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 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–BOX–2016–47, and should be submitted on or before November 1, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–24423 Filed 10–7–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79036; File No. SR–IEX–2016–16]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Rules To Implement the Quoting and Trading Provisions of the Tick Size Pilot Program and To Describe Related Changes to IEX System Functionality

October 4, 2016.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on October 3, 2016, the Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

IEX is filing with the Commission a proposed rule change to adopt rules under IEX Rule 11.340 to implement the quoting and trading provisions of the Regulation NMS Plan to Implement a Tick Size Pilot Program submitted to the Commission pursuant to Rule 608 of Regulation NMS[4] under the Act (the ''Plan''),[5] and to describe changes to IEX system functionality necessary to implement the Plan. The proposed rule change is substantially similar to proposed rule changes published by the Commission for the NASDAQ Stock Market LLC (''Nasdaq'') to adopt NASDAQ Rule 4770, which also implemented the quoting and trading provisions of the Plan.[6] Accordingly, the Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[7] and provided the Commission with the notice required by Rule 19b–4(f)(6)(iii) under the Act.[8]

The text of the proposed rule change is available at the Exchange's Web site 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 establish rules to require its members to comply with the requirements of the Plan, which is designed to study and assess the impact of increment conventions on the liquidity and trading of the common stocks of small capitalization companies. The Exchange proposes changes to its rules for a two-year pilot period that coincides with the Pilot Period for the Plan, which is currently scheduled as a two-year pilot to begin on October 3, 2016.

Background

On August 25, 2014, NYSE Group, Inc., on behalf of BATS Exchange, Inc., BATS Y-Exchange, Inc., Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, the Nasdaq Stock Market LLC, New York Stock Exchange LLC (''NYSE''), NYSE MKT LLC, and NYSE Arca, Inc. (collectively ''Participants''), filed with the Commission, pursuant to Section 11A of the Act[9] and Rule 608 of Regulation NMS thereunder, the Plan to Implement a Tick Size Pilot Program (''Pilot'').[10] The Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014 (the ''June 2014 Order'').[11] The Plan[12] was published for comment in the **Federal Register** on November 7, 2014,[13] and approved by the Commission, as modified, on May 6, 2015.[14] An amendment to the Plan adding IEX as a Participant became effective on August 5, 2016.[15]

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 17 CFR 242.608.

[5] *See* Securities and Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (File No. 4–657) (''Tick Plan Approval Order''). See also Securities and Exchange Act Release No. 76382 (November 6, 2015) (File No. 4–657), 80 FR 70284 (File No. 4–657) (November 13, 2015), which extended the pilot period commencement date from May 6, 2015 to October 3, 2016.

[6] *See* Securities and Exchange Act Release No. 78251 (July 7, 2016); 81 FR 45315 (July 13, 2016.

[7] 15 U.S.C. 78s(b)(3)(a).

[8] 17 CFR 240.19b–4(f)(6)(iii).

[9] 15 U.S.C. 78k–1

[10] *See* Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014.

[11] *See* Securities Exchange Act Release No. 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014).

[12] Unless otherwise specified, capitalized terms used in this rule filing are based on the defined terms of the Plan.

[13] *See* Securities Exchange Act Release No. 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014).

[14] *See* Tick Plan Approval Order, *supra* note 5. *See also* Securities Exchange Act Release No. 77277 (March 3, 2016), 81 FR 12162 (March 8, 2016) (File No. 4–657), which amended the Plan to add National Stock Exchange, Inc. as a Participant.

[15] See Securities Exchange Act Release No. 78703 (August 26, 2016; 81 FR 60397 (September 1, 2016) (File No. 4–631).

liquidity and trading of the common stocks of small-capitalization companies. The Commission plans to use the Tick Size Pilot Program to assess whether wider tick sizes enhance the market quality of Pilot Securities for the benefit of issuers and investors. Each Participant is required to comply, and to enforce compliance by its member organizations, as applicable, with the provisions of the Plan.

Proposed paragraph (d) of Rule 11.340 describes the changes to System functionality necessary to implement the Plan. The Exchange believes that all of the proposed changes are designed to directly comply with the Plan and to assist the Exchange in meeting its regulatory obligations thereunder.

The Plan will include stocks of companies with $3 billion or less in market capitalization, an average daily trading volume of one million shares or less, and a volume weighted average price of at least $2.00 for every trading day. The Plan will consist of a control group of approximately 1,400 Pilot Securities and three test groups with 400 Pilot Securities in each selected by a stratified sampling.[16] During the pilot, Pilot Securities in the control group will be quoted at the current tick size increment of $0.01 per share and will trade at the currently permitted increments. Pilot Securities in the first test group (''Test Group One'') will be quoted in $0.05 minimum increments but will continue to trade at any price increment that is currently permitted.[17] Pilot Securities in the second test group (''Test Group Two'') will be quoted in $0.05 minimum increments and will trade at $0.05 minimum increments subject to a midpoint exception, a retail investor exception, and a negotiated trade exception.[18] Pilot Securities in the third test group (''Test Group Three'') will be subject to the same terms as Test Group Two and also will be subject to the ''Trade-at'' requirement to prevent price matching by a person not displaying at a price of a Trading Center's ''Best Protected Bid'' or ''Best Protected Offer,'' unless an enumerated exception applies.[19] In addition to the exceptions provided under Test Group Two, an exception for Block Size orders and exceptions that closely resemble those under Rule 611 of Regulation NMS [20] will apply to the Trade-at requirement.

