various Members, the Exchange recognizes that some Members may be dissuaded from seeking to access IEX quotations at the NBBO due to the variability in execution fees when routing orders to the Exchange that are executable at the far side of the NBBO and intended to trade against the Exchange's displayed quotation, but inadvertently remove non-displayed liquidity resting at or within the spread. While such spread-crossing orders would receive price improvement equal to the delta between the execution price and the far side quotation (i.e., the difference between the trade price and the NBO (NBB) for buy (sell) orders),[10] the potential for interacting with non-displayed liquidity resting within the

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7 This pricing is referred to by the Exchange as "Displayed Match Fee" with a Fee Code of 'L' provided by the Exchange on execution reports. See the Investors Exchange Fee Schedule, available on the Exchange public website.

8 This pricing is referred to by the Exchange as "Non-Displayed Match Fee" with a Fee Code of 'I' provided by the Exchange on execution reports. See the Investors Exchange Fee Schedule, available on the Exchange public website.

9 This pricing is referred to by the Exchange as "Internalization Fee" with a Fee Code of 'S' provided by the Exchange on execution reports. Orders from different market participant identifiers of the same broker dealer, with the same Central Registration Depository registration number, are treated as originating from the same Exchange Member. See the Investors Exchange Fee Schedule, available on the Exchange public website.

10 The Exchange notes that when handling client orders as agent, IEX Members must ensure they are satisfying their duty of best execution, which requires that in any transaction for

spread, and therefore being assessed the Non-Displayed Match Fee of $0.0009 versus the Displayed Match Fee of $0.0003, makes it difficult for Members to estimate access fees on a pre-trade basis, which the Exchange believes thereby presents difficulties for some Members when determining which venues to route marketable orders to.[11]

In order to reduce the variability in fees to access liquidity on the Exchange and thereby incentivize Members to route more orders to the Exchange that are executable at the far side of the NBBO, the Exchange is proposing to offer a more deterministic Spread-Crossing Remove Fee of $0.0003 per share to all executions at or above $1.00 that result from removing liquidity with a buy (sell) order that is executable at the NBO (NBB). Consistent with the Exchange's existing Fee Schedule, executions below $1.00 will be 0.30% of the total dollar value of the transaction. Members will receive a Fee Code of "N" on execution reports provided by the Exchange for transactions that receive the Spread-Crossing Remove Fee.[12]

The Exchange believes that incentivizing additional spread-crossing interest by offering the proposed Spread-Crossing Remove Fee will enhance public price discovery and overall

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or with a customer or a customer of another broker-dealer, a member and persons associated with a member shall use reasonable diligence to ascertain the best market for the subject security and buy or sell in such market so that the resultant price to the customer is as favorable as possible under prevailing market conditions. Members must also conduct regular and rigorous reviews of execution quality in order to determine which market center to route customer orders, and should explicitly consider the extent to which an order may obtain price improvement at other venues. See FINRA Rule 5310, including Supplementary Material .09 thereto.

11 The Exchange notes that FINRA has released guidance clarifying that firms should not allow access fees charged by venues to inappropriately affect their routing decisions, and, in general, a firm's routing decisions should not be unduly influenced by a particular venue's fee or rebate structure. See FINRA Regulatory Notice 15-46 (November 2015) at 6.

12 Pursuant to the Exchange's existing Fee Schedule, a Fee Code of "N" applies to executions that are part of an IPO Auction. Accordingly, the Exchange is proposing to replace the Fee Code for executions in an IPO Auction with a Fee Code of "P".

execution quality on the Exchange in several ways. First, as described above, to the extent spread-crossing interest removes non-displayed liquidity within the spread, the spread-crossing orders will receive price improvement equal to the delta between the execution price and the far side quotation, while the non-displayed resting interest will have received the benefit of trading passively and also capturing the spread in part. Similarly, to the extent spread-crossing interest removes displayed liquidity resting at the NBBO, such resting displayed liquidity will have increased opportunities to capture the full spread. If market makers and other Members are more frequently capturing the spread when resting displayed orders on the Exchange, such Members may be incentivized to enter additional aggressively priced displayed orders on the Exchange, thereby contributing to public price discovery, consistent with the overall goal of enhancing market quality.

