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SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549  
Form 19b-4

File No. \* SR 2022 - \* 04

Amendment No. (req. for Amendments \*)

Filing by Investors' Exchange LLC

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>
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Rule

<input type="checkbox"/>	19b-4(f)(1)	<input type="checkbox"/>	19b-4(f)(4)
<input type="checkbox"/>	19b-4(f)(2)	<input type="checkbox"/>	19b-4(f)(5)
<input type="checkbox"/>	19b-4(f)(3)	<input checked="" type="checkbox"/>	19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010  
Section 806(e)(1) \*

Section 806(e)(2) \*

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934  
Section 3C(b)(2) \*

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

### Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

Proposed Rule Change to Remove the Midpoint Price Constraint on Non-Displayed Limit Orders and Make Conforming Changes.

### Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name \* Nathaniel Last Name \* Kolodny

Title \* Lead Regulation Counsel

E-mail \* nathaniel.kolodny@iextrading.com

Telephone \* (646) 343-2034 Fax

### Signature

Pursuant to the requirements of the Securities Exchange of 1934, Investors' Exchange LLC has duty caused this filing to be signed on its behalf by the undersigned thereunto duty authorized.

Date 04/29/2022

(Title \*)

By Nathaniel Kolodny

Lead Regulation Counsel

(Name \*)

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Nathaniel Kolodny  
Digitally signed by Nathaniel Kolodny  
Date: 2022.04.29 14:41:53 -04'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EDFS website.

**Form 19b-4 Information \***

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Midpoint Price Constraint Removal 19

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

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Midpoint Price Constraint Removal Ex

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2- Notices, Written Comments, Transcripts, Other Communications**

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

**Exhibit 3 - Form, Report, or Questionnaire**

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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Midpoint Price Constraint Removal Ex

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> Investors Exchange LLC (“IEX” or “Exchange”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to remove the midpoint price constraint on non-displayed limit orders and make conforming changes to several rules. The Exchange has designated this rule change as “non-controversial” under Section 19(b)(3)(A) of the Act<sup>3</sup> and provided the Commission with the notice required by Rule 19b-4(f)(6) thereunder.<sup>4</sup>

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1. The text of the proposed rule change is attached as Exhibit 5.

(b) The Exchange does not believe that the proposed rule change will have any direct effect, or any significant indirect effect, on any other Exchange rule in effect at the time of this filing.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

Senior management has approved the proposed rule change pursuant to authority delegated to it by the Board of the Exchange. No further action is required under the Exchange’s governing documents. Therefore, the Exchange’s internal procedures with respect to the proposed rule change are complete.

The persons on the Exchange staff prepared to respond to questions and

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

<sup>2</sup> 17 CFR 240.19b-4.

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

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

comments on the proposed rule change are:

Claudia Crowley  
Chief Regulatory Officer  
Investors Exchange LLC  
917-509-9001

Nathaniel Kolodny  
Lead Regulation Counsel  
Investors Exchange LLC  
646-629-5622

3. Self-Regulatory Organization’s Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

a. Purpose

Currently, IEX Rule 11.190(h)(2) (Non-Displayed Price Sliding) adjusts the price of any non-displayed limit order priced more aggressively than the Midpoint Price<sup>5</sup> to be priced at the Midpoint Price (the “Midpoint Price Constraint”). The Exchange proposes to amend its non-displayed price sliding rule to allow non-displayed limit orders to be priced more aggressively than the Midpoint Price. Specifically, the Exchange proposes to amend IEX Rule 11.190(h)(2) to remove the Midpoint Price Constraint on non-displayed limit orders, thereby allowing non-displayed limit orders to be priced as aggressively as the contra-side Protected Quotation,<sup>6</sup> provided it does not lock IEX’s Order Book.<sup>7</sup> Because this rule change should result in there being more aggressively priced non-displayed liquidity resting on the Exchange, IEX also proposes to amend its Order Execution Recheck<sup>8</sup> rule to increase the circumstances in which a resting non-displayed order may be invited by the System<sup>9</sup> to execute against eligible contra-side liquidity. Additionally, the Exchange proposes to make related changes to IEX Rules 11.190(b) and 11.230(a)(4)(C) to prevent aggressively priced non-displayed limit orders

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<sup>5</sup> See IEX Rule 1.160(t).

<sup>6</sup> See IEX Rule 1.160(bb).

<sup>7</sup> See IEX Rule 1.160(p).

<sup>8</sup> See IEX Rule 11.230(a)(4)(D).

<sup>9</sup> See IEX Rule 1.160(nn).

locking or crossing IEX's displayed Order Book. Finally, the Exchange proposes to make conforming changes to IEX Rules 11.190, 11.220, 11.230, 11.231, 11.232, and 11.340. This proposal would align IEX's non-displayed price sliding rules with those of other national securities exchanges that trade equities, as detailed below.<sup>10</sup>

#### I. Midpoint Price Constraint Removal

Currently, IEX restricts non-displayed limit orders such that they cannot be booked and ranked at a price any more aggressive than the Midpoint Price.<sup>11</sup> Additionally, IEX offers several order types that constrain an order's price to a price no more aggressive than the Midpoint Price.<sup>12</sup> Based on informal feedback, IEX understands that a number of Members<sup>13</sup> would like to be able to post non-displayed orders at prices more aggressive than the Midpoint Price. The Members also express a preference to have IEX's non-displayed price-sliding function like that of other equities exchanges, which only reprice non-displayed limit orders to be equal to the contra-side Protected Quotation when they would otherwise be priced more aggressively than the contra-side Protected Quotation. In response to this feedback, and with the understanding that Members will continue to have the option of using one of several order types that constrain orders to prices no more aggressive than the Midpoint Price, IEX proposes to remove its Midpoint Price Constraint on non-displayed limit orders.

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<sup>10</sup> See, e.g., Cboe BZX Exchange, Inc. ("Cboe BZX") Rule 11.9(g)(4); MIAX PEARL LLC ("MIAX PEARL") Rule 2614(g)(2).

<sup>11</sup> Currently, a non-displayed limit order can check past the Midpoint Price on entry, but cannot rest at a price more aggressive than the Midpoint Price.

<sup>12</sup> For example, Midpoint Peg and Retail Liquidity Provider orders rest at the less aggressive of the order's limit price or the Midpoint Price, and Discretionary Peg and Corporate Discretionary Peg orders rest one minimum price variant less aggressive than the National Best Bid (for bids) or National Best Offer (for offers) and exercise discretion to the less aggressive of the order's limit price or the Midpoint Price.

