

purposes of the Act.<sup>13</sup> LCH SA does not believe that its clearing of Index Swaptions will adversely affect competition in the trading market for those contracts or CDS generally. By allowing LCH SA to clear Index Swaptions, market participants will have additional choices on where to clear and which products to use for risk management purposes, which, in turn, will promote competition and further the development of CDS for risk management. In addition, LCH SA will apply its existing fair and open access criteria to the clearing of Index Swaptions and will apply the same criteria to every person who proposes to enter into the clearing of Index Swaptions. Such criteria are designed to identify persons with sufficient operational capacity and expertise in relation to Index Swaptions as part of the membership requirements that are necessary and appropriate for LCH SA to manage the risk arising from allowing persons to participate in Index Swaptions. Accordingly LCH SA does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### *C. Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments relating to the proposed rule change have not been solicited or received. LCH SA will notify the Commission of any written comments received by LCH SA.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-LCH SA-2017-006 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-LCH SA-2017-006. This file number 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 Web site (<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 Web site 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 LCH SA and on LCH SA's Web site at <http://www.lch.com/asset-classes/cdsclear>.

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-LCH SA-2017-006 and should be submitted on or before September 21, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2017-18450 Filed 8-30-17; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-81484; File No. SR-IEX-2017-27]

### **Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Transaction Fees Pursuant to Rule 15.110**

August 25, 2017.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on August 11, 2017, the Investors Exchange LLC ("IEX" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, 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 the Substance of the Proposed Rule Change**

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 ("Act"),<sup>4</sup> and Rule 19b-4 thereunder,<sup>5</sup> Investors Exchange LLC ("IEX" or "Exchange") is filing with the Commission a proposed rule change to increase the fees assessed under specified circumstances for execution of orders that take liquidity during periods when the IEX System has determined that a "crumbling quote" exists with respect to the Protected National Best Bid ("NBB") or Protected National Best Offer ("NBO") for such security.<sup>6</sup>

The text of the proposed rule change is available at the Exchange's Web site at [www.iextrading.com](http://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 statements may be examined at

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> 15 U.S.C. 78s(b)(1).

<sup>5</sup> 17 CFR 240.19b-4.

<sup>6</sup> See, Rule 600(b)(42) under Regulation NMS.

<sup>13</sup> 15 U.S.C. 78q-1(b)(3)(I).

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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 Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend its fee schedule, pursuant to IEX Rule 15.110(a) and (c), to increase the fees assessed under specified circumstances for execution of orders that take liquidity during periods when the IEX System has determined that a "crumbling quote" exists with respect to the Protected NBB or Protected NBO for such security.

Pursuant to IEX Rule 11.190(g), in determining whether quote instability or a crumbling quote exists, the Exchange utilizes real time relative quoting activity of certain Protected Quotations<sup>7</sup> and a proprietary mathematical calculation (the "quote instability calculation") to assess the probability of an imminent change to the current Protected NBB to a lower price or Protected NBO to a higher price for a particular security ("quote instability factor"). When the quoting activity meets predefined criteria and the quote instability factor calculated is greater than the Exchange's defined quote instability threshold, the System treats the quote as unstable and the crumbling quote indicator ("CQI") is on. During all other times, the quote is considered stable, and the CQI is off. The System independently assesses the stability of the Protected NBB and Protected NBO for each security. When the System determines that a quote, either the Protected NBB or the Protected NBO, is unstable, the determination remains in effect at that price level for two milliseconds. The Exchange proposes to increase fees assessed for execution of buy (sell) orders that take liquidity at prices at or below (above) the NBO (NBB) during the two milliseconds when the CQI is on. Therefore, buy orders taking liquidity up to the Protected NBO and sell orders taking liquidity down to the Protected NBB when the CQI is on will be subject to the increased fee.

<sup>7</sup> Pursuant to Rule 11.190(g), the Protected Quotations of the New York Stock Exchange, Nasdaq Stock Market, NYSE Arca, Nasdaq BX, Bats BZX Exchange, Bats BYX Exchange, Bats EDGX Exchange, and Bats EDGA Exchange.