Pursuant to Rules 11.190(a)(1)-(3), the Exchange offers three general order types—market orders, limit orders, and pegged orders—each of which have distinct functional behaviors, and are further controlled by various User-defined order parameters that dictate additional functional behaviors of the order within the Exchange's System.[13] Orders entered on the Exchange are eligible to remove liquidity on entry pursuant to the distinct behavior of the User-selected order type and order parameters. In addition, non-displayed orders that are resting on the Order Book and eligible to trade at least as aggressively as the Midpoint Price are eligible to remove liquidity on Order Execution Recheck, or "Book Recheck", pursuant to Rule 11.230(a)(4)(d). Book Recheck is a process within the IEX System that detects new trading opportunities for resting orders upon a change to the Order Book, the NBBO, or as part of

[13] See Rule 11.190(b) (Order Parameters) for a full description of the available order parameters.

processing inbound messages, resulting in an invitation for non-displayed orders to attempt to remove liquidity from the contra side.[14]

Pursuant the Exchange's Rules, in addition to the terms of each order type and order parameter, every order is subject to various legal and technical constraints that are designed to optimize order interactions within the System, and to comply with the Act and the rules and regulations thereunder. Rule 11.190(f)(1)(Order Collars) describes the IEX Order Collar, which prevents any incoming order or order resting on the Order Book, including those marked ISO, from executing at a price outside of the Order Collar price range (i.e., prevents buy orders from trading at prices above the collar and prevents sell orders from trading at prices below the collar).[15] Furthermore, Rule 11.190(h)(Price Sliding) describes the Exchange's price sliding processes that are designed to ensure compliance with Regulation NMS (including the Plan to Address Extraordinary Market Volatility pursuant to Rule 608 thereunder (the "LULD Plan"),[16] as well as Rule 201 of Regulation SHO.[17]

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14 See Rule 11.230(a)(4)(d), which provides a complete description of Book Recheck.

15 The Order Collar price range is calculated by applying the numerical guidelines for clearly erroneous executions to the "Order Collar Reference Price", which is defined as the most current of (i) the last sale price disseminated during the Regular Market Session on the current trade date; (ii) last trade price disseminated outside of the Regular Market Session (Form T, as communicated by the relevant SIP) on trade date which other than for the Form T designation would have been considered a valid last sale price; or (iii) if neither of the prices above are available, the prior days Official Closing Price from the listing exchange, adjusted to account for corporate actions, news events, etc. In the event there is no valid Order Collar Reference Price or Router Constraint Reference Price, the Exchange generally rejects orders for the security.

16 See Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). Note, unless otherwise specified, capitalized terms used in reference to the LULD Plan have the same meaning as set forth in the LULD Plan or in Exchange rules. See also Rule 11.280(e)(Limit Up-Limit Down Mechanism), which sets forth the Exchange's methodology for re-pricing and canceling interest pursuant to the LULD Plan.

17 17 CFR 242.201. See also Rule 11.190(h)(4)(Short Sale Price Sliding).

If an order—based on market conditions, User instructions, applicable IEX Rules and/or the Act and the rules and regulations thereunder—is not executable at the far side of the NBBO, such order will not be eligible for the Spread-Crossing Remove Fee. Specifically, for a buy (sell) order to be deemed "executable" at the NBO (NBB), in the case of a market order, the applicable IEX Order Collar and the price of the Upper (Lower) LULD Price Band, as well as the result of any other price sliding necessary pursuant to Rule 11.190(h), must be marketable to the NBO (NBB) upon entry, because market orders, despite not having a maximum (minimum) price at which the User is willing to buy (sell), remain constrained by the least aggressive of the IEX Order Collar and the LULD Price Band, as well as the result of any other price sliding necessary pursuant to Rule 11.190(h). For example, in a Tier 1 security, if the NBBO is $10.10 by $10.20, the IEX Order Collar is $9.13 by $11.16, and the LULD Price Band is $9.64 by $10.65, a market order to buy (sell) that removes liquidity from the Order Book (against either displayed or non-displayed liquidity on the Order Book) will receive the Spread-Crossing Remove Fee, because the Upper (Lower) LULD Price Band of $10.65 ($9.64) (which is less aggressive than the IEX Order Collar, and therefore controlling), is marketable to the NBO (NBB) of $10.20 ($10.10).