<sup>13</sup> See IEX Rule 1.160(s).

Specifically, IEX proposes to modify IEX Rule 11.190(h)(2) to remove all references to the Midpoint Price Constraint, and to introduce text specifying that non-displayed limit orders can be priced more aggressively than the Midpoint Price (i.e., between the Midpoint Price and the NBO<sup>14</sup> for bids (buy orders) or between the Midpoint Price and the NBB<sup>15</sup> for offers (sell orders). If a non-displayed limit order to buy (sell) is priced more aggressively than the NBO (NBB), IEX will adjust the order's price to the NBO (for bids) or the NBB (for offers).<sup>16</sup>

For example, if the NBBO<sup>17</sup> is \$10.00 x \$10.10, and IEX receives a non-displayed buy order<sup>18</sup> with a limit price of \$10.20, the incoming bid will be repriced to the NBO, \$10.10, and execute against any eligible contra-side liquidity on IEX<sup>19</sup> or book at \$10.10 if IEX has no eligible contra-side liquidity (i.e., IEX has no offers resting on its Order Book).<sup>20</sup> However, if the incoming non-displayed buy order has a minimum quantity instruction<sup>21</sup> ("MQTY") or other specific condition<sup>22</sup> that prevents it from

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<sup>14</sup> The term "NBO" means the national best offer. See IEX Rule 1.160(u).

<sup>15</sup> The term "NBB" means the national best bid. See IEX Rule 1.160(u).

<sup>16</sup> This repricing could occur upon order entry, or after the NBBO changes such that the order is now priced more aggressively than the contra-side Protected Quotation.

<sup>17</sup> The term "NBBO" means the national best bid or offer, as set forth in Rule 600(b) of Regulation NMS under the Act. See IEX Rule 1.160(u).

<sup>18</sup> The example focuses on price sliding of non-displayed limit orders to buy, but the same rules would apply to non-displayed orders to sell.

<sup>19</sup> For purposes of this example, we are treating the orders as "IEX Only" (non-routable) orders. See IEX Rule 11.190(a)(1)(B). If the incoming order was designated as routable, it would first seek to execute against the IEX Order Book and any away markets before booking.

<sup>20</sup> Because the incoming order is non-displayed, it can be priced at the contra-side NBO without locking the away market NBO. See Reg NMS Rule 610(d), 17 CFR 242.610(d).

<sup>21</sup> See IEX Rule 11.190(b)(11). Significantly, only non-displayed orders can have specific conditions such as a Minimum Quantity that could prevent a match. Id.

<sup>22</sup> Any order that cannot be executed due to its specific conditions (but would otherwise be executable against a contra-side order) surrenders its precedence in the Order Book. See IEX Rule 11.220(a)(5). Usually, this issue arises when one or both orders have a MQTY instruction preventing an execution, but there are a few other specific conditions that prevent executions and cause an order to surrender precedence, such as an Offset Peg order being ineligible to trade

matching with an order on the IEX Order Book, the System will reprice the incoming non-displayed buy order to a price one minimum price variant (“MPV”)<sup>23</sup> less aggressive than the NBO price if the IEX sell order is displayed at the NBO, or at the NBO if the IEX sell order is non-displayed.<sup>24</sup>

IEX believes it is appropriate to adjust the price of the non-displayed limit order whose specific conditions prevent an execution with IEX’s Protected Bid or Offer (as applicable) prior to posting, because the Member who submitted the order with specific conditions chose to reduce the number of situations in which the order could potentially execute. Thus, in the example above, if another non-displayed buy order arrives that is able to execute against the displayed sell order resting at the NBO, an execution will occur consistent with IEX’s execution priority rules<sup>25</sup>, including the rule that orders that cannot execute due to their specific conditions surrender their precedence.<sup>26</sup>

However, when the resting sell order is non-displayed, and the two orders cannot execute because of a specific condition of one or both orders, IEX believes it is appropriate to allow the two non-displayed orders to book at the same price (the NBO), thereby “locking” the non-displayed Order Book.<sup>27</sup> If a later arriving buy order can execute with the resting non-displayed sell order at the NBO price, it will appropriately execute before the first buy order with specific conditions that prevented an execution,

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during a locked market, see IEX Rule 11.190(h)(3)(C)(iii).

<sup>23</sup> See IEX Rule 11.210.

<sup>24</sup> See IEX Rule 11.220(a)(5).

<sup>25</sup> Orders execute in price, display, time priority, so the incoming bid, which would be priced at \$10.10 has priority over the bid with specific conditions resting at \$10.09. See IEX Rule 11.220(a)(2).

<sup>26</sup> See IEX Rule 11.220(a)(5).

<sup>27</sup> IEX has always permitted non-displayed orders to lock on its non-displayed Order Book when a specific condition of one or both orders prevents an execution. See IEX 11.230(a)(4)(C).

because the order with specific conditions surrenders its precedence.<sup>28</sup>

Therefore, IEX proposes to add text to IEX Rule 11.190(h)(2) specifying that if a repriced non-displayed limit order would lock or cross IEX's Protected Quotation, the order will be adjusted to a price one MPV less aggressive than the NBO (for bids) or the NBB (for offers). IEX notes this functionality is identical to that of The Nasdaq Stock Market LLC ("Nasdaq"), which also reprices non-displayed minimum quantity orders that would otherwise "lock" a contra-side displayed order that does not meet its specific conditions to a price one MPV less aggressive than the price of the contra-side order.<sup>29</sup> Similarly, pursuant to Nasdaq rules, a non-displayed minimum quantity order can lock a contra-side non-displayed order priced at the Protected Quotation, because the order with specific conditions will surrender precedence to incoming orders that can execute against the contra-side order resting at the "locking" price.<sup>30</sup> Additionally, other exchanges, such as MIAX PEARL, will not allow minimum quantity orders to trade at a price above (below) any sell (buy) displayed orders that are priced below (above) the price of the minimum quantity order.<sup>31</sup> MIAX PEARL will only execute a non-displayed minimum quantity order that would otherwise "lock" a contra-side displayed order that does not meet its specific conditions at a price  $\frac{1}{2}$  MPV less aggressive than the contra-side displayed order.<sup>32</sup>

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<sup>28</sup> See IEX Rule 11.220(a)(5).

<sup>29</sup> See Nasdaq Rule 4703(e).