The Plan also contains requirements for the collection and transmission of data to the Commission and the public. A variety of data generated during the Plan will be released publicly on an aggregated basis to assist in analyzing the impact of wider tick sizes on smaller capitalization stocks.[21] The Exchange adopted paragraph (b) of Rule 11.340 to require Members to comply with the data collection provisions under Appendix B and C of the Plan.[22]

Member Compliance; Proposed Rules 11.340(a) and (c)

The Plan requires the Exchange to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the applicable quoting and trading requirements specified in the Plan.[23] Accordingly, the Exchange is proposing new Rule 11.340(a) to require its Members to comply with the quoting and trading provisions of the Plan. The proposed Rules are also designed to ensure the Exchange's compliance with the Plan.

Proposed paragraph (a)(1) of Rule 11.340 would establish the following defined terms:

- ''Plan'' means the Tick Size Pilot Plan submitted to the Commission pursuant to Rule 608(a)(3) of Regulation NMS under the Act.
- ''Pilot Test Groups'' means the three test groups established under the Plan, consisting of 400 Pilot Securities each, which satisfy the respective criteria established by the Plan for each such test group.
- Trade-at Intermarket Sweep Order'' (''TA ISO'') would mean a limit order for a Pilot Security that meets the following requirements:

(i) When routed to a Trading Center, the limit order is identified as a TA ISO; and

(ii) Simultaneously with the routing of the limit order identified as a TA ISO, one or more additional limit orders, as necessary, are routed to execute against the full size of any protected bid, in the case of a limit order to sell, or the full displayed size of any protected offer, in the case of a limit order to buy, for the Pilot Security with a price that is better than or equal to the limit price of the limit order identified as a TA ISO Sweep Order. These additional routed orders also must be marked as TA ISOs or Intermarket Sweep Order (''ISO).

- Paragraph (a)(1)(E) would provide that all capitalized terms not otherwise defined in this rule shall have the meanings set forth in the Plan, Regulation NMS under the Act, or Exchange rules, as applicable.

Proposed Paragraph (a)(2) would state that the Exchange is a Participant in, and subject to the applicable requirements of, the Plan; proposed Paragraph (a)(3) would require members to establish, maintain and enforce written policies and procedures that are reasonably designed to comply with the applicable requirements of the Plan, which would allow the Exchange to enforce compliance by its members with the provisions of the Plan, as required pursuant to Section II(B) of the Plan.

In addition, Paragraph (a)(4) would provide that Exchange systems would not display, quote or trade in violation of the applicable quoting and trading requirements for a Pilot Security specified in the Plan and this proposed rule, unless such quotation or transaction is specifically exempted under the Plan. Although not required or prohibited by the Plan, the Exchange proposes to apply the quoting and trading requirements during the Pre-Market Hours and Post-Market Hours trading sessions,[24] in addition to the Regular Market Hours trading session.[25] The Exchange believes that applying the same processes and requirements in Test Group Pilot Securities will simplify processing of orders by the Exchange, avoiding market participant confusion that may be caused by applying only some of the Plan requirements and not others during the different market sessions.

The Exchange also proposes to add Rule 11.340(a)(5) to provide for the treatment of Pilot Securities that drop below a $1.00 value during the Pilot Period.[26] The Exchange proposes that if

[16] *See* Section V of the Plan for identification of Pilot Securities, including criteria for selection and grouping.

[17] *See* Section VI(B) of the Plan. Pilot Securities in Test Group One will be subject to a midpoint exception and a retail investor exception.

[18] *See* Section VI(C) of the Plan.

[19] *See* Section VI(D) of the Plan.

[20] 17 CFR 242.611.

[21] *See* Section VII of the Plan.

[22] *See* Securities Exchange Act Release No. 78481 (August 4, 2016); 81 FR 52933 (August 10, 2016).

[23] The Exchange was also required by the Plan to develop appropriate policies and procedures that provide for data collection and reporting to the Commission of data described in Appendixes B and C of the Plan. *See* Securities Exchange Act Release No. 77456 (March 28, 2016), 81 FR 18925 (April 1, 2016) (SR–NASDAQ–2016–43).