In the case of a limit order, the User-defined and System-adjusted limit price (i.e., the price at which the order is eligible to execute after accounting for the User-defined limit price, the IEX Order Collar, and the LULD Price Band, as well as the result of any other price sliding necessary pursuant to Rule 11.190(h)) must be executable at the NBO (NBB) upon entry, or on Book Recheck. For example, in a Tier 1 security, if the NBBO is $10.10 by $10.20, the IEX Order Collar is $9.13 by $11.16, and the LULD Price Band is $9.64 by $10.65, a limit order to buy with a limit price of $10.20 that removes liquidity from the Order Book (against either displayed or non-displayed liquidity on the Order Book) will receive the Spread-Crossing

Remove Fee, because the User-defined limit price is marketable to the NBO, and less aggressive than the IEX Order Collar and the LULD Price Band, and does not otherwise necessitate additional price sliding pursuant to Rule 11.190(h)(4).

As a general matter, pegged orders do not qualify for the Spread-Crossing Remove Fee, because such orders, by their terms, are explicitly designed to capture the spread in full or in part by executing at prices that are equal to or more passive than the Midpoint Price. However, pursuant to Rule 11.190(h)(3)(C)(i), in the event the market becomes locked (i.e., the price of the NBB is equal to the price of NBO), the Exchange considers the Midpoint Price to be equal to the locking price. Therefore, in a locked market, Midpoint Peg[18] and Discretionary Peg[19] orders that remove liquidity at the locking price on entry or on Book Recheck will receive the Spread-Crossing Remove Fee. For example, if the NBBO is locked at $10.10 by $10.10, a Midpoint Peg order to buy (sell) that removes liquidity at $10.10 will receive the Spread-Crossing Remove Fee. In contrast, Primary Peg orders are never eligible to remove liquidity, and therefore will never receive the Spread-Crossing Remove Fee.[20]

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18 Pursuant to Rule 11.190(b)(9), upon entry and on Book Recheck, Midpoint Peg orders attempt to remove all available liquidity at the less aggressive of the Midpoint Price or the orders limit price, if any.

19 Pursuant to Rule 11.190(b)(10), upon entry and on Book Recheck, Discretionary Peg orders attempt to remove all available liquidity at the less aggressive of the Midpoint Price or the orders limit price, if any.

20 Pursuant to Rule 11.190(b)(8), upon entry, Primary Peg orders attempt to remove liquidity at the less aggressive of one (1) MPV less aggressive than the NBB (NBO) for buy (sell) orders or the orders limit price, if any. Therefore, because the System will not generate an internally locked or crossed book (as a result of execution and price sliding logic, including the Exchange's price sliding processes for non-displayed orders (the "Midpoint Price Constraint"), which restricts non-displayed orders from resting on the Order Book at a price more aggressive than the midpoint of the NBBO, Primary Peg orders Primary Peg orders are never eligible to remove liquidity. Accordingly, Primary Peg orders are not eligible for Book Recheck.

Similarly, when a short sale price test restriction[21] is in effect, short sale orders not marked short exempt that are priced at or more aggressive than the NBB are subject to the short sale price sliding process pursuant to Rule 11.190(h)(4) and are therefore never executable at or below the NBB. Accordingly, when a short sale price test restriction is in effect, short sale orders not marked short exempt that are priced to execute at or below the NBB will not receive the Spread-Crossing Remove Fee. For example, for a security subject to the short sale price test restriction, if the NBBO is $10.10 by $10.20, and IEX receives a non-displayed short sale limit order not marked short exempt with a limit price of $10.10, such order is ineligible for execution at its limit price pursuant to Rule 11.190(h)(4)(B), would only be executable above the current NBB upon entry or on Book Recheck, and would otherwise be repriced and ranked by the System on the Order Book non-displayed pursuant to the Midpoint Price Constraint at the current Midpoint Price.[22] Accordingly, such order is never executable at the NBB, and therefore would not receive the Spread-Crossing Remove Fee.