<sup>30</sup> See Nasdaq Rule 4703(e); see also Nasdaq Rule 4702(b)(3)(A) (allowing non-displayed orders to book at the price of an away market Protected Quotation).

<sup>31</sup> See MIAX PEARL Rule 2614(c)(7)(B)(iii).

<sup>32</sup> See MIAX PEARL Rules 2617(a)(4)(C) and (D). In the same situation, IEX is proposing to reprice the non-displayed order to a price one (1) MPV less aggressive than the contra-side displayed order, which IEX believes is a minor distinction from MIAX PEARL's  $\frac{1}{2}$  MPV approach.



Example 1 demonstrates how, as proposed, IEX's non-displayed price sliding rules will work:

Example 1

- NBBO for a stock is \$10.10 x \$10.20. IEX has no displayed quote.
- Order A, a displayed order to buy 100 shares with a limit price of \$10.09 arrives and is booked at \$10.09, thereby becoming IEX's Protected Best Bid.
- Order B, a displayed order to sell 100 shares with a limit price of \$10.21 arrives and is booked at \$10.21, thereby becoming IEX's Protected Best Offer.
- IEX's PBBO for the stock is now \$10.09 x \$10.21.
- Order C, a non-displayed order to buy 300 shares with a limit price of \$10.30 and a minimum quantity<sup>33</sup> of 300 shares arrives.<sup>34</sup>
- Order C is repriced by the System to \$10.20, which is the NBO.
- The NBBO changes to \$10.10 x \$10.21. Order B, which is IEX's Best Offer, is now equal to the NBO.
- Order C remains priced at \$10.20, a price one MPV less aggressive than IEX's contra-side Protected Quotation of \$10.21.
- Order D, a displayed order to sell 100 shares with a limit price of \$10.20 arrives. Order C and Order D do not match because Order D does not satisfy Order C's minimum quantity requirements.
- Order D becomes the NBO, and the NBBO moves to \$10.10 x \$10.20.
- Order C is repriced to \$10.19, a price one MPV less aggressive than IEX's contra-side Protected Quotation of \$10.20.

As noted above and discussed in the Statutory Basis section below, these proposed changes would align IEX's non-displayed price sliding rules with those of the

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<sup>33</sup> See IEX Rule 11.190(b)(11).

<sup>34</sup> The example focuses on price sliding of non-displayed limit orders to buy, but the same rules would apply to non-displayed orders to sell.

other equities exchanges.

## II. Impact of Midpoint Price Constraint Removal on Specific Order Types

As discussed above, this rule proposal impacts the price sliding behavior of non-displayed limit orders, including (i) non-displayed Discretionary Limit (“D-Limit”)<sup>35</sup> orders; (ii) non-displayed portions of Reserve<sup>36</sup> orders, and (iii) non-displayed portions of D-Limit Reserve<sup>37</sup> orders, which will be able to rest and trade at prices up to the contra-side away market Protected Quotation. Additionally, as set forth below, this proposed rule change impacts the pricing and functionality of Offset Peg<sup>38</sup> and Primary Peg<sup>39</sup> orders, respectively.

Specifically, IEX proposes to amend IEX Rule 11.190(b)(13), describing Offset Peg orders, to allow them to be priced as aggressively as the contra-side Protected Quotation, dependent upon the limit price plus the offset amount. Currently, Offset Peg orders cannot be priced more aggressively than the Midpoint Price.<sup>40</sup> IEX is proposing to allow Offset Peg orders to rest at prices as aggressive as the contra-side Protected Quotation, irrespective of the Midpoint Price. Therefore, IEX proposes to amend IEX Rules 11.190(b)(13) to reflect the new offset functionality. Additionally, because Offset Peg orders will no longer rest or execute at the Midpoint Price if it is a sub-penny Midpoint Price<sup>41</sup>, IEX proposes to amend IEX Rule 11.190(a)(3) (Pegged Order) to

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<sup>35</sup> See IEX Rule 11.190(b)(7).

<sup>36</sup> See IEX Rule 11.190(b)(2)(B).

<sup>37</sup> See IEX Rule 11.190(b)(2)(B).

<sup>38</sup> See IEX Rule 11.190(b)(13).

<sup>39</sup> See IEX Rule 11.190(b)(8).

<sup>40</sup> Currently, if the offset amount plus the limit price would result in a price more aggressive than the Midpoint Price, the Offset Peg would be priced at the Midpoint Price.

<sup>41</sup> Depending upon the difference between the NBB and NBO, the Midpoint Price for any execution over \$1.00 per share can be a whole penny or a sub-penny price (i.e., if the NBB is

reflect that Offset Peg orders cannot execute in sub-penny increments.

This rule filing also impacts Primary Peg orders, which currently book at a price one MPV less aggressive than the NBB (for bids) or NBO (for offers) and during periods of quote stability<sup>42</sup> can exercise discretion up to the NBB/NBO for bids/offers. Primary Peg orders are not currently eligible for Book Recheck because the Midpoint Price Constraint means there will not be any eligible non-displayed contra-side liquidity on the Order Book resting at a price aggressive enough to match the Primary Peg. And currently, Primary Peg orders cannot have a TIF of IOC or FOK, because the only types of orders Primary Pegs could match with upon entry are non-displayed odd lots priced at the contra-side Protected Quotation. Because, as proposed, non-displayed orders will be able to rest at the contra-side Protected Quotation, there is a greater chance a Primary Peg order could execute upon entry. Therefore, IEX proposes to amend IEX Rules 11.190(a)(3) and 11.190(b)(8) to allow Primary Pegs to be submitted with any TIF.

Notwithstanding that IEX is proposing to remove the Midpoint Price Constraint, there are still several order types that Members seeking a Midpoint Price execution can use. Specifically, Midpoint Peg<sup>43</sup> orders (including Retail Liquidity Provider<sup>44</sup> orders) and Discretionary Peg<sup>45</sup> orders (including Corporate Discretionary Peg<sup>46</sup> orders), will continue to allow Members to submit orders that will execute at prices no more aggressive than the Midpoint Price.

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\$10.01 and NBO is \$10.05, the Midpoint Price is a sub-penny price, \$10.025. But if the NBB is \$10.01 and the NBO is \$10.06, the Midpoint Price is a whole penny price, \$10.03).

<sup>42</sup> See IEX Rules 11.190(b)(8)(K) and 11.190(g).

<sup>43</sup> See IEX Rule 11.190(b)(9).

<sup>44</sup> See IEX Rule 11.190(b)(14).

<sup>45</sup> See IEX Rule 11.190(b)(10).