When CQI is on, Discretionary Peg orders<sup>8</sup> and primary peg orders<sup>9</sup> do not exercise price discretion to meet the limit price of an active (*i.e.*, taking) order. Specifically, as set forth in Rule 11.190(b)(10), a Discretionary Peg order pegs to the less aggressive of the primary quote (*i.e.*, NBB for buy orders and NBO for sell orders) or the order's limit price, if any, but, will exercise price discretion in order to meet the limit price of an active order up to the less aggressive of the Midpoint Price or the order's limit price, if any. However, a Discretionary Peg order will not exercise such price discretion when the CQI is on. Similarly, as set forth in Rule 11.190(b)(8), a primary peg order pegs to a price that is the less aggressive of one (1) minimum price variant ("MPV") less aggressive than the primary quote (*i.e.*, one MPV below (above) the NBB (NBO) for buy (sell) orders) or the order's limit price, if any, but will exercise price discretion in order to meet the limit price of an active order up to the NBB (for buy orders) or down to the NBO (for sell orders), except when the CQI is on or if the order is resting at its limit price, if any.

By not permitting resting Discretionary Peg orders and primary peg orders to exercise price discretion during periods of quote instability, the Exchange is designed to protect such orders from unfavorable executions when its probabilistic model identifies that the market appears to be moving adversely to them. As noted above, when the IEX System determines that a quote (either the Protected NBB or the Protected NBO) is unstable, the determination, and corresponding limitation on Discretionary Peg and primary peg orders exercising price discretion, remains in effect at that price level for only two milliseconds. This limitation is designed to appropriately balance the protective benefits to Discretionary Peg and primary peg orders with the interest of avoiding potentially undue trading restrictions.

Based on market data analysis during June 2017, the Exchange identified that there are significant differences in short term markouts<sup>10</sup> (and pro forma profit and loss<sup>11</sup>) for resting and taking orders between executions when the CQI is on

<sup>8</sup> See Rule 11.190(b)(10).

<sup>9</sup> See Rule 11.190(b)(8).

<sup>10</sup> The term markouts refers to changes in the midpoint of the NBBO measured from the perspective of either the liquidity providing resting order or liquidity removing taking order over a specified period of time following the time of execution.

<sup>11</sup> For purposes of this analysis, a pro forma profit or loss is calculated as the difference between the midpoint of the NBBO at the time of the execution compared to one second after.

and off, regardless of whether the NBB (NBO) moves lower (higher) within two milliseconds of the Exchange's determination of quote instability. Specifically, when the CQI is on, liquidity removing orders that execute on IEX (trading with a liquidity providing order resting on the order book, including but not limited to Discretionary Peg and primary peg orders) experience positive price markouts one second after the trade on a share basis 75.6% of the time, compared to 23.9% of the time when the CQI is off. Correspondingly, resting liquidity providing orders that trade when the CQI is on experience negative price markouts one second after the trade 75.6% of the time, compared to 23.9% of the time when CQI is off. Similarly, 72.1% of all orders received when the CQI is on (whether or not executed on IEX) arrive immediately prior to a favorable price move (based on one second markouts), compared to 18.2% of orders received when the CQI is off.

Moreover, the breakdown of orders entered and shares removed when the CQI is on or off evidences that certain trading strategies appear to involve entering liquidity taking orders targeting resting orders at prices that are likely to move adversely from the perspective of the resting order. Across all approximately 8,000 symbols available for trading on IEX, the CQI is on only 1.24 seconds per symbol per day on average (0.005% of the time during regular market hours),<sup>12</sup> but 30.4% of marketable orders<sup>13</sup> are received during those time periods, which indicates that certain types of trading strategies are seeking to aggressively target liquidity providers during periods of quote instability.