Finally, in the case of a crossed market (i.e., when the price of the NBB is higher than the NBO), all removers of liquidity will receive the Spread-Crossing Remove Fee. For example, if the NBBO is crossed at $10.13 by $10.10, and IEX has a displayed offer at $10.10, a limit order to buy with a limit price of $10.10 or higher that removes liquidity will receive the Spread-Crossing Remove Fee. While the Exchange believes the arbitrage opportunity provides a natural

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21 Generally, if the current NBB for a covered security decreased by 10% or more from the security's closing price as determined by the listing market, Rule 201 of Regulation SHO prohibits the execution or display of a short sale order not marked short exempt at a price that is less than or equal to the NBB See 17 CFR 242.201.

22 To continue to this example, if the Exchange has non-displayed liquidity to buy resting on the Order Book at $10.11, a short sale order not marked short exempt would be eligible to remove such interest upon entry (or, if such interest was entered after the short sale order, on Book Recheck), but would not receive the Spread-Crossing Remove Fee, because such order is not executable at the NBB.

incentive for market participants to resolve the crossing quotation, the Exchange intends to further incentivize such market improving behavior by charging such removers the proposed Spread-Crossing Remove Fee.

The Exchange notes that executions subject to the Crumbling Quote Remove Fee are not eligible for the Spread-Crossing Remove Fee.[23] Accordingly, transactions that are subject to the Crumbling Quote Remove Fee that remove liquidity with an order executable at the far side of the NBBO will be charged the Crumbling Quote Remove Fee, rather than the Spread-Crossing Remove Fee. Furthermore, the Exchange is not proposing any change to the Internalization Fee whereby no fee is charged for executions when the adding and removing order originated from the same Exchange Member. Thus, transactions that qualify for the Internalization Fee and the proposed Spread-Crossing Remove Fee will be charged the Internalization Fee rather than the Spread-Crossing Remove Fee, since the IEX Fee Schedule provides that to the extent a Member receives multiple Fee Codes on an execution, the lower fee shall apply.[24]

2. Statutory Basis

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

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[23] See Fee Code Q (Crumbling Quote Remove Fee Indicator), along with the footnote appurtenant thereto in the Investors Exchange Fee Schedule, available on the Exchange public website, which together describe the applicable fee for executions that take liquidity during periods of quote instability as defined in Rule 11.190(g) that exceed the CQRF Threshold, which is equal to is equal to 5% of the sum of a Member's total monthly executions on IEX if at least 1,000,000 shares during the calendar month, measured on an MPID basis. See also Securities and Exchange Act Release No. 81484 (August 25, 2017) 82 FR 41446 (August 31, 2017) (SR-IEX-2017-27). See also footnote three under Transaction Fees in the Investors Exchange Fee Schedule, which specifies that, except for the Crumbling Quote Remove Fee Code of Q, to the extent a Member receives multiple Fee Codes on an execution, the lower fee shall apply.

[24] See footnote three under Transaction Fees in the Investors Exchange Fee Schedule, which specifies that, except for the Crumbling Quote Remove Fee Code of Q, to the extent a Member receives multiple Fee Codes on an execution, the lower fee shall apply.

6(b)[25] of the Act in general, and furthers the objectives of Sections 6(b)(4)[26] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that the proposed fee change is reasonable, fair and equitable, and non-discriminatory. The Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive.

As proposed, the Spread-Crossing Remove Fee is designed to reduce the variability in fees to access liquidity on the Exchange, therefore making the Exchange's Fee Schedule more clear and predictable to the benefit of all market participants. Furthermore, as discussed in the Purpose section, the Exchange believes that to the extent the proposed Spread-Crossing Remove Fee incentivizes additional spread-crossing orders on the Exchange, resting displayed interest will have enhanced opportunities to capture the spread, which may result in additional aggressively priced orders being entered on the Exchange, thereby contributing to public price discovery, consistent with the overall goal of enhancing market quality.