<sup>46</sup> See IEX Rule 11.190(b)(16).

### III. Expansion of Book Recheck Opportunities

Currently, all non-displayed orders, other than Primary Peg<sup>47</sup> orders, are eligible to be invited by the System to become active and check the Order Book for contra-side liquidity upon a change to the Order Book or NBBO, or as part of the processing of inbound messages (“Book Recheck” or “Recheck”).<sup>48</sup> Book Recheck allows resting orders to trade against other orders on the Order Book that were ineligible for execution, or did not satisfy the order’s conditions (i.e., minimum quantity) when they were originally booked.<sup>49</sup> Currently, to be eligible for Book Recheck, orders must be able to execute at a price equal to or more aggressive than the Midpoint Price.<sup>50</sup> IEX’s Book Recheck functionality is consistent with the manner in which other exchanges allow a resting order to become active if price changes or other circumstances allow two orders to execute with one another when they previously could not.<sup>51</sup>

As described above, with the proposed removal of the Midpoint Price Constraint, IEX expects to have non-displayed orders resting on the Order Book that are priced more aggressively than the Midpoint Price. Therefore, IEX proposes to amend IEX Rule 11.230(a)(4)(D) to clarify that for an order to be eligible for Book Recheck, it must be

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<sup>47</sup> As discussed above, Primary Peg orders are not currently eligible for Book Recheck because the Midpoint Price Constraint means there will not be any eligible non-displayed contra-side liquidity on the Order Book resting at a price aggressive enough to match the Primary Peg.

<sup>48</sup> See IEX Rule 11.230(a)(4)(D).

<sup>49</sup> See IEX Rule 11.230(a)(4)(D).

<sup>50</sup> See IEX Rule 11.230(a)(4)(D)(ii).

<sup>51</sup> See New York Stock Exchange (“NYSE”) Rules 7.37(b)(8) and (9) (Resting orders that are repriced and become marketable against contra-side orders on the order book will trade consistent with their ranking, and resting orders on both sides of market that reprice and become marketable against one another will trade consistent with their ranking); see also MIAX PEARL Rule 1901(a) (resting orders may become “Aggressing” orders if the PBBO or NBBO is updated, in which case the Aggressing order will check the order book for marketable contra-side liquidity); Nasdaq Rule 4702(a) (whenever an order receives a new timestamp, including if it was repriced, it is treated by Nasdaq as a new, active order).

able to execute against resting contra-side liquidity, irrespective of if the contra-side order is resting at the Midpoint Price. IEX also proposes to amend the Book Recheck references in IEX Rule 11.190(b) to align the language (and functionality) with IEX Rule 11.230(a)(4)(D). By way of example, with this proposed change, a resting non-displayed bid priced at \$10.03 with a NBBO of \$10.00 x \$10.10 would be eligible to Recheck against a resting sell order (either a displayed odd lot or a non-displayed order) with a limit price equal to or more aggressive than \$10.03.

As a result of this rule change, non-displayed limit orders will be allowed to rest at the contra-side Protected Quotation, which means there can now be circumstances when a resting Primary Peg order could execute against resting contra-side liquidity. Therefore, IEX also proposes to amend the Book Recheck rule to remove the language excluding Primary Peg orders from Book Recheck eligibility and amend the Primary Peg order definition to state they are eligible for Book Recheck.

#### IV. Minimum Quantity Order Changes

As described above, orders with specific conditions, such as MQTY orders, might not always be able to execute against contra-side liquidity with which they would otherwise match because of the Minimum Quantity order's specific conditions.<sup>52</sup> Therefore, as discussed above, IEX proposes to amend IEX Rule 11.190(h)(2) to adjust the price of a minimum quantity order in such a circumstance to a price one MPV less aggressive than the contra-side Protected Quotation when the Exchange's Protected Quotation is equal to the NBBO. IEX also proposes a conforming change to amend IEX

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<sup>52</sup> This scenario would not arise if the contra-side order were a displayed order because displayed orders cannot include a minimum quantity and would execute against any eligible contra-side order.

Rule 11.190(b)(11), governing MQTY orders, by adding a paragraph reflecting that the new repricing functionality in IEX Rule 11.190(h)(2) applies when an order's minimum quantity prevents it from executing with an order resting at the contra-side Protected Quotation. Specifically, IEX proposes to add subparagraph (G)(iii)(c) to IEX Rule 11.190(b)(11) specify that an incoming MQTY order that would otherwise be executable against a resting non-displayed order but for the MQTY order's specific conditions will be booked and ranked by the System at the less aggressive of the incoming MQTY order's limit price, if any, or the contra-side protected quotation (i.e. the NBO for buy orders and NBB for sell orders) unless the Exchange's Protected Bid (for offers) or Protected Offer (for bids) is equal to the current NBB (for offers) or current NBO (for bids), in which case the incoming MQTY order is booked and ranked on the Order Book non-displayed one (1) MPV below the current NBO (for bids) or one (1) MPV above the current NBB (for offers).

Additionally, IEX proposes to add subparagraph (G)(iv)(b) to IEX Rule 11.190(b)(11) to specify what happens when two MQTY orders cannot match because of at least one of the order's specific conditions. The proposed new subparagraph specifies that in this situation, the incoming MQTY order would be booked and ranked by the System at the less aggressive of its limit price, if any, or the contra-side Protected Quotation (i.e., the NBO for buy orders and NBB for sell orders). However, if the Exchange's Protected Bid (for offers) or Protected Offer (for bids) is equal to the current NBB (for offers) or current NBO (for bids), the incoming MQTY order would be booked and ranked on the Order Book non-displayed one (1) MPV below the current NBO (for bids) or one (1) MPV above the current NBB (for offers), as set forth in IEX Rule

11.190(h)(2). As proposed, this functionality could result in a “crossed” non-displayed Order Book, as reflected in Example 2, below. Therefore, the Exchange proposes to amend IEX Rule 11.230(a)(4)(C) to remove the last sentence, which reads “Lastly, orders are never permitted to post non-displayed nor rest non-displayed on the Order Book at prices that cross contra-side liquidity.”

### Example 2

- NBBO for a stock is \$10.00 x \$10.10. IEX has no displayed orders resting on the Order Book.
- Order A, a non-displayed order to sell 10,000 shares with a limit price of \$10.08 and a MQTY of 3,000 shares arrives and is booked at \$10.08.
- Order B, a non-displayed order to buy 2,000 shares with a limit price of \$10.11 and a MQTY of 500 shares arrives.
- Order B does not satisfy Order A’s MQTY, so the two orders do not match.
- Order B books at \$10.10, the contra-side Protected Quotation, because it is able to rest at the contra-side Protected Quotation so long as IEX does not have a Protected Quotation priced at the NBO.
- IEX’s non-displayed Order Book is crossed at \$10.10 x \$10.08.