The Exchange believes that this data is particularly significant and evidences that Members entering liquidity taking orders when the CQI is on appear to be able to engage in a form of latency arbitrage by leveraging fast proprietary market data feeds and connectivity along with predictive strategies to chase short-term price momentum and successfully target resting orders at unstable prices. IEX believes that these types of trading strategies, with concentrated and aggressive tactics during moments of quote instability, are detrimental to the experience of other IEX participants. IEX further believes

<sup>12</sup> On a volume weighted basis, the CQI is on for 6.50 seconds per day per symbol, 0.03% of the time during regular market hours.

<sup>13</sup> An order is considered marketable for this analysis if it was a market order or its limit price is at or more aggressive than the far touch quotation.

that such trading strategies create disparate burdens on resting orders, particularly those that are displayed and therefore ineligible to benefit from the CQI.

Accordingly, to incentivize additional resting liquidity, including displayed liquidity, on IEX, the Exchange proposes to increase the fees applicable to orders that remove resting liquidity when the CQI is on if such orders constitute at least 5% of the Member's volume executed on IEX and at least 1,000,000 shares, on a monthly basis, measured on a per market participant identifier ("MPID") basis. As proposed, such orders that exceed the 5% and 1,000,000 share thresholds would be assessed a fee of \$0.0030 per each incremental share executed (or 0.3% of the total dollar value of the transaction for securities priced below \$1.00) that exceeds the threshold. For example, assume Member XYZ executed 100,000,000 shares through its MPID 1234 during a particular month, and 6,000,000 of such shares removed liquidity while the CQI was on. The 6,000,000 shares executed when the CQI was on exceed the threshold since such shares are more than 5% of MPID 1234's monthly volume (*i.e.*, 5,000,000) and at least 1,000,000 shares. Member XYZ would therefore be charged the fee on 1,000,000 shares which is the incremental number of shares above 5% of the 100,000,000 shares executed by MPID 1234 during the month.

Setting the fee threshold at 5% and 1,000,000 shares is a narrowly tailored approach, designed to only charge the increased fee in circumstances where the Member executes a meaningful portion of its volume via liquidity removing orders when the CQI is on, and not charge the fee for executions of this type that are more likely to be incidental to broader trading activity by the Member and not part of a specific trading strategy that targets resting liquidity during periods of quote instability. The Exchange proposes to refer to this pricing as the "Crumbling Quote Remove Fee" on the Fee Schedule with a Fee Code Indicator of "Q" to be provided by the Exchange on execution reports to Members removing liquidity when the CQI is on.

As proposed, to provide transparency about potential fees, the Exchange will begin providing Fee Code Indicator Q on execution reports at least one month prior to implementation of the Crumbling Quote Remove Fee so that Members can assess the impact of the new fee and make any corresponding adjustments to their trading strategies. IEX will announce the availability of new Fee Code Indicator Q

approximately 30 days after effectiveness of this rule filing. IEX will provide at least ten business days' notice of implementation of the proposed fee within 90 days of effectiveness of this rule filing.

## 2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b)<sup>14</sup> of the Act in general, and furthers the objectives of Sections 6(b)(4)<sup>15</sup> 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. Additionally, IEX believes that the proposed fee is consistent with the investor protection objectives of Section 6(b)(5)<sup>16</sup> of the Act in particular in that it is designed to promote just and equitable principles of trade, to remove impediments to a free and open market and national market system, and in general to protect investors and the public interest.

The proposed new Crumbling Quote Remove Fee is designed to enhance the Exchange's market quality by encouraging Members and other market participants to add more liquidity to the Exchange order book, which benefits all investors by deepening the Exchange's liquidity pool. Specifically, the Exchange believes that trading strategies that target resting liquidity during periods of quote instability seek to trade at prices that are about to become stale, and thus discourage other market participants from entering liquidity providing orders on the Exchange. Thus, the Exchange believes that the proposal is reasonable because it would create an added incentive for Members and other market participants to provide liquidity on IEX since the increased fee may result in fewer orders seeking to remove liquidity when the CQI is on, and concomitant overall better execution quality.

