

U.S. markets while FINRA and the other SROs study the design and operation of the MWCB mechanism and the LULD Plan during the period of volatility in the Spring of 2020.

Further, FINRA understands that other SROs will file proposals to extend their rules regarding the market-wide circuit breaker pilot. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

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

FINRA has designated this rule filing as non-controversial under Section 19(b)(3)(A)¹² of the Act and Rule 19b-4(f)(6)¹³ thereunder. Because the 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 and Rule 19b-4(f)(6) thereunder.¹⁴

A proposed rule change filed under Rule 19b-4(f)(6)¹⁵ normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁶ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. FINRA has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. Extending the pilot for an additional year will allow the uninterrupted operation of the existing pilot while FINRA, and the other SROs conduct a study of the MWCB mechanism in consultation with market participants and determine if any additional changes to the MWCB

mechanism should be made, including consideration of rules and procedures for the periodic testing of the MWCB mechanism with industry participants. Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission hereby designates the proposed rule change to be operative upon filing.¹⁷

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 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. Please include File Number SR-FINRA-2020-033 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-FINRA-2020-033. 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 website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the

proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FINRA-2020-033 and should be submitted on or before November 12, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

J. Matthew DeLesDernier,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-90197; File No. SR-IEX-2020-16]

Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Add an Offset Peg Order Type

October 15, 2020.

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 5, 2020, 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.

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ In addition, Rule 19b-4(f)(6)(iii) requires FINRA to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived this requirement.

¹⁵ *Id.*

¹⁶ 17 CFR 240.19b-4(f)(6)(iii).

¹⁷ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁸ 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.

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

Pursuant to the provisions of Section 19(b)(1) under the Act,⁴ and Rule 19b-4 thereunder,⁵ IEX is filing with the Commission a proposed rule change to add a new order type (a "Offset Peg" or "O-Peg" order) that pegs to the primary quote,⁶ plus or minus an offset amount. The Exchange has designated this rule change as "non-controversial" under Section 19(b)(3)(A) of the Act⁷ and provided the Commission with the notice required by Rule 19b-4(f)(6) thereunder.⁸

The text of the proposed rule change is available at the Exchange's website at www.iextrading.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statement [sic] 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 amend IEX Rule 11.190 to add a new Offset Peg or O-Peg order type that pegs to the primary quote,⁹ plus or minus an offset amount specified by the User.¹⁰ In addition, the Exchange proposes two accommodating amendments to IEX Rule 11.190 to describe how O-Peg orders will behave when executed at the Midpoint Price¹¹ and in locked and crossed markets.

Currently, the Exchange offers three types of pegged orders—primary peg,

midpoint peg and Discretionary Peg¹²—each of which are non-displayed orders that upon entry into the System¹³ and while resting on the Order Book,¹⁴ are pegged to a reference price based on the national best bid and offer ("NBBO") and the price of the order is automatically adjusted by the System in response to changes in the NBBO.

The Exchange proposes to add a new type of pegged order—an Offset Peg order—that is a non-displayed pegged order that upon entry and when posting to the Order Book, the price of the order is automatically adjusted by the System to be equal to and ranked at the less aggressive of the primary quote (*i.e.*, the NBB¹⁵ for buy orders and NBO¹⁶ for sell orders) plus or minus an offset amount specified by the User or the order's limit price, if any. While resting on the Order Book, (i) a buy order is automatically adjusted by the System in response to changes in the NBB plus or minus the offset amount up to the order's limit price, if any; and (ii) a sell order is automatically adjusted by the System in response to changes in the NBO plus or minus the offset amount down to the order's limit price, if any; and (iii) in locked and crossed markets, slide one MPV¹⁷ less aggressive than the locking price or crossing price (*i.e.*, the lowest Protected Offer¹⁸ for buy orders and the highest Protected Bid¹⁹ for sell orders).²⁰ Further, an Offset Peg order would not be eligible to trade when the market is locked or crossed, either upon order entry or when resting on the Order Book.

While Offset Peg orders would not be limited to trading more aggressively than the primary quote, based on informal feedback from Members, IEX understands that Offset Peg orders would be useful to market participants seeking to trade between the primary quote and the Midpoint Price.

Accordingly, IEX proposes to amend subparagraph (b)(13) of IEX Rule 11.190, which is currently reserved, to add the Offset Peg order. As proposed, an Offset Peg order:

(A) Must be a pegged order.