IEX notes that the manner in which it proposes to allow two MQTY orders to cross IEX’s non-displayed Order Book is the same approach taken by other exchanges. For example, MEMX LLC (“MEMX”) allows orders with minimum execution quantities to create a dark order book cross,<sup>53</sup> and MIAx PEARL allows its non-displayed order book to be internally locked or crossed, in the same manner IEX is proposing.<sup>54</sup>

## V. Related Changes to the Retail Price Improvement Program

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<sup>53</sup> See MEMX Rule 11.6(f)

<sup>54</sup> See MIAx PEARL Rule 2614(c)(7)(B)(iv).

IEX's Retail Price Improvement Program<sup>55</sup> currently allows a Retail<sup>56</sup> order to trade with a contra-side order resting at the Midpoint Price, or with an aggressively priced displayed odd lot order priced between the Midpoint Price and the contra-side Protected Quotation.<sup>57</sup> Because this proposed rule change will allow non-displayed orders to also be priced between the Midpoint Price and the contra-side Protected Quotation, IEX proposes to amend IEX Rule 11.232 to allow Retail orders to interact with any order priced between the Midpoint Price and the contra-side Protected Quotation. Specifically, IEX proposes to amend IEX Rules 11.232(a)(2) and 11.232(e)(2) to reflect this change.

Additionally, IEX proposes to amend Rule 11.232(e)(3) regarding Retail order priority, by adding subparagraph (iii), which states that non-displayed orders priced more aggressively than the Midpoint Price will have price priority over orders resting at the Midpoint Price because of their more aggressive price.<sup>58</sup> IEX also proposes to renumber subparagraph (iii) to (iv) to reflect the insertion of the new subparagraph (iii).

Finally, IEX proposes to add a new Example 6, to demonstrate how an aggressively priced non-displayed limit order will have execution priority over orders priced to execute at the Midpoint Price.

#### VI. Conforming Changes Caused by Midpoint Price Constraint Removal

IEX also proposes several conforming changes to other IEX rules. Specifically, IEX proposes to make the following conforming changes:

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<sup>55</sup> See IEX Rule 11.232.

<sup>56</sup> See IEX Rules 11.190(b)(15) and 11.232(a)(2).

<sup>57</sup> See IEX Rule 11.232(a)(2).

<sup>58</sup> An aggressively priced displayed odd lot order resting at the same price as the aggressively priced non-displayed limit order will have execution priority over the non-displayed limit order.



- Amend IEX Rule 11.190(a)(3) (Pegged Order) to remove the text stating that an Offset Peg order may be executed in sub-pennies if necessary to obtain a Midpoint Price. As noted below, Offset Peg orders would no longer be constrained by the Midpoint Price, and therefore will no longer execute in sub-pennies.<sup>59</sup>
- Amend IEX Rule 11.190(a)(3)(A) to remove the text stating that Primary Peg orders may not have a TIF of IOC or FOK. As discussed above, because the removal of the Midpoint Price Constraint means the IEX Order Book could have resting orders priced at the contra-side Protected Quotation, it is now possible for a Primary Peg order to execute upon entry, and therefore IEX proposes to allow Primary Peg orders to be submitted with a TIF of IOC or FOK. Relatedly, IEX proposes to amend subparagraph (E) of the same rule to remove the text saying that Primary Peg orders submitted with a TIF of IOC or FOK will be rejected on entry.
- Amend IEX Rule 11.190(b)(2) (Reserve Order) and the accompanying Supplementary Material to remove references to the Midpoint Price Constraint and replace them with references to the non-displayed price sliding rule. IEX also proposes to correct a typographical error by inserting a “B” into the last word of the sentence that reads: “[f]or example, NBBO is \$10.01 x \$10.02, and IEX does not have any orders resting at the NBO,” which will now end by saying “at the NBBO.” Further, IEX proposes to modify the example in Supplementary Material .01 (Reserve Orders) to describe a displayed odd lot reserve order with 50 shares displayed and 950 shares in reserve, to demonstrate how the displayed and non-displayed portions of a reserve order can be booked at different prices. Therefore, IEX proposes to end the example by changing the non-displayed portion’s resting price from \$10.015 (the Midpoint Price) to \$10.02, the NBO. Additionally, IEX proposes to reorder the paragraphs in the Supplementary Material about reserve orders such that the paragraph about D-Limit reserve orders is the last paragraph.
- Amend IEX Rule 11.190(b)(3) (Non-Displayed Order) to remove the text stating that Primary Peg orders are not eligible for Book Recheck. As discussed above, these changes are proposed because Primary Peg orders have a higher likelihood of executing on entry now that non-displayed orders can rest at the contra-side Protected Quote.
- Amend IEX Rule 11.190(b)(8) (Primary Peg Order) to: amend subparagraph (B) to state that a Primary Peg order may have any TIF described in IEX Rule 11.190(a)(3); and remove the text in subparagraph

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<sup>59</sup> As set forth in IEX Rule 11.210, for securities that execute at sub-dollar prices (*i.e.*, the order is priced less than \$1.00 per share), the minimum price variation is \$0.0001. Therefore, sub-penny executions can still occur for any sub-dollar executions.

(J) that says Primary Peg orders are not eligible for Book Recheck and add text saying that they are eligible to be invited to Recheck to trade against eligible resting contra-side interest. As discussed above, the TIF changes are proposed because Primary Peg orders have a better likelihood of executing on entry now that non-displayed orders can rest at the contra-side Protected Quote. Additionally, as discussed above, the proposed change to allow Primary Peg orders to Recheck the Order Book conforms to proposed changes to the Book Recheck rule to reflect that orders will no longer only be invited to recheck the Order Book if there is a contra-side order resting at the Midpoint Price.