The Exchange does not believe that the proposed change represents a significant departure from pricing currently offered by the Exchange. As described in the Purpose section, the proposed Spread-Crossing Remove Fee is equal to the Displayed Match Fee, and less than the Non-Displayed Match Fee, thus falling within the range of transaction fees currently charged by the Exchange. Furthermore, the proposed Spread-Crossing Remove Fee is substantially lower than the fee for removing liquidity on competing exchanges with a "maker-taker" fee structure

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25 15 U.S.C. 78f.

26 15 U.S.C. 78f(b)(4).

(i.e., that provide a rebate to liquidity adders and charge liquidity removers).[27]

As proposed, Members that remove non-displayed liquidity on the Exchange will be charged disparate fees depending on whether or not the removing order was executable at the far side of the NBBO. For example, a limit order with a User-defined and system-adjusted limit price that is marketable to the Midpoint Price that removes non-displayed liquidity at the Midpoint Price will be charged the Non-Displayed Match Fee, whereas a limit order with a User-defined and system-adjusted limit price that is executable at the far side of the NBBO that removes non-displayed liquidity at the Midpoint Price will be charged the Spread-Crossing Remove Fee. The Exchange believes it is reasonable, equitable and not unfairly discriminatory to charge disparate fees for removing liquidity on the Exchange depending on whether or not the removing order was executable at the far side of the NBBO, because spread-crossing orders are willing to interact with the Exchange's resting displayed orders, thereby potentially incentivizing Members to enter more aggressively priced displayed orders by enhancing opportunities for such orders to capture the full spread.

The Exchange believes incentivizing market makers and other Members to enter more aggressively priced displayed orders on the Exchange by enhancing trading opportunities at the NBBO significantly contributes to public price discovery, consistent with the overall goal of enhancing market quality. Furthermore, removers of non-displayed liquidity that are not willing

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27 See, e.g., the New York Stock Exchange ("NYSE") trading fee schedule on its public website reflects fees to "take" liquidity ranging from $0.0024 - $0.0030 depending on the type of market participant, order and execution; the Nasdaq Stock Market ("Nasdaq") trading fee schedule on its public website reflects fees to "remove" liquidity ranging from $0.0025-$0.0030 per share for shares executed in continuous trading at or above $1.00 or 0.30% of total dollar volume for shares executed below $1.00; the Cboe BZX Exchange ("Cboe BZX) trading fee schedule on its public website reflects fees for "removing" liquidity ranging from $0.0025-$0.0030, for shares executed in continuous trading at or above $1.00 or 0.30% of total dollar volume for shares executed below $1.00.

to cross the spread are receiving the benefit of trading more passively and receiving price improvement, which the Exchange believes is a substantial incentive and benefit in and of itself.[28] Similarly, non-displayed orders resting on the Exchange are receiving the benefit of resting passively on the Order Book and capturing the spread in whole or in part. Therefore, the Exchange believes it is reasonable, equitable and not unfairly discriminatory to charge Members that add non-displayed liquidity a different fee then Members that remove non-displayed liquidity with an order that is executable at the far side of the NBBO.[29]

The Exchange also believes that it is reasonable, fair and equitable, and non-discriminatory to not offer the proposed Spread-Crossing Remove Fee to orders that are subject to the Crumbling Quote Remove Fee because such executions are necessarily a part of a trading strategy that the Exchange believes evidences a form of predatory latency arbitrage that leverages low latency proprietary market data feeds and connectivity along with predictive models to chase short-term price momentum and successfully target resting orders at unstable prices. Furthermore, if the Exchange were to apply the Spread-Crossing Remove Fee to executions that are subject to the Crumbling Quote Remove Fee, it would frustrate its fundamental purpose of disincentivizing predatory trading strategies to further incentivize additional resting liquidity, including displayed liquidity, on IEX. Thus, a Member that removes

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28 The Exchange notes the spread-crossing removers may also receive such price improvement to the extent they remove non-displayed liquidity resting within the spread. However, such price improvement is not guaranteed, and spread-crossing removers consciously choose to pay the full spread with only the possibility of price improvement.