[24] As used in this proposal, the term ''Market Hours'' means the period of time beginning at 9:30 a.m. ET and ending at 4:00 p.m. ET (or such earlier time as may be designated by IEX on a day when IEX closes early). The term ''Pre- Market Hours'' means the period of time beginning at 8:00 a.m. ET and ending immediately prior to the commencement of Market Hours. The term ''Post-Market Hours'' means the period of time beginning immediately after the end of Market Hours and ending at 5:00 p.m. ET. *See* Rule 1.160(z), (aa) and (gg).

[25] Regular Trading Hours is defined by the Plan as having the same meaning as Rule 600(b)(64) of Regulation NMS. *See* Section I (cc) of the Plan.

[26] NYSE, on behalf of the Participants, submitted a letter to Commission requesting exemption from

Continued

the price of a Pilot Security drops below $1.00 during regular trading on any given business day, such Pilot Security would continue to be subject to the Plan and the requirements described below that necessitate members to comply with the specific quoting and trading obligations for each respective Pilot Test Group under the Plan, and would continue to trade in accordance with the proposed rules below as if the price of the Pilot Security had not dropped below $1.00. However, if the Closing Price of a Pilot Security on any given business day is below $1.00, such Pilot Security would be moved out of its respective Pilot Test Group into the control group (which consists of Pilot Securities not placed into a Pilot Test Group), and may then be quoted and traded at any price increment that is currently permitted by Exchange rules for the remainder of the Pilot Period. Notwithstanding anything contained herein to the contrary, the Exchange proposes that, at all times during the Pilot Period, Pilot Securities (whether in the control group or any Pilot Test Group) would continue to be subject to the data collection rules, which are enumerated in Rule 11.340(b).

The Exchange proposes Rules 11.340(c)(1)–(3), which would require members to comply with the specific quoting and trading obligations for each Pilot Test Group under the Plan. With regard to Pilot Securities in Test Group One, proposed Rule 11.340(c)(1) would provide that no member may display, rank, or accept from any person any displayable or non-displayable bids or offers, orders, or indications of interest in increments other than $0.05. However, orders priced to trade at the midpoint of the National Best Bid and National Best Offer (''NBBO'') or Best Protected Bid and Best Protected Offer (''PBBO'') and orders entered in a Participant-operated retail liquidity program [27] may be ranked and accepted in increments of less than $0.05. Pilot Securities in Test Group One may continue to trade at any price increment that is currently permitted by Rule 11.210.[28]

With regard to Pilot Securities in Test Group Two, proposed Rule 11.340(c)(2)(A) would provide that such Pilot Securities would be subject to all of the same quoting requirements as described above for Pilot Securities in Test Group One, along with the applicable quoting exceptions. In addition, proposed Rule 11.340(c)(2)(B) would provide that, absent one of the listed exceptions in proposed 11.340(c)(2)(C) enumerated below, no member may execute orders in any Pilot Security in Test Group Two in price increments other than $0.05. The $0.05 trading increment would apply to all trades, including Brokered Cross Trades.

Paragraph (2)(C) would set forth further requirements for Pilot Securities in Test Group Two. Specifically, members trading Pilot Securities in Test Group Two would be allowed to trade in increments less than $0.05 under the following circumstances:

(i) Trading may occur at the midpoint between the NBBO or PBBO;

(ii) Retail Investor Orders may be provided with price improvement that is at least $0.005 better than the PBBO.

(iii) Negotiated Trades may trade in increments less than $0.05; and

(iv) Execution of a customer order to comply with Rule 10.160 [29] following the execution of a proprietary trade by the Member at an increment other than $0.05, where such proprietary trade was permissible pursuant to an exception under the Plan.[30]

Paragraph (3)(A)–(3)(C) would set forth the requirements for Pilot Securities in Test Group Three. Members quoting or trading such Pilot Securities would be subject to all of the same quoting and trading requirements as described above for Pilot Securities in Test Group Two, including the quoting and trading exceptions applicable to Pilot Securities in Test Group Two. In addition, proposed Paragraph (3)(D) would provide for an additional prohibition on Pilot Securities in Test Group Three referred to as the ''Trade-at Prohibition.'' [31] Paragraph (3)(D)(ii) would provide that, absent one of the listed exceptions in proposed Rule 11.340(c)(3)(D)(iii) enumerated below, no member may execute a sell order for a Pilot Security in Test Group Three at the price of a Protected Bid or execute a buy order for a Pilot Security in Test Group Three at the price of a Protected Offer.