- Amend IEX Rule 11.190(b)(9) (Midpoint Peg Order) to remove the text in subparagraph (J) that states that Midpoint Peg orders are eligible to be invited to Recheck to trade against interest resting at the Midpoint Price and replace it with text saying they are eligible to be invited to Recheck to trade against eligible resting contra-side interest. As discussed above, this conforms to proposed changes to the Book Recheck rule to reflect that orders will no longer only be invited to recheck the Order Book if there is a contra-side order resting at the Midpoint Price.
- Amend IEX Rule 11.190(b)(10) (Discretionary Peg Order) to remove the text in subparagraph (J) that says Discretionary Peg orders are eligible to be invited to Recheck to trade against interest resting at the Midpoint Price and replace it with text saying they are eligible to be invited to Recheck to trade against eligible resting contra-side interest. As discussed above, this conforms to proposed changes to the Book Recheck rule to reflect that orders will no longer only be invited to recheck the Order Book if there is a contra-side order resting at the Midpoint Price.
- Amend IEX Rule 11.190(b)(13) (Offset Peg Order) to remove the text in subparagraph (L) that provides that an Offset Peg order with an offset amount that results in a price more aggressive than the Midpoint Price will have the offset amount reduced so that the order is priced at the Midpoint Price until such time as the full offset amount will not result in the price of the order being more aggressive than the Midpoint Price. IEX further proposes to add text stating that if the offset amount results in a price more aggressive than the contra-side Protected Quotation, the offset amount will be reduced so that the order is booked and ranked on the Order Book non-displayed at the contra-side protected quotation (i.e. the NBO for buy orders and NBB for sell orders), unless the Exchange's Best Bid (for offers) or Best Offer (for bids) is equal to the current NBB (for offers) or current NBO (for bids), in which case the order is booked and ranked on the Order Book non-displayed one (1) MPV below the current NBO (for bids) or one (1) MPV above the current NBB (for offers), as set forth in IEX Rule 11.190(h)(2), until such time as the full offset amount will not result in the price being more aggressive than the contra-side Protected

Quotation. Additionally, as discussed above, because Offset Peg orders will no longer be eligible to be priced in sub-pennies, IEX proposes to remove the sentence describing how a sub-penny priced order is rounded up or down.

- Amend Supplementary Material .03 (Minimum Quantity Orders) to specify that the IEX PBBO for the example is \$10.01 x \$10.03 and modify the example to specify that Order #4 in the example would book at its limit price of \$10.02 (removing the text saying it would book at the Midpoint Price). Additionally, IEX proposes to reorder the paragraphs in the Supplementary Material about reserve orders such that the paragraph about D-Limit reserve orders is the last paragraph.
- Amend IEX Rule 11.190(b)(16) (Corporate Discretionary Peg Order) to remove the text in subparagraph (J) that says Corporate Discretionary Peg orders are eligible to be invited to Recheck to trade against interest resting at the Midpoint Price and replace it with text saying they are eligible to be invited to Recheck to trade against eligible resting contra-side interest. As discussed above, this conforms to proposed changes to the Book Recheck rule to reflect that orders will no longer only be invited to recheck the Order Book if there is a contra-side order resting at the Midpoint Price.
- Amend IEX Rule 11.190(h)(3) (Locked and Crossed Markets) to remove all references to the Midpoint Price Constraint and replace them with references to non-displayed price sliding. Additionally, amend IEX Rule 11.190(h)(3)(D)(i) to remove the reference to Offset Peg orders and add Corporate Discretionary Peg orders to the list of order types for which reference to the Midpoint Price is relevant.
- Amend IEX Rule 11.190(h)(4) (Short Sale Price Sliding) to remove subparagraph (E) and amend subparagraph (C) to remove references to displayed or displayable orders and the Permitted Display Price, and add a sentence saying that “[i]n the event the NBB changes such that the price of a non-displayed Order subject to Rule 201 of Regulation SHO would lock or cross the NBB, the order will receive a new timestamp, and will be re-priced by the System at the Permitted Price.” These changes reflect the fact that without the Midpoint Price Constraint, IEX’s short sale price sliding rules no longer need to distinguish between a “Permitted Display Price” and a “Permitted Price.”
- Amend IEX Rule 11.220 (Priority of Orders) Supplementary Material .01 (Surrendering Precedence) to change the order #4 in the example to a midpoint peg order, so that the example will continue to demonstrate how MQTY orders booked at the Midpoint Price surrender precedence if their specific conditions prevent an execution.

- Amend IEX Rule 11.230(a)(4)(C) (Order Execution) to replace references to the Midpoint Price with references to contra-side Protected Quotation (i.e., the NBB or NBO), modify the first sentence of the subparagraph to specify that orders are permitted to post and rest non-displayed on the Order Book at prices that lock the protected quotation of an away market, so long as IEX does not have a protected quotation at the same price, and, as discussed above, delete the last sentence of the subparagraph that states that orders are never permitted to post non-displayed nor rest non-displayed on the Order Book at prices that cross contra-side liquidity.
- Amend IEX Rule 11.230(a)(4)(D) (Book Recheck) to include Corporate Discretionary Pegs in the list of orders eligible for Book Recheck and update the rule citations accordingly. Renumber subparagraphs (v) and (vi) to (iv) and (v) to reflect the deletion of subparagraph (iv), which said Primary Peg orders are not eligible for Book Recheck) as described above. And amend IEX Rule 11.230(a)(4)(D) Supplementary Material .01 to modify the example to reflect that a non-displayed limit order would be booked at its limit price of \$10.02, not the Midpoint Price of \$10.015.
- Amend IEX Rule 11.231 (Regular Market Session Opening Process for Non-IEX-Listed Securities) by removing the reference to the Midpoint Price from subparagraph (a)(v) and replacing it with a reference to the contra-side protected quotation (i.e., the NBO for buy orders and NBB for sell orders).
- Amend IEX Rule 11.340 (Compliance with Regulation NMS Plan to Implement a Tick Size Pilot) to remove the reference to the Midpoint Price Constraint in subparagraph (d)(4)(D)(ii) and replace it with a reference to the non-displayed price sliding rules set forth in IEX Rule 11.190(h)(2).

#### Implementation

This proposed rule change will be immediately effective upon filing, but subject to the thirty (30) day operative delay. The Exchange anticipates implementing the rule change within ninety (90) days of the effective date and will provide at least ten (10) days' notice to Members and market participants of the implementation timeline.