Other exchanges offer incentives in the form of rebates and/or reduced fees that are designed to encourage market participants to send increased levels of order flow to such exchanges. These typically take the form of lower fees and higher rebates for meeting specified volume tiers.<sup>17</sup> These fee and rebate structures are typically justified by other exchanges on the basis that increased liquidity benefits all investors by

deepening the exchange's liquidity pool, which provides price discovery and investor protection benefits.<sup>18</sup> The Exchange also notes that other exchanges charge different fees (or provide rebates) to the buyer and seller to an execution, which are generally referred to as either maker-taker or taker-maker pricing schemes. Typically, the exchange offering such pricing is seeking to incentivize orders that provide or remove liquidity, based on which type of orders receive a rebate. While these pricing schemes discriminate against the Member party to the trade that is charged a fee (in favor of the Member party to the trade that is paid a rebate) the Commission has not found these fees to be unfairly discriminatory in violation of the Act.<sup>19</sup>

Similarly, the proposal seeks to promote increased liquidity and price discovery on the Exchange by providing a fee designed to incentivize liquidity providing orders that can improve the quality of the market. The Exchange believes that, to the extent the fee is successful in reducing targeted and aggressive liquidity removing orders, it would contribute to investors' confidence in the fairness of transactions and the market generally, thereby benefiting multiple classes of market participants and supporting the public interest and investor protection purposes of the Act.

The Exchange believes that maker-taker and taker-maker pricing schemes in general create needless complexity in market structure in various ways and result in conflicts of interest between brokers and their customers. Accordingly, IEX has made a decision not to adopt rebate provisions in favor of a more transparent pricing structure that generally charges equal fees (or in some cases, no fee) for a particular trade to both the "maker" and "taker" of liquidity. Given this decision, IEX must use other means to incentivize orders to rest on its order book. IEX's execution quality is one important incentive, but this incentive can be undercut by trading strategies that target resting orders during periods of quote instability. Accordingly, IEX believes that the proposed Crumbling Quote Remove Fee is one reasonable way to compete with other exchanges for order flow, consistent with its alternative exchange model and without relying on rebates.

As discussed in the Purpose section, the increased fee would only be charged

<sup>14</sup> 15 U.S.C. 78f.

<sup>15</sup> 15 U.S.C. 78f(b)(4).

<sup>16</sup> 15 U.S.C. 78f(b)(5).

<sup>17</sup> See, e.g., New York Stock Exchange Price List 2017, available at [https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE\\_Price\\_List.pdf](https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Price_List.pdf). See also, Nasdaq Rule 7018.

<sup>18</sup> See, e.g., Securities Exchange Act Release No. 80034 (February 14, 2017), 82 FR 11275 (February 21, 2017) (File No. SR-BatsEDGX-2017-09).

<sup>19</sup> See note 15 *supra*.

on incremental orders above the 5% and 1,000,000 share monthly thresholds that remove resting liquidity when the CQI is on. The Exchange believes that limiting the fee to such circumstances is reasonable and equitable because it would not apply when executions taking liquidity while the CQI is on are likely to be incidental and not part of a deliberate trading strategy that targets resting liquidity during periods of quote instability. Consequently, the Exchange believes that the proposed fee structure is not unfairly discriminatory because it is narrowly tailored to charge a fee only on trading activity that is indicative of a trading strategy that may adversely affect execution quality on IEX and is reasonably related to the purpose of encouraging liquidity providing orders on IEX without the use of rebates.

The Exchange also believes that it is appropriate, and consistent with the Act, to not charge a fee to Members that do not exceed the 5% and 1,000,000 share thresholds during the month in question. This flexibility is designed to address limited inadvertent liquidity removal when the CQI is on for Members whose order flow during such times is incidental. In addition, the Exchange believes it is appropriate, and consistent with the Act, to not charge a fee to Members for the execution of buy (sell) orders that take liquidity at prices above (below) the Protected NBO (NBB) during the two milliseconds when the CQI is on because such executions are not indicative of a trading strategy that targets resting orders at soon to be stale prices during periods of quote instability.