Proposed Rule 11.340(c)(3)(D)(iii) would allow members to execute a sell order for a Pilot Security in Test Group Three at the price of a Protected Bid or execute a buy order for a Pilot Security in Test Group Three at the price of a Protected Offer if any of the following circumstances exist:

a. The order is executed as agent or riskless principal by an independent trading unit, as defined under Rule 200(f) of Regulation SHO,[32] of a Trading Center within a Member that has a displayed quotation as agent or riskless principal, via either a processor or an SRO Quotation Feed, at a price equal to

certain provisions of the Plan related to quoting and trading. *See* letter from Elizabeth K. King, NYSE, to Brent J. Fields, Secretary, Commission, dated October 14, 2015 (the ''October Exemption Request''). FINRA, also on behalf of the Plan Participants, submitted a separate letter to Commission requesting additional exemptions from certain provisions of the Plan related to quoting and trading. *See* letter from Marcia E. Asquith, Senior Vice President and Corporate Secretary, FINRA, to Robert W. Errett, Deputy Secretary, Commission, dated February 23, 2016 (the ''February Exemption Request,'' and together with the October Exemption Request, the ''Exemption Request Letters''). The Commission, pursuant to its authority under Rule 608(e) of Regulation NMS, granted New York Stock Exchange LLC a limited exemption from the requirement to comply with certain provisions of the Plan as specified in the Exemption Request Letters and noted herein. *See* letter from David Shillman, Associate Director, Division of Trading and Markets, Commission to Sherry Sandler, Associate General Counsel, New York Stock Exchange LLC, dated April 25, 2016 (the ''Exemption Letter''). The Exchange is seeking the same exemptions as requested in the Exemption Request Letters, including without limitation, an exemption relating to proposed Rule 11.340(a)(5).

[27] The Exchange notes that it does not operate a retail liquidity program, but has included references to retail liquidity programs operated by other Participants in its rules for the sake of consistency with the Plan.

[28] Rule 11.210 specifies the minimum price variant, or increment, applicable to securities traded on the Exchange.

[29] Rule 10.160 is the Exchange's Prohibition Against Trading Ahead of Customer Orders rule, which is substantially identical to FINRA Rule 5320.

[30] The Exchange proposes to add this exemption to permit members to fill a customer order in a Pilot Security at a non-nickel increment to comply with Rule 10.160 under limited circumstances. Specifically, the exception would allow the execution of a customer order following a proprietary trade by the member at an increment other than $0.05 in the same security, on the same side and at the same price as (or within the prescribed amount of) a customer order owed a fill pursuant to Rule 10.160, where the triggering proprietary trade was permissible pursuant to an exception under the Plan. The Commission granted NYSE an exemption from Rule 608(c) related to this provision. *See* Exemption Letter, *supra* note 26. The Exchange is seeking the same exemptions as requested in the Exemption Request Letters. The Exchange believes such an exception best facilitates the ability of members to continue to protect customer orders while retaining the flexibility to engage in proprietary trades that comply with an exception to the Plan.

[31] Proposed 11.340(c)(3)(D)(i) would define the ''Trade-at Prohibition'' to mean the prohibition against executions by a Trading Center of a sell order for a Pilot Security at the price of a Protected Bid or the execution of a buy order for a Pilot Security at the price of a Protected Offer during regular trading hours.

[32] The Exchange is proposing that, for proposed Rules 11.340 (c)(3)(D)(iii)a. and b., a Trading Center operated by a broker-dealer would mean an independent trading unit, as defined under Rule 200(f) of Regulation SHO, within such broker-dealer. *See* 17 CFR 242.200.

Independent trading unit aggregation is available if traders in an aggregation unit pursue only the particular trading objective(s) or strategy(s) of that aggregation unit and do not coordinate that strategy with any other aggregation unit. Therefore, a Trading Center cannot rely on quotations displayed by that broker dealer from a different independent trading unit. As an example, an agency desk of a broker-dealer cannot rely on the quotation of a proprietary desk in a separate independent trading unit at that same broker-dealer.

the traded-at Protected Quotation, that was displayed before the order was received,[33] but only up to the full displayed size of that independent trading unit's previously displayed quote; [34]

b. The order is executed by an independent trading unit, as defined under Rule 200(f) of Regulation SHO, of a Trading Center within a Member that has a displayed quotation for the account of that Trading Center on a principal (excluding riskless principal) [35] basis, via either a processor or an SRO Quotation Feed, at a price equal to the traded-at Protected Quotation, that was displayed before the order was received, but only up to the full displayed size of that independent unit's previously displayed quote; [36]

c. The order is of Block Size [37] at the time of origin and may not be:

A. an aggregation of non-block orders; or

B. broken into orders smaller than Block Size prior to submitting the order to a Trading Center for execution;

d. The order is a Retail Investor Order executed with at least $0.005 price improvement;

e. The order is executed when the Trading Center displaying the Protected Quotation that was traded at was experiencing a failure, material delay, or malfunction of its systems or equipment;

f. The order is executed as part of a transaction that was not a ''regular way'' contract;

g. The order is executed as part of a single-priced opening, reopening, or closing transaction on the Exchange;

h. The order is executed when a Protected Bid was priced higher than a Protected Offer in the Pilot Security in Test Group Three;

i. The order is identified as a TA ISO;

j. The order is executed by a Trading Center that simultaneously routed TA ISO or ISOs to execute against the full displayed size of the Protected Quotation that was traded at: [38]

k. The order is executed as part of a Negotiated Trade;

l. The order is executed when the Trading Center displaying the Protected Quotation that was traded at had displayed, within one second prior to execution of the transaction that constituted the Trade-at, a Best Protected Bid or Best Protected Offer, as applicable, for the Pilot Security in Test Group Three with a price that was inferior to the price of the Trade-at transaction;

m. The order is executed by a Trading Center which, at the time of order receipt, the Trading Center had guaranteed an execution at no worse than a specified price (a ''stopped order''), where:

A. The stopped order was for the account of a customer;

B. The customer agrees to the specified price on an order-by-order basis; and

C. The price of the Trade-at transaction was, for a stopped buy order, equal to or less than the National Best Bid in the Pilot Security in Test Group Three at the time of execution or, for a stopped sell order, equal to or greater than the National Best Offer in the Pilot Security in Test Group Three at the time of execution, as long as such order is priced at an acceptable increment; [39]

n. The order is for a fractional share of a Pilot Security in Test Group Three, provided that such fractional share order was not the result of breaking an order for one or more whole shares of a Pilot Security in Test Group Three into orders for fractional shares or was not otherwise effected to evade the requirements of the Trade-at Prohibition or any other provisions of the Plan; or

o. The order is to correct a bona fide error, which is recorded by the Trading Center in its error account.[40] A bona fide error is defined as:

[33] The Exchange is proposing to adopt this limitation to ensure that a Trading Center does not display a quotation after the time of order receipt solely for the purpose of trading at the price of a protected quotation without routing to that protected quotation.

[34] This proposed exception to Trade-at would allow a Trading Center to execute an order at the Protected Quotation in the same capacity in which it has displayed a quotation at a price equal to the Protected Quotation and up to the displayed size of such displayed quotation.

[35] As described above, proposed Rule 11.340(c)(3)(D)(iii)a. would establish the circumstances in which a Trading Center displaying an order as riskless principal would be permitted to Trade-at the Protected Quotation. Accordingly, the Exchange proposes that proposed Rule 11.340(c)(3)(D)(iii)b. would exclude such circumstances.

[36] The display exceptions to Trade-at set forth in proposed Rules 11.340 (c)(3)(D)(iii)a. and b. would not permit a broker-dealer to trade on the basis of interest it is not responsible for displaying. In particular, a broker-dealer that matches orders in the over-the-counter market shall be deemed to have ''executed'' such orders as a Trading Center for purposes of proposed Rule 11.340. Accordingly, if a broker-dealer is not displaying a quotation at a price equal to the Protected Quotation, it could not submit matched trades to an alternative trading center (''ATS'') that was displaying on an agency basis the quotation of another ATS subscriber. However, a broker-dealer that is displaying, as principal, via either a processor or an SRO Quotation Feed, a buy order at the protected bid, could internalize a customer sell order up to its displayed size. The display exceptions would not permit a non-displayed Trading Center to submit matched trades to an ATS that was displaying on an agency basis the quotation of another ATS subscriber and confirmed that a broker-dealer would not be permitted to trade on the basis of interest that it is not responsible for displaying.

[37] ''Block Size'' is defined in the Plan as an order (1) of at least 5,000 shares or (2) for a quantity of stock having a market value of at least $100,000.

[38] In connection with the definition of a Trade-at ISO proposed in Rule 11.340 (a)(1)(D), this exception refers to the Trading Center that routed the ISO.

[39] The stopped order exemption in Rule 611 of Regulation NMS applies where ''[t]he price of the trade-through transaction was, for a stopped buy order, lower than the national best bid in the NMS stock at the time of execution or, for a stopped sell order, higher than the national best offer in the NMS stock at the time of execution'' (*see* 17 CFR 242.611(b)(9)). The Trade-at stopped order exception applies where ''the price of the Trade-at transaction was, for a stopped buy order, equal to the national best bid in the Pilot Security at the time of execution or, for a stopped sell order, equal to the national best offer in the Pilot Security at the time of execution'' (*see* Plan, Section VI(D)(12)).

To illustrate the application of the stopped order exemption as it currently operates under Rule 611 of Regulation NMS and as it is currently proposed for Trade-at, assume the National Best Bid is $10.00 and another protected quote is at $9.95. Under Rule 611 of Regulation NMS, a stopped order to buy can be filled at $9.95 and the firm does not have to send an ISO to access the protected quote at $10.00 since the price of the stopped order must be lower than the National Best Bid. For the stopped order to also be executed at $9.95 and satisfy the Trade-at requirements, the Trade-at exception would have to be revised to allow an order to execute at the price of a protected quote which, in this case, could be $9.95.