#### b. Statutory Basis

The Exchange believes that this proposed rule change is consistent with Section

6(b) of the Act,<sup>60</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>61</sup> 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 removing the Midpoint Price Constraint for non-displayed limit orders is consistent with the protection of investors and the public interest because it is designed to incentivize the entry of more aggressively priced non-displayed limit orders, because it will allow Members to submit orders that are more likely to post at their instructed limit price, as opposed to being limited to posting no higher than the Midpoint Price. And these orders resting between the Midpoint Price and the contra-side Protected Quotation will trade before any orders resting at the Midpoint Price, which would enhance the aggressively priced orders' execution opportunities. Conversely, any contra-side orders that match with these aggressively priced non-displayed limit orders will benefit by the ability to obtain more price improvement than if they had executed at the Midpoint Price. Thus, IEX believes that allowing Members more control over the pricing of their non-displayed orders should both incentivize the submission of more orders to IEX (improving the overall liquidity profile of IEX) and offer more potential price improvement opportunities, to the benefit of all market participants.

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<sup>60</sup> 15 U.S.C. 78f(b).

<sup>61</sup> 15 U.S.C. 78f(b)(5).

The Exchange further believes that removing the Midpoint Price Constraint and modeling its non-displayed price sliding rule on those of other equity exchanges is consistent with the Act because such treatment is designed to remove impediments to and perfect the mechanism of a free and open market and national market system by conforming IEX's treatment of non-displayed limit orders with the other equities exchanges.<sup>62</sup>

In addition, since this proposed rule change would make IEX's non-displayed price sliding rule consistent with that of the other equities exchanges, IEX believes that it will promote just and equitable principles of trade and foster cooperation and coordination with persons engaged in facilitating securities transactions because market participants will no longer have to potentially adjust their order routing strategies or trading algorithms to reflect that non-displayed limit orders are never allowed to be priced more aggressively than the Midpoint Price.

The Exchange further believes that modifying its Book Recheck functionality and Retail Price Improvement program are consistent with the protection of investors and the public interest because the rule change is designed to increase the opportunities for eligible orders to execute on the Exchange, which inures to the benefit of all market participants who send orders to the Exchange.

As discussed in the Purpose Section, each of these proposed changes is consistent with rules of other equities exchanges. Specifically:

- As proposed, IEX will slide the price of a non-displayed limit order priced more aggressively than the contra-side Protected Quotation to the price of the contra-side Protected Question. Cboe BZX Rule 11.9(g)(4), Nasdaq

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<sup>62</sup> See supra note 10.

Rule 4702(b)(3)(A), and MIAX PEARL Rule 2614(g)(2) provide for the same functionality.<sup>63</sup>

- As proposed, IEX will slide the price of a non-displayed order that fails to match with a contra-side order because of the order's special conditions to a price one MPV less aggressive than the contra-side order. Nasdaq Rule 4703(e) provides for the same functionality.<sup>64</sup> And MIAX PEARL Rules 2617(a)(4)(C) and (D) provide for very similar functionality, with the only distinction being that MIAX PEARL allows the minimum quantity order that to trade at a price  $\frac{1}{2}$  MPV less aggressive than the price of the contra-side order against which it would match but for the minimum quantity instruction.<sup>65</sup>
- As proposed, IEX will allow resting orders to become active and check the Order Book if they become marketable against contra-side liquidity resting on the Order Book. NYSE Rules 7.37(b)(8) and (9), Nasdaq Rule 4702(a), and MIAX PEARL Rule 1901(a) provide for the same functionality.<sup>66</sup>
- As proposed, IEX will allow non-displayed order with specific conditions that prevent an execution against a contra-side order that also has specific conditions to cross on the non-displayed Order Book. MEMX Rule 11.6(f) and MIAX PEARL Rule 2614(c)(7)(B)(iv) provide for the same functionality.<sup>67</sup>

Overall, while the proposed rule change mirrors the functionality of several exchanges, IEX notes that the MIAX PEARL and Nasdaq rules are the most substantially similar to IEX's proposal. Specifically, IEX's non-displayed price sliding rule proposal mirrors that of MIAX PEARL with the sole exception that MIAX PEARL will reprice a non-displayed order that cannot match with a contra-side order because of the non-displayed order's minimum quantity at a price  $\frac{1}{2}$  of an MPV less aggressive than the contra-side order, while IEX proposes to rank the order at a price one MPV away from the price of the contra-side order. Further, Nasdaq's non-displayed price sliding rules

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<sup>63</sup> See supra note 10.

<sup>64</sup> See supra note 29.

<sup>65</sup> See supra note 32.

<sup>66</sup> See supra note 51.

<sup>67</sup> See supra notes 53 and 54.

mirror this proposal with the exception that Nasdaq does not explicitly state that it will allow two non-displayed minimum quantity orders to cross each other on the non-displayed order book, while IEX's rules explicitly permit such a cross.<sup>68</sup> Also, neither MIAX PEARL nor Nasdaq use identical terminology (e.g., descriptions of how resting orders can become active and check the order book for contra-side liquidity rather than use of the term "recheck" used in IEX rules).

IEX does not believe that these differences raise any new or novel issues, but merely reflect minor implementation differences. Both MIAX PEARL and IEX (as proposed) reprice a non-displayed order that cannot match with a contra-side order because of a minimum quantity, and it appears that both Nasdaq and IEX will allow two minimum quantity orders to cross each other on the non-displayed order book. Therefore, IEX does not believe that this proposal raises any new or novel issues that have not already been considered by the Commission.

Finally, IEX believes that the proposed conforming changes and typographical corrections further the purposes of the Act because they provide greater clarity and consistency to the IEX Rule Book thereby reducing the potential for confusion by market participants.

#### 4. 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.

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<sup>68</sup> IEX notes that Nasdaq's rules, while not explicit, appear to allow a crossed non-displayed order book in this particular situation.



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 proposal is designed to enhance IEX's competitiveness with other markets by adopting rules providing for more prices at which non-displayed limit orders can execute or rest on the exchange and allowing for more circumstances in which orders eligible for Recheck or Retail orders will be able to interact with these aggressively priced non-displayed limit orders to the benefit of all market participants.

The Exchange also does not believe that the proposed rule change will impose any burden on intramarket competition because it will apply to all Members in the same manner. All Members are eligible to enter non-displayed limit orders and, as discussed in the Purpose section, all Members seeking a Midpoint Price may continue to use Discretionary Peg and Midpoint Peg orders which will not execute at a price more aggressive than the Midpoint Price. Moreover, the proposal would provide potential benefits to all Members to the extent that there is more liquidity available on IEX as a result of the ability to book non-displayed limit orders at more aggressive prices. The proposal is intended to incentivize the entry of more orders on the Exchange and thereby increase the likelihood of executions on the Exchange, which would benefit all market participants.