Further, the Exchange believes that the data from June 2017 supports the position that the proposed threshold is narrowly tailored to only charge the fee based on objective criteria indicating that execution of the orders in question reasonably appear to be part of a deliberate trading strategy that targets resting liquidity during periods of quote instability. Based on data from June 2017, the Exchange estimates that only 13 Members each using one unique MPID (out of 125 total Members trading through 158 MPIDs that traded on IEX during the month) would have been subject to the proposed fee, five of which would have paid less than \$1,500 in such fees.<sup>20</sup> The Members that were above the threshold also present a significantly different order entry profile than Members below the threshold with respect to orders entered when the CQI was on. For the 13 Member MPIDs above the threshold, 63.1% of such

orders were marketable to the midpoint of the NBBO (64.3% for the eight Member MPIDs that would have paid more than \$1,500), while for Member MPIDs below this number was only 13.4%. The Exchange believes that this difference evidences that Members above the threshold were more likely to be engaging in a deliberate strategy to target resting orders at soon to be stale prices.<sup>21</sup>

The Exchange also believes that it is consistent with the Act and an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities to measure whether the threshold is reached on an MPID basis. As discussed above, the threshold is designed to narrowly focus on executions that appear to be part of a deliberate trading strategy that targets resting liquidity during periods of quote instability. The Exchange believes that Members that utilize multiple MPIDs generally use different MPIDs for different trading strategies or customers. Therefore, the Exchange believes that measuring by MPID is a more precise manner of assessing whether a Member's trading strategy (or that of a customer) is part of a deliberate trading strategy that targets resting liquidity during periods of quote instability.

Accordingly, the Exchange submits that the proposed threshold is narrowly tailored to address particular trading strategies (rather than particular classes of Members) that may operate to disincentivize the entry of resting orders by other market participants. Specifically, and as discussed above, to the extent the proposed fee is successful in reducing such trading strategies on IEX, it may result in market quality improvements which could benefit multiple classes of market participants.

The Exchange further believes that charging the Crumbling Quote Remove Fee only to the liquidity remover is equitable and not unfairly discriminatory because it is designed to incentivize order flow that enhances the quality of trading on the Exchange and disincentivize trading that does not. As discussed above, IEX believes that there are precedents for exchanges to charge different fees based upon meeting (or not meeting) particular criteria, as well as maker-taker and taker-maker pricing structures whereby the liquidity adder and remover to a trade are subject to differing fees and rebates, to incentivize certain types of trading activity. Fees and rebates based on maker-taker and taker-maker pricing as well as on

volume-based tiers have been widely adopted by equities exchanges. And in some cases, maker-taker or taker-maker pricing has been combined with volume-based tiers that result in differential fees and rebates for different exchange members. These fee structures have been permitted by the Commission. For example, Bats EDGA Exchange, Inc. ("EDGA") previously offered a rebate contingent upon adding specified amounts of liquidity to EDGA.<sup>22</sup> Notwithstanding that certain classes of members (*e.g.*, exchange routing brokers) do not typically add liquidity on competing exchanges, this fee structure was justified by EDGA on the basis that, generally, it encourages growth in liquidity on EDGA and applies equally to all members.<sup>23</sup> Similarly, while the proposed IEX fee structure will result in the Crumbling Quote Remove Fee being imposed only on members using specific trading strategies, it is also designed to attract liquidity to IEX and applies equally to all Members.

The Exchange also notes that there is precedent to charge a different fee (or pay a different rebate) based on the execution price of an order. The Bats BZX Exchange, Inc. pays a rebate of \$0.0017 to a non-displayed order that adds liquidity, while if such an order receives price improvement it does not receive a rebate or pay a fee.<sup>24</sup>

Thus, maker-taker, taker-maker, and volume tier based fee structures (separately or in combination) have been adopted by other exchanges on the basis that they may discriminate in favor of certain types of members but not in an unfairly discriminatory manner in violation of the Act. As with such fee structures, the Exchange believes that the proposed fee change is equitable and not unfairly discriminatory because it is narrowly tailored to disincentive to all Members from deploying trading strategies designed to chase short-term price momentum during periods when the CQI is on and thus potentially adversely impact liquidity providing orders. IEX believes that, to the extent it is successful in this regard, the proposed fee structure may lead to increased liquidity providing orders on IEX which could benefit multiple classes of market participants through increased trading

<sup>22</sup> See Securities Exchange Act Release No. 80976 (June 20, 2017), 82 FR 28920 (June 26, 2017) (SR-BatsEDGA-2017-18).