¹² IEX has two other order types that are based on the discretionary peg order type: The Retail Liquidity Provider order and the Corporate Discretionary Peg order. See IEX Rule 11.190(b)(14) and (16).

¹³ See IEX Rule 1.160(nn).

¹⁴ See IEX Rule 1.160(p).

¹⁵ See IEX Rule 1.160(u).

¹⁶ See IEX Rule 1.160(u).

¹⁷ See IEX Rule 11.210.

¹⁸ See IEX Rule 1.160(bb).

¹⁹ See IEX Rule 1.160(bb).

²⁰ As with all pegged orders, each time the price of an Offset Peg order is adjusted by the System it receives a new timestamp, as described in IEX Rule 11.220.

(B) Must have a TIF of DAY, GTT, GTX, or SYS, as described in IEX Rule 11.190(a)(3).

(C) Is not eligible for routing pursuant to IEX Rule 11.230(b) and (c)(2).

(D) May not be an ISO, as defined in paragraph (12) above.

(E) May be submitted with a limit price or without a limit price (an "unpriced pegged order").

(F) Is eligible to trade only during the Regular Market Session. As provided in IEX Rule 11.190(a)(3)(E)(iii), any pegged order marked with a TIF of DAY that is submitted to the System before the opening of the Regular Market Session will be queued by the System until the start of the Regular Market Session; any pegged order that is marked with a TIF other than DAY will be rejected when submitted to the System during the Pre-Market Session. Any pegged order submitted into the System after the closing of the Regular Market Session will be rejected.

(G) May be a MQTY, as defined in paragraph (11) below.

(H) Is not eligible to display. Pegged orders are always non-displayed.

(I) May be an odd lot, round lot, or mixed lot.

(J) Is eligible to be invited by the System to Recheck as described in IEX Rule 11.230(a)(4)(D).

(K) Is not eligible to trade when the market is locked or crossed.

(L) May be submitted with an offset amount that is either aggressive or passive compared to the primary quote. If the offset amount would result in the price of an Offset Peg order being more aggressive than the Midpoint Price, the offset amount will be reduced so that the order is priced at the Midpoint Price until such time as the full value of the offset amount will not result in the price of the Offset Peg order being more aggressive than the Midpoint Price, except when the order is an active order.²¹ If the offset amount would result in the price of an Offset Peg order being in an increment smaller than specified in IEX Rule 11.210, the price of a buy order will be rounded down and the price of a sell order will be rounded up to the nearest permissible increment. If no offset amount is specified, the System will consider the offset amount to be zero.

In addition, the Exchange proposes two accommodating amendments to other IEX rules. First, IEX Rule 11.190(a)(3) would be amended to specify that an Offset Peg may be executed in sub-pennies if necessary when the execution is at or constrained to the midpoint and the order executes

²¹ See IEX Rule 1.160(b).

⁴ 15 U.S.C. 78s(b)(1).

⁵ 17 CFR 240.19b-4.

⁶ The primary quote is the national best bid for a buy order or the national best offer for a sell order. See IEX Rule 1.160(u).

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4.

⁹ See *supra* note 6.

¹⁰ See IEX Rule 1.160(qq).

¹¹ See IEX Rule 1.160(t).

at the Midpoint Price. This is consistent with the fact that midpoint peg orders and Discretionary Peg orders can execute at a Midpoint Price in sub-pennies.²² Second, the Exchange proposes amendments to IEX Rule 11.190(h) to describe the manner in which Offset Peg orders will operate in locked and crossed markets. Specifically, when the market becomes locked, Offset Peg orders resting on or posting to the Order Book will be priced at the less aggressive of the locking price plus or minus an offset amount or the order's limit price, if any.²³ However, an Offset Peg with an offset amount that would otherwise result in the order being priced more aggressive than the locking price will be priced at the locking price pursuant to the Midpoint Price Constraint. When the market becomes crossed, the Exchange considers the Midpoint Price to be indeterminable,²⁴ and resting Offset Peg orders that would otherwise be subject to the Midpoint Price Constraint pursuant to IEX Rule 11.190(h)(3)(D) (*i.e.*, because the price of the order would be more aggressive than the Midpoint Price) will be priced to be no more aggressive than the crossing price, the lowest Protected Offer for buy orders and the highest Protected Bid for sell orders. Further, as proposed, Offset Peg orders resting on or posting to the Order Book while the market is crossed are priced at the least aggressive of (1) the crossing price (the lowest Protected Offer for buy orders and the highest Protected Bid for sell orders) plus or minus an offset amount, (2) the crossing price (the lowest Protected Offer for buy orders and the highest Protected Bid for sell orders), or (3) the order's limit price, if any.