Based on the fact that a stopped order would be treated differently under the Rule 611 of Regulation NMS exception than under the Trade-at exception in the Plan, the Exchange believes that it is appropriate to amend the Trade-at stopped order exception in the Plan to ensure that the application of this exception would produce a consistent result under both Regulation NMS and the Plan. Therefore, the Exchange proposes in this proposed Rule 11.340(c)(3)(D)(iii)m. to allow a transaction to satisfy the Trade-at requirement if the stopped order price, for a stopped buy order, is equal to or less than the National Best Bid, and for a stopped sell order, is equal to or greater than the National Best Offer, as long as such order is priced at an acceptable increment. The Commission granted NYSE an exemption from Rule 608(c) related to this provision. *See* Exemption Letter, *supra* note 26. The Exchange is seeking the same exemptions as requested in the Exemption Request Letters.

[40] The exceptions to the Trade-at requirement set forth in the Plan and in the Exchange's proposed Rule 11.340(c)(3)(D)(iii) are, in part, based on the exceptions to the trade-through requirement set forth in Rule 611 of Regulation NMS, including exceptions for an order that is executed as part of a transaction that was not a ''regular way'' contract, and an order that is executed as part of a single-priced opening, reopening, or closing transaction by the Trading Center (*see* 17 CFR 242.611(b)(2) and (b)(3)). Following the adoption of Rule 611 of Regulation NMS and its exceptions, the Commission issued exemptive relief that created exceptions from Rule 611 of Regulation NMS for certain error correction transactions. *See* Securities Exchange Act Release No. 55884 (June 8, 2007), 72 FR 32926 (June 14, 2007); Securities Exchange Act Release No. 55883 (June 8, 2007), 72 FR 32927 (June 14, 2007). The Exchange has determined that it is appropriate to incorporate this additional exception to the Trade-at Prohibition, as this exception is equally applicable in the Trade-at context.

Accordingly, the Exchange is proposing to exempt certain transactions to correct bona fide errors in the execution of customer orders from the

Continued

A. The inaccurate conveyance or execution of any term of an order including, but not limited to, price, number of shares or other unit of trading; identification of the security; identification of the account for which securities are purchased or sold; lost or otherwise misplaced order tickets; short sales that were instead sold long or vice versa; or the execution of an order on the wrong side of a market:

B. The unauthorized or unintended purchase, sale, or allocation of securities, or the failure to follow specific client instructions;

C. The incorrect entry of data into relevant systems, including reliance on incorrect cash positions, withdrawals, or securities positions reflected in an account; or

D. A delay, outage, or failure of a communication system used to transmit market data prices or to facilitate the delivery or execution of an order.

Finally, Proposed Rule 11.340 (c)(3)(D)(iv) would prevent members from breaking an order into smaller orders or otherwise effecting or executing an order to evade the requirements of the Trade-at Prohibition or any other provisions of the Plan.

Exchange Handling of Orders During the Pilot Period for the Plan

Proposed paragraph (d) of Rule 11.340 would set forth the Exchange's specific procedures for handling, executing, repricing and displaying certain orders and modifiers applicable to Pilot Securities. Unless otherwise indicated, paragraph (d) of Rule 11.340 would apply to orders in all three Test Group Pilot Securities, but not to Pilot Securities included in the Control Group.

Trade-at Prohibition, subject to the conditions set forth by the SEC's order exempting these transactions from Rule 611 of Regulation NMS. The Commission granted New York Stock Exchange LLC an exemption from Rule 608(c) related to this provision. *See* Exemption Letter, *supra* note 26. The Exchange is seeking the same exemptions as requested in the Exemption Request Letters.

As with the corresponding exception under Rule 611 of Regulation NMS, the bona fide error would have to be evidenced by objective facts and circumstances, the Trading Center would have to maintain documentation of such facts and circumstances and record the transaction in its error account. To avail itself of the exemption, the Trading Center would have to establish, maintain, and enforce written policies and procedures reasonably designed to address the occurrence of errors and, in the event of an error, the use and terms of a transaction to correct the error in compliance with this exemption. Finally, the Trading Center would have to regularly surveil to ascertain the effectiveness of its policies and procedures to address errors and transactions to correct errors and take prompt action to remedy deficiencies in such policies and procedures. *See* Securities Exchange Act Release No. 55884 (June 8, 2007), 72 FR 32926 (June 14, 2007).

The Exchange is proposing to adopt new Rule 11.340(d)(1) to make it clear that it will not accept an order in a Test Group Pilot Security that is not entered in the Pilot's minimum increment of $0.05, applied to all orders that require a price and do not otherwise qualify for an exemption to the $0.05 minimum price increment required by the Plan. The provision will also clarify that IEX will use the $0.05 minimum price increment when the System reprices an order, including when it rounds a derived price up or down.