<sup>23</sup> See, *e.g.*, Securities Exchange Act Release No. 69066 (March 7, 2013), 78 FR 16023 (March 13, 2013) (SR-EDGA-2013-10).

<sup>24</sup> See Bats BZX Exchange Fee Schedule, available at: [http://www.bats.com/us/equities/membership/fee\\_schedule/bzx/](http://www.bats.com/us/equities/membership/fee_schedule/bzx/).

<sup>20</sup> The overall range would have been \$426.49 to \$123,897.20.

<sup>21</sup> Analysis of trading on IEX during April, May and July is consistent with the June data analysis.

opportunities and reduced latency arbitrage.

Further, the Exchange notes that the Nasdaq Stock Market (“Nasdaq”) charges excess order fees (ranging from \$0.005 to \$0.01 per excess weighted order) on certain members that have a relatively high ratio of orders entered away from the NBBO to orders executed in whole or in part, subject to a carve-outs for specified lower volume members and certain registered market makers.<sup>25</sup> In its rule filing adopting the fee Nasdaq justified it as designed to achieve improvements in the quality of displayed liquidity to the benefit of all market participants.<sup>26</sup> Nasdaq also asserted that the fee is reasonable because market participants may readily avoid the fee by making improvements in their order entry practices, noting that “[i]deally, the fee will be applied to no one because market participants will adjust their behavior to avoid the fee.”<sup>27</sup>

Similarly, the proposed IEX fee is designed to incentivize the entry of liquidity providing orders that can enhance the quality of the market and disincentivize certain liquidity removing orders that can degrade the quality of the market. Participants can manage their fees by making adjustments to their order entry practices, to decrease their entry of orders designed to target resting liquidity during periods of quote instability. And, as with the Nasdaq excess order fees, ideally, the fee will be applied to no one, because participants will adjust their trading activity to account for the pricing change. Thus, the Exchange believes that the \$0.0030 per share executed fee is reasonably related to the trading activity IEX is seeking to disincentivize.

IEX also believes that it is appropriate, reasonable and consistent with the Act, to charge a fee of \$0.0030 per share executed (or 0.3% of the total dollar value of the transaction for securities priced below \$1.00) that exceed the threshold described herein because it is within the transaction fee range charged by other exchanges<sup>28</sup> and consistent with Rule 610(c) of Regulation NMS.<sup>29</sup> Although the amount of the Crumbling Quote Remove Fee may not be adequate to fully disincentivize Members from deploying trading strategies designed to chase short-term price momentum during periods when the CQI is on, the

Exchange is hopeful that it will at least reduce such activity based on the economic disincentives that the fee will provide.

Additionally, the Exchange believes that its proposed new fee code indicator, to be provided on execution reports, will provide transparency and predictability to Members as to applicable transaction fees. In this regard, IEX notes that Members will be able to maintain a tally of executions of liquidity taking orders potentially subject to the CQI fee on a monthly basis, and calculate whether the proportion of such orders is more than 5% of their total monthly volume on IEX. Using IEX execution reports, Members can calculate whether the sum of liquidity removing shares executed with Fee Code Indicator Q is more than 1,000,000 shares, and whether the sum of shares executed with Fee Code Indicator Q divided by the sum of total volume executed on IEX is more than 5%. In addition, IEX will provide the new fee code indicator to Members for at least one month prior to implementation of the Crumbling Quote Remove Fee so that Members can assess the potential impact of the new fee on their IEX order entry practices, and make any adjustments that the Members determines are warranted. The Exchange does not believe that it would be useful to publicly disseminate when the CQI is on in a particular security through a proprietary market data feed in view of the fact that the CQI is only on for two milliseconds at a time, given the latencies inherent in dissemination and receipt of proprietary market data. IEX Rule 11.190(g) describes with specificity when the CQI is on. And, as discussed above, the data suggests that Members that would be potentially impacted by the Crumbling Quote Remove Fee are engaging in purposeful activity and are thus able to determine with reasonable certainty when the CQI is on.