The methodology for pricing Offset Peg orders during locked and crossed markets is designed to price such orders at the least aggressive price that is consistent with the terms of the order so as to avoid exacerbating the lock or cross.

In addition, Offset Peg orders will not be eligible to trade when the market is locked or crossed, and an Offset Peg order that would otherwise be eligible to trade against an active order will surrender its precedence on the Order Book for the duration of the System

processing the current active order, pursuant to IEX Rule 11.220(a)(5).

The manner in which Offset Peg orders will operate in locked and crossed markets (as proposed) is similar to the manner in which other pegged order types operate, except that other pegged orders are eligible to trade when the market is locked or crossed. Offset Peg orders are designed to enable a market participant to capture part of the spread between the NBBO; when the NBBO is locked or crossed there is uncertainty as to the spread. Consequently, the Exchange believes that Offset Peg orders should not trade in such circumstances.

The Exchange notes that for many years other national securities exchanges have offered order types that peg to the NBB and/or NBO plus or minus an offset amount.²⁵ In this regard, the Exchange notes that this proposed rule change is substantially similar to order types offered by the Nasdaq Stock Market LLC ("Nasdaq"), NYSE Arca, Inc. ("Arca") and CBOE BZX Exchange, Inc. ("BZX"), each of which offer a nondisplayed primary or market pegged order type or attribute that pegs to the inside quotation on the same side of the market (*i.e.*, the NBB for a buy order and the NBO for a sell order) and may also specify an aggressive or passive offset amount.²⁶

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,²⁷ in general, and furthers the objectives of Section 6(b)(5),²⁸ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Specifically, the Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest because it is designed to increase competition among execution venues by providing an additional pegged order type that market participants can use to trade at an offset

to the primary quote, as described in the Purpose section and thereby enable the Exchange to better compete with order types on other national securities exchanges that offer similar features to market participants.

Further, IEX believes that the proposal is consistent with the protection of investors and the public interest in that the Offset Peg order type would provide additional flexibility to market participants in their use of pegging orders. As described in the Purpose section, IEX already offers several different types of pegging orders that trade with reference to the primary quote (Discretionary Peg and primary peg), at the Midpoint Price (Midpoint Peg), and in some cases with the ability to also exercise price discretion in specified circumstances (Discretionary Peg and primary peg). As proposed, the Offset Peg order would function in a similar manner but provide flexibility to market participants to specify an offset to the primary quote. Such functionality could be used for a number of purposes, including to mitigate risk by posting an order at a price that is lower or higher than the prevailing NBB or NBO. Although broker-dealers could implement similar functionality on their own by consuming market data feeds and sending limit orders to the Exchange at prices that are offset from the NBBO, implementing this functionality through an exchange order type ensures that it is widely available to market participants on a fair and non-discriminatory basis. At the same time, the offset instruction would be offered on a purely voluntary basis, and with flexibility for Users to choose the amount of any offset, thereby providing flexibility to continue using current pegged order types without a User specified offset and to choose different offsets based on a User's specific needs. The Exchange does not believe that providing flexibility to Users to select the amount of any offset raises any significant or novel concerns, since similar offset functionality is already available on other national securities exchanges, as discussed in the Purpose section.²⁹

Further, IEX believes that it is consistent with the Act to not permit an Offset Peg order to trade when the market is locked or crossed. While IEX's current pegged order types are eligible to trade in such circumstances, they are repriced away from the locking and crossing price (except for Midpoint Peg orders in a locked market which continue to be priced at the locking Midpoint Price) which is designed to

²² An execution at a sub-penny Midpoint Price is not prohibited by Rule 612 under Regulation NMS so long as the execution did not result from an impermissible sub-penny order or quotation. See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37556 (June 29, 2005) (File No. S7-10-04) ("NMS Adopting Release").

²³ See IEX Rule 11.190(h)(3)(C).