Trade-at Intermarket Sweep Orders

The Exchange proposes to adopt paragraph (d)(2) to Rule 11.340 to specify that it will accept TA ISOs in all securities, and that TA ISOs must be designated as IOC, may not be Minimum Quantity Orders and do not route. If a TA ISO is entered in a security that is not in Test Group Three, it will be treated as an ISO in accordance with Rule 11.190(b)(12). The Exchange believes that accepting TA ISOs in all securities will reduce complexity for Members.

Order Price Collars and Restraints

In order to facilitate compliance with the Plan, paragraph (d)(3) of Rule 11.340 would provide that Order Price Collars and Restraints, as specified in Rule 11.190(f), that are not in the permissible trading price increment for the security will be rounded down (in the case of an order to buy) or up (in the case of an order to sell) to the nearest price in the permissible trading price increment for that security. The Exchange believes that rounding, as described, will facilitate its compliance with the requirements of the Plan.

Retail Liquidity Programs

As proposed, paragraph (d)(4) specifies that the Exchange does not operate a retail liquidity program, but that if IEX receives an order from a Member that is identified as a Retail Investor Order or a retail liquidity providing order, IEX will accept such order if it is in a permissible increment, but will disregard identification as a Retail Investor Order or a retail liquidity providing order.

Test Group Three Securities

As proposed, subparagraph (d)(5) of Rule 11.340 describes how the Exchange will handle certain types of orders in Pilot Securities in Test Group Three to avoid possible execution on the Exchange of a non-displayed order at the price of a Protected Quote in a Test Group Three Pilot Security unless the incoming order otherwise qualifies for an exception to the Trade-at prohibition.

Currently, pursuant to Rule 11.230(a)(4), an incoming or active order to sell (buy) may trade with non-displayed orders to buy (sell) at the price of protected bids (offers) without routing to such protected bids (offers). Subparagraph (d)(5)(A) provides that an incoming or active order to sell (buy) will trade with displayed orders to buy (sell) and route, if consistent with the terms of the order, to protected bids (offers) before trading with non-displayed orders at the same price. After trading or routing, or both, any remaining balance of an incoming order will trade with any non-displayed orders at the same price, so long as the incoming order has satisfied all same price Protected Quotations or an exception applies. This provision thus enables the Exchange to comply with the Trade-at restriction of the Plan by providing for satisfaction of Protected Quotations before executing non-displayed orders at the same price.

Similarly, subparagraph (d)(5)(B) of Rule 11.340 specifies that an ISO to buy (sell) will not trade with non-displayed interest to sell (buy) that is the same price as the protected offer (bid) unless the limit price of such ISO is higher (lower) than the price of the protected offer (bid), or another exception applies. This would be permitted under the Trade-at Prohibition because to enter an ISO to buy (sell) at a price higher (lower) than the protected offer (protected bid), the entering firm would have been required to simultaneously route limit orders to execute against the full size of the protected offer (protected bid).

Rule 11.340(5)(C) specifies how the Exchange will handle certain non-displayed orders to assure that such orders would not trade at the price of a Protected Quotation. A non-displayed order is an order that is not displayed on the Exchange, and may be a market order, limit order or pegged order. Pegged orders must be non-displayed. Reserve Orders are orders with a displayed and non-displayed portion.

Currently, a non-displayed order is eligible to trade with a resting order on the Order Book on entry or to post to the Order Book and trade with an incoming order, depending on market conditions and the terms of each such order.[41] Non-displayed orders (except for Discretionary Peg Orders and Primary Peg Orders), including the non-displayed portion of a Reserve Order, may post and rest on the Order Book at a price that locks contra-side liquidity at

[41] *See* Rule 11.230 generally.

the Midpoint Price, and may execute against an incoming order at such price if the resting order's conditions are met. For example, if the NBBO is locked at $10.10 and a midpoint peg buy order is resting at $10.10 it will trade with an incoming sell order at $10.10.

Accordingly, to prevent non-displayed resting buy (sell) orders from executing at the price of a Protected Offer (Bid), subparagraph (d)(5)(C) provides that, if after being posted to the Order Book, the NBBO or PBBO changes so that such a non-displayed order will no longer be executable at its posted price due to the requirements of Regulation NMS or the Plan, as applicable, the non-displayed order will be repriced consistent with subparagraph (d)(5)(C) and IEX Rule 11.190(h).

The provisions of subparagraphs (d)(5)(C)(i) and (ii) describe the manner in which nondisplayed orders will function when the order's booked price is locked or crossed by the PBBO. These provisions change the manner in which nondisplayed limit and midpoint peg orders function. For Discretionary Peg orders and primary peg orders, the provision modifies existing functionality whereby such orders are subject to repricing with reference to the NBBO so that in Test Group Three, such orders will reprice with reference to the PBBO as well.