Moreover, IEX believes that the fee will help 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 regulating, clearing, settling, processing information with respect to, and 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, because the fee is designed to reduce the entry of liquidity removing orders that can degrade the quality of the market and incentivize liquidity providing orders that can

improve the quality of the market, thereby promoting greater order interaction and inhibiting potentially abusive trading practices.

Finally, and as discussed in the Burden on Competition section, the Exchange notes that it operates in a highly competitive market in which Members and market participants can readily direct order flow to competing venues if they deem fee levels to be excessive.

#### *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 Exchange believes that the proposed pricing structure may increase competition and hopefully draw additional volume to the Exchange by enhancing the quality of executions across all participants when the CQI is on. As discussed in the Statutory Basis section, the proposed fee structure is a narrowly tailored approach, designed to enhance the Exchange's market quality by incentivizing trading activity that the Exchange believes enhances the quality of its market. The Exchange believes that the proposed fee would contribute to, rather than burden, competition, as the fee is intended to incentivize Members and market participants to send increased liquidity providing order flow to the Exchange, which may increase IEX's liquidity and market quality, thereby enhancing the Exchange's ability to compete with other exchanges. Further, the proposed fee is in line with fees charged by other exchanges.

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 of Members or competing venues in a manner 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 intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act

<sup>25</sup> See Nasdaq Rule 7018(a)(3)(m).

<sup>26</sup> See, Securities Exchange Act Release No. 66951 (May 9, 2012), 77 FR 28647 (May 15, 2012) (File No. SR-NASDAQ-2012-055).

<sup>27</sup> *Id.*

<sup>28</sup> See note 14 *supra*.

<sup>29</sup> 17 CFR 242.610(c)(1).

because, while the proposed fee would only be assessed in some circumstances, those circumstances are not based on the type of Member entering the liquidity removing order but on the percent and amount of liquidity removing volume that the Member executes when the CQI is on. Further, the proposed fee is intended to encourage market participants to bring increased volume 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)<sup>30</sup> 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)<sup>31</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

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

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-IEX-2017-27 on the subject line.

*Paper Comments*

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

All submissions should refer to File Number SR-IEX-2017-27. This file

number 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 Web site (<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 Web site 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; 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-2017-27, and should be submitted on or before September 21, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>32</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2017-18447 Filed 8-30-17; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. IC-32796]

**Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940**

August 25, 2017.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of August 2017. A copy of each application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090. An order granting each

application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 19, 2017, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to Rule 0-5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** The Commission: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

**FOR FURTHER INFORMATION CONTACT:** Hae-Sung Lee, Attorney-Adviser, at (202) 551-7345 or Chief Counsel's Office at (202) 551-6821; SEC, Division of Investment Management, Chief Counsel's Office, 100 F Street NE., Washington, DC 20549-8010.

**Cash Reserve Fund, Inc. [File No. 811-03196]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On April 21, 2017, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of \$2,325 incurred in connection with the liquidation were paid by the applicant.

*Filing Date:* The application was filed on July 28, 2017.

*Applicant's Address:* 345 Park Avenue, New York, New York 10154.

**Goldman Sachs Diversified Income Fund [File No. 811-23083]**

*Summary:* Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

*Filing Date:* The application was filed on August 3, 2017.

*Applicant's Address:* 200 West Street, New York, New York 10282.

**Goldman Sachs Dynamic Income Opportunities Fund [File No. 811-22868]**

*Summary:* Applicant, a closed-end investment company, seeks an order

<sup>30</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>31</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>32</sup> 17 CFR 200.30-3(a)(12).