²⁴ See IEX Rule 11.190(h)(3)(D).

²⁵ See, e.g., Securities Exchange Act Release No. 52449 (September 15, 2005), 70 FR 55647 (September 22, 2005) (File No. SR-NASD-2005-107).

²⁶ See Nasdaq Rule 4703(d), NYSE Arca Rule 7.31-E(h)(1), and Cboe BZX Rule 11.9(c)(8)(A).

²⁷ 15 U.S.C. 78f(b).

²⁸ 15 U.S.C. 78f(b)(5).

²⁹ See *supra* note 26.

reduce the incidence of trading when the market is locked or crossed. As noted in the Purpose section, Offset Peg orders are designed to enable a market participant to capture part of the spread between the NBBO; when the NBBO is locked or crossed there is uncertainty as to the spread. Consequently, the Exchange believes that Offset Peg orders should not trade in such circumstances.³⁰ Moreover, similar order types on other national securities exchange are explicitly not eligible to trade in locked and crossed markets.³¹ Additionally, IEX believes that the methodology for pricing Offset Peg orders during locked and crossed markets is consistent with the Act because it is designed to price such orders at the least aggressive price that is consistent with the terms of the order so as to avoid exacerbating the lock or cross.

In addition, the Exchange believes that it is consistent with the Act to round the price of a buy order down and a sell order up to the nearest permissible increment if the offset amount would result in the price of an Offset Peg order being in an increment smaller than specified in IEX Rule 11.210. Rounding assures that IEX is compliant with Regulation NMS Rule 612³² and IEX Rule 11.210. Moreover, this approach is consistent with the way other national

³⁰ In contrast, IEX's other pegged order types are designed to enable a market participant to capture liquidity pursuant to the terms of the order type so the Exchange has chosen not to impose a restriction on trading in locked and crossed markets.

³¹ See, e.g., NYSE Arca Rule 7.31–E(h)(1)(B).

³² See 17 CFR 242.612 and FAQs 8, 1, and 2 in Division of Market Regulation: Responses to Frequently Asked Questions Concerning Rule 612 (Minimum Pricing Increment) of Regulation NMS, available at <https://www.sec.gov/divisions/marketreg/subpenny612faq.htm> which provides that although exchanges (and broker-dealers) may not accept and round orders in NMS stocks explicitly priced in sub-penny increments (FAQs 8 and 1), they may accept such orders when the order is not "explicitly" priced in an impermissible sub-penny increment, meaning that a calculation must be performed to obtain the price of the order, in which case the exchange or broker-dealer may round the price of the stock to determine the "actual explicit price for the order." (FAQ 2). IEX believes that Offset Peg orders would not be explicitly priced in sub-penny increments even if the offset amount specified is in a sub-penny increment because the Exchange would need to perform a calculation to obtain the price of the order by applying the offset amount to the NBB or NBO as applicable. Accordingly, IEX believes that rounding as proposed is consistent with Rule 612 under Regulation NMS and relevant FAQs, which provides that exchanges (and broker-dealers) may not accept and round orders in NMS stocks explicitly priced in sub-penny increments (FAQs 8 and 1), except for when the order is not "explicitly" priced in an impermissible sub-penny increment, in which case the exchange may round the price of the stock to determine the "actual explicit price for the order." (FAQ 2).

securities exchanges handle pegged orders.³³

Thus, IEX does not believe that the proposed changes raise any new or novel material issues that have not already been considered by the Commission in connection with existing order types offered by the IEX and other national securities exchanges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange 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. To the contrary, the proposal is a competitive response to similar order types available on other exchanges.

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. Competing exchanges have and can continue to adopt similar order types, subject to the SEC rule change process, as discussed in the Purpose and Statutory Basis sections.³⁴

The Exchange also does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. All Members would be eligible to use an Offset Peg order type on the same terms.

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 Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A)³⁵ of the Act and Rule 19b–4(f)(6)³⁶ thereunder. Because the 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

³³ See, e.g., Cboe U.S. Equities FIX Specification (Version 2.8.18) describing treatment of Tag 211 regarding "Pegged Difference" available at https://cdn.cboe.com/resources/membership/Cboe_US_Equities_FIX_Specification.pdf.

³⁴ See *supra* notes 26 and 29.

³⁵ 15 U.S.C. 78s(b)(3)(A).