Specifically, subparagraph (d)(5)(C)(i) provides that a non-displayed resting buy (sell) order (including the non-displayed portion of a reserve order) will not execute at the price of a Protected Bid (Offer) on an away trading center unless the incoming order qualifies for an exception to the Trade-at Prohibition.

Subparagraph (d)(5)(c)(ii) provides that a non-displayable order (including the non-displayed portion of a reserve order) that, at the time of entry, could not be executed at its full limit price, adjusted by applicable peg instructions, if any, market conditions and all applicable rules and regulations, will be repriced and ranked by the System on the Order Book non-displayed pursuant to the Midpoint Price Constraint at the current Midpoint Price (''Permitted Non-Displayed Group 3 Book Price''). In situations where the resulting price for a buy (sell) order is equal to the lowest Protected Offer (highest Protected Bid), the Permitted Non-Displayed Group 3 Book Price will be equal to one (1) MPV below (above) the lowest Protected Offer (highest Protected Bid). Non-displayed orders (including non-displayed portions of reserve orders) resting on the Order Book whose booked price becomes locked or crossed by the PBBO will be re-priced by the System at a Permitted Non-Displayed Group 3 Book Price. To reflect increases (declines) in the lowest Protected Offer (highest Protected Bid), the System will continue to re-price a resting non-displayed buy (sell) order to be equal to the higher (lower) of the order's limit price or a Permitted Non-Displayed Group 3 Book Price.

Block Size Orders

Finally, the Exchange proposes to specify how it will implement the Block Size exception to the Trade-at prohibition. Specifically, pursuant to subparagraph (d)(5)(D) of Rule 11.340, the Exchange will utilize the Block Size exception under the following circumstances: If a non-routable order is of at least Block Size and the resulting execution upon entry against the Order Book is for at least Block Size, or a routable order of at least Block Size is sent to the Order Book and the resulting execution upon entry is for at least Block Size.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[42] in general and furthers the objectives of Sections 6(b)(5) of the Act [43] in particular, in that it is designed 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. The Exchange believes that the proposed rule change is consistent with the Act because it is designed to ensure that the Exchange and its members would be in compliance with a Plan approved by the Commission pursuant to an order issued by the Commission in reliance on Section 11A of the Act,[44] and also because it allows the Exchange to make changes to its handling of orders and modifiers necessary to implement the requirements of the Plan on its System. Such approved Plan gives the Exchange authority to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with applicable quoting and trading requirements specified in the Plan. The Exchange believes that the proposed rule change is consistent with the authority granted to it by the Plan to establish specifications and procedures for the implementation and operation of the Plan that are consistent with the provisions of the Plan. Likewise, the Exchange believes that the proposed rule change provides interpretations of the Plan that are consistent with the Act, in general, and furthers the objectives of the Act, in particular.

Furthermore, the Exchange is a Participant under the Plan and subject, itself, to the provisions of the Plan. The proposed rule change ensures that the Exchange's systems would not display or execute trading interests outside the requirements specified in such Plan. The proposal would also help allow market participants to continue to trade NMS Stocks within quoting and trading requirements that are in compliance with the Plan, with certainty on how certain orders and trading interests would be treated. This, in turn, will help encourage market participants to continue to provide liquidity in the marketplace.

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 notes that the proposed rule change implements the provisions of the Plan, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. The proposed changes are being made to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the trading and quoting requirements specified in the Plan, of which other equities exchanges are also Participants. Other competing national securities exchanges are subject to the same trading and quoting requirements specified in the Plan, and must take the same steps that the Exchange has to conform its existing rules to the requirements of the Plan. Therefore, the proposed changes would not impose any burden on competition, while providing certainty of treatment and execution of trading interests on the Exchange to market participants in NMS Stocks that are acting in compliance with the requirements specified in the Plan.

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.

[42] 15 U.S.C. 78f(b).

[43] 15 U.S.C. 78f(b)(5).

[44] 15 U.S.C. 78k–1.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[45] and Rule 19b–4(f)(6) thereunder.[46]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

The Exchange has requested that the SEC waive the 30-day operative period. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to implement the proposed rules immediately thereby preventing delays in the implementation of the Plan. The Commission notes that the Plan is scheduled to start on October 3, 2016. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.[47]

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR– IEX–2016–16 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–2016–16. 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–2016–16, and should be submitted on or before November 1, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[48]

Robert W. Errett,

Deputy Secretary.

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[45] 15 U.S.C. 78s(b)(3)(A).

[46] 17 CFR 240.19b–4(f)(6).

[47] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[48] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79040; File No. SR–BOX–2016–49]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule on the BOX Market LLC (''BOX'') Options Facility

October 4, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 30, 2016, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. 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

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the Fee Schedule to amend the Fee Schedule [sic] on the BOX Market LLC (''BOX'') options facility. While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on October 1, 2016. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

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 Exchange 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(2).