29 The Exchange also notes that it is common for Exchange's to charge Members different fees for adding and removing liquidity, and thus the Exchange's proposal is not novel in this regard. See, e.g., the New York Stock Exchange ("NYSE") trading fee schedule on its public website which reflects fees to "take" liquidity ranging from \$0.0024 - \$0.0030 depending on the type of market participant, order and execution. Additionally, NYSE fees to "add" liquidity range from \$0.0018-\$0.0030 per share for shares executed in continuous trading; [sic]

liquidity with spread-crossing orders that are subject to the Crumbling Quote Remove Fee, should not be afforded the benefit of the proposed Spread-Crossing Remove Fee on such executions.

The Exchange also notes that the Crumbling Quote Remove Fee, in combination with the proposed Spread-Crossing Remove Fee, is designed to incentivize spread-crossing interest that is not part of what the Exchange believes is a predatory trading strategy, therefore potentially increasing the entry of orders executable at the far side of the NBBO during periods of relative market stability. If the Spread-Crossing Remove Fee is successful in this regard, the opportunity for execution and the resultant execution performance for non-displayed resting orders within the spread, as well as displayed orders resting at the NBBO, would be significantly enhanced. Consequently, enhanced trading opportunities may incentivize the entry of non-displayed orders resting at or within the spread, as well as displayed order resting at the NBBO, thereby contributing to the post-trade and pre-trade public price discovery process, respectively. Accordingly, the Exchange believes that the Crumbling Quote Remove Fee, in combination with the proposed Spread-Crossing Remove Fee, is reasonable, fair and equitable, and non-discriminatory.

Additionally, the Exchange believes that it is reasonable, fair and equitable, and non-discriminatory to continue to charge the Internalization Fee rather than the Spread-Crossing Remove Fee when the adding and removing order originated from the same Exchange Member. IEX believes that the same factors that support not charging fees for such transactions, as described in its rule filing adopting this fee structure, continue to be relevant.[30] Specifically, not charging a fee is designed to incentivize Members (and their customers) to send orders to IEX

30 See Securities Exchange Act Release No. 78550 (August 11, 2016), 81 FR 54873 (August 17, 2016) (SR-IEX-2016-09).

that may otherwise be internalized off exchange, with the goal of increasing order interaction on IEX. Internalization on IEX is not guaranteed, and the additional order flow that does not internalize is available to trade by all Members.

Finally, the Exchange believes that the proposed fees are nondiscriminatory because they will apply uniformly to all Members.

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. The Exchange operates in a highly competitive market in which market participants can readily favor competing venues if fee schedules at other venues are viewed as more favorable. Consequently, the Exchange believes that the degree to which IEX fees could impose any burden on competition is extremely limited and does not believe that such fees would burden competition between Members or competing venues in a manner that is not necessary or appropriate in furtherance of the purposes of the Act. Moreover, as noted in the Statutory Basis section, the Exchange does not believe that the proposed changes represent a significant departure from its current fee structure, and competing venues are able to adopt comparable pricing.

The Exchange 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 because, while different fees are assessed in some circumstances, these different fees are not based on the type of Member entering the orders that match but on the type of order entered and the market conditions in which such order was entered. Moreover, the proposed Spread-Crossing

Remove Fee will apply equally to all Members that remove liquidity with an order executable at the far side of the NBBO. The Exchange notes that all Members can submit any of the Exchange's approved order types and order parameters, including orders that are executable at the far side of the NBBO. Further, the proposed fee changes continue to be intended to encourage market participants to bring increased order flow to the Exchange, which benefits all market participants.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii)[31] of the Act.

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)[32] 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:

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31 15 U.S.C. 78s(b)(3)(A)(ii).

32 15 U.S.C. 78s(b)(2)(B).

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 No. SR-IEX-2018-09 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-IEX-2018-09. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s Internet website (http://www.sec.gov/rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. 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 No. SR-IEX-2018-09, 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.[33]

Eduardo A. Aleman
Assistant Secretary

[33] 17 CFR 200.30-3(a)(12).