³⁶ 17 CFR 240.19b–4(f)(6).

become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.

The Exchange believes that the proposed rule change meets the criteria of subparagraph (f)(6) of Rule 19b–4³⁷ because it is substantially similar to order types previously approved or considered by the Commission and as discussed in the Statutory Basis and Burden on Competition sections.³⁸ Thus, IEX does not believe that the proposed changes raise any new or novel material issues that have not already been considered by the Commission.

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)³⁹ 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. Please include File Number SR–IEX–2020–16 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–2020–16. 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 website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent

³⁷ 17 CFR 240.19b–4(f)(6).

³⁸ See *supra* notes 26, 29, and 34.

³⁹ 15 U.S.C. 78s(b)(2)(B).

amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-IEX-2020-16, and should be submitted on or before November 12, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁰

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-90206; File No. SR-BX-2020-031]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Current Pilot Program Related to BX Rule 11890

October 15, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 13, 2020, Nasdaq BX, Inc. ("BX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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

The Exchange proposes to extend the current pilot program related to BX Rule 11890 (Clearly Erroneous Transactions) to the close of business on April 20, 2021.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/bx/rules>, 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 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 statements may be examined at the places specified in Item IV below. The Exchange 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 purpose of the proposed rule change is to extend the current pilot program related to Rule 11890, Clearly Erroneous Transactions, to the close of business on April 20, 2021. The pilot program is currently due to expire on October 20, 2020.

On September 10, 2010, the Commission approved, on a pilot basis, changes to Rule 11890 that, among other things: (i) Provided for uniform treatment of clearly erroneous execution reviews in multi-stock events involving twenty or more securities; and (ii) reduced the ability of the Exchange to deviate from the objective standards set forth in the rule.³ In 2013, the Exchange adopted a provision designed to address the operation of the Plan.⁴ Finally, in 2014, the Exchange adopted two additional provisions providing that: (i) A series of transactions in a particular

³ See Securities Exchange Act Release No. 62886 (September 10, 2010), 75 FR 56613 (September 16, 2010) (SR-BX-2010-040).

⁴ See Securities Exchange Act Release No. 68818 (February 1, 2013), 78 FR 9100 (February 7, 2013) (SR-BX-2013-010).

security on one or more trading days may be viewed as one event if all such transactions were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information resulting in a severe valuation error for all such transactions; and (ii) in the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of an Exchange, another SRO, or responsible single plan processor in connection with the transmittal or receipt of a trading halt, an Officer, acting on his or her own motion, shall nullify any transaction that occurs after a trading halt has been declared by the primary listing market for a security and before such trading halt has officially ended according to the primary listing market.⁵

These changes were originally scheduled to operate for a pilot period to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility (the "Limit Up-Limit Down Plan" or "LULD Plan").⁶ In April 2019, the Commission approved an amendment to the LULD Plan for it to operate on a permanent, rather than pilot, basis.⁷ In light of that change, the Exchange amended Rule 11890 to untie the pilot program's effectiveness from that of the LULD Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019.⁸ The Exchange later amended Rule 11890 to extend the pilot's effectiveness to the close of business on April 20, 2020,⁹ and subsequently, to the close of business on October 20, 2020.¹⁰

The Exchange now proposes to amend Rule 11890 to extend the pilot's effectiveness for a further six months until the close of business on April 20, 2021. If the pilot period is not either extended, replaced or approved as permanent, the prior versions of paragraphs (a)(2)(C), (c)(1), (b)(i), and (b)(ii) shall be in effect, and the provisions of paragraphs (g) through (i)

⁵ See Securities Exchange Act Release No. 72434 (June 19, 2014), 79 FR 36110 (June 25, 2014) (SR-BX-2014-021).

⁶ See Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (the "Limit Up-Limit Down Release").

⁷ See Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019) (approving Eighteenth Amendment to LULD Plan).

⁸ See Securities Exchange Act Release No. 85613 (April 11, 2019), 84 FR 16077 (April 17, 2019) (SR-BX-2019-009).

⁹ See Securities Exchange Act Release No. 87359 (October 18, 2019), 84 FR 57131 (October 24, 2019) (SR-BX-2019-037).

¹⁰ See Securities Exchange Act Release No. 88505 (March 27, 2020), 85 FR 18626 (April 2, 2020) (SR-BX-2020-005).

⁴⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.