5. 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.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act<sup>69</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>70</sup> The Exchange asserts that the proposed rule change: (1) will not significantly affect the protection of investors or the public interest, (2) will not impose any significant burden on competition, (3) and will not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate. In addition, the Exchange provided the Commission with 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 date of filing.<sup>71</sup>

The Exchange believes that the proposed rule change meets the criteria of subparagraph (f)(6) of Rule 19b-4<sup>72</sup> because it is consistent with the protection of investors and the public interest because it merely revises the prices at which non-displayed limit orders may be booked and executed in a manner consistent with the rules and functionality of other equities exchanges. As described in the Purpose and Statutory Basis sections, the Exchange does not believe that its proposed approach raises any new or novel issues not previously considered by the Commission.

Accordingly, the Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act<sup>73</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>74</sup>

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<sup>69</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>70</sup> 17 CFR 240.19b-4.

<sup>71</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>72</sup> 17 CFR 240.19b-4(f)(6).

<sup>73</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>74</sup> 17 CFR 240.19b-4.

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.

8. Proposed Rule Change Based on the Rules of Another Self-Regulatory Organization or of the Commission

As discussed in the Purpose section, the proposed changes are modeled on the functionality in Cboe BZX Rule 11.9(g)(4); Nasdaq Rules 4702(a), 4702(b)(3)(A), and 4703(e); NYSE Rules 7.37(b)(8) and (9); MEMX Rule 11.6(f); and MIAX PEARL Rules 1901(a), 2614(c)(7)(B)(iii) and (iv) and 2614(g)(2).

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1 – Form of Notice of the Proposed Rule Change for Publication in the Federal Register.

Exhibit 5 – Text of Proposed Rule Change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34 -     ); File No. SR-IEX-2022-04)

Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Remove the Midpoint Price Constraint on Non-Displayed Limit Orders and Make Conforming Changes.

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 (date), the Investors Exchange LLC (“IEX” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

Pursuant to the provisions of Section 19(b)(1) under the Act,<sup>4</sup> and Rule 19b-4 thereunder,<sup>5</sup> the Exchange is filing with the Commission a proposed rule change to remove the midpoint price constraint on non-displayed limit orders and make conforming changes to several rules. The Exchange has designated this rule change as “non-controversial” under Section 19(b)(3)(A) of the Act<sup>6</sup> and provided the Commission with

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<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> 15 U.S.C. 78s(b)(3)(A).

the notice required by Rule 19b-4(f)(6) thereunder.<sup>7</sup>

The text of the proposed rule change is available at the Exchange's website 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 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 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

Currently, IEX Rule 11.190(h)(2) (Non-Displayed Price Sliding) adjusts the price of any non-displayed limit order priced more aggressively than the Midpoint Price<sup>8</sup> to be priced at the Midpoint Price (the "Midpoint Price Constraint"). The Exchange proposes to amend its non-displayed price sliding rule to allow non-displayed limit orders to be priced more aggressively than the Midpoint Price. Specifically, the Exchange proposes to amend IEX Rule 11.190(h)(2) to remove the Midpoint Price Constraint on non-displayed limit orders, thereby allowing non-displayed limit orders to be priced as

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<sup>7</sup> 17 CFR 240.19b-4.

<sup>8</sup> See IEX Rule 1.160(t).

aggressively as the contra-side Protected Quotation,<sup>9</sup> provided it does not lock IEX's Order Book.<sup>10</sup> Because this rule change should result in there being more aggressively priced non-displayed liquidity resting on the Exchange, IEX also proposes to amend its Order Execution Recheck<sup>11</sup> rule to increase the circumstances in which a resting non-displayed order may be invited by the System<sup>12</sup> to execute against eligible contra-side liquidity. Additionally, the Exchange proposes to make related changes to IEX Rules 11.190(b) and 11.230(a)(4)(C) to prevent aggressively priced non-displayed limit orders locking or crossing IEX's displayed Order Book. Finally, the Exchange proposes to make conforming changes to IEX Rules 11.190, 11.220, 11.230, 11.231, 11.232, and 11.340. This proposal would align IEX's non-displayed price sliding rules with those of other national securities exchanges that trade equities, as detailed below.<sup>13</sup>

#### I. Midpoint Price Constraint Removal

Currently, IEX restricts non-displayed limit orders such that they cannot be booked and ranked at a price any more aggressive than the Midpoint Price.<sup>14</sup> Additionally, IEX offers several order types that constrain an order's price to a price no more aggressive than the Midpoint Price.<sup>15</sup> Based on informal feedback, IEX

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<sup>9</sup> See IEX Rule 1.160(bb).

<sup>10</sup> See IEX Rule 1.160(p).

<sup>11</sup> See IEX Rule 11.230(a)(4)(D).

<sup>12</sup> See IEX Rule 1.160(mn).

<sup>13</sup> See, e.g., Cboe BZX Exchange, Inc. ("Cboe BZX") Rule 11.9(g)(4); MIAX PEARL LLC ("MIAX PEARL") Rule 2614(g)(2).

<sup>14</sup> Currently, a non-displayed limit order can check past the Midpoint Price on entry, but cannot rest at a price more aggressive than the Midpoint Price.

<sup>15</sup> For example, Midpoint Peg and Retail Liquidity Provider orders rest at the less aggressive of the order's limit price or the Midpoint Price, and Discretionary Peg and Corporate Discretionary Peg orders rest one minimum price variant less aggressive than the National Best Bid (for bids) or National Best Offer (for offers) and exercise discretion to the less aggressive of the order's limit price or the Midpoint Price.

understands that a number of Members<sup>16</sup> would like to be able to post non-displayed orders at prices more aggressive than the Midpoint Price. The Members also express a preference to have IEX's non-displayed price-sliding function like that of other equities exchanges, which only reprice non-displayed limit orders to be equal to the contra-side Protected Quotation when they would otherwise be priced more aggressively than the contra-side Protected Quotation. In response to this feedback, and with the understanding that Members will continue to have the option of using one of several order types that constrain orders to prices no more aggressive than the Midpoint Price, IEX proposes to remove its Midpoint Price Constraint on non-displayed limit orders.

Specifically, IEX proposes to modify IEX Rule 11.190(h)(2) to remove all references to the Midpoint Price Constraint, and to introduce text specifying that non-displayed limit orders can be priced more aggressively than the Midpoint Price (i.e., between the Midpoint Price and the NBO<sup>17</sup> for bids (buy orders) or between the Midpoint Price and the NBB<sup>18</sup> for offers (sell orders). If a non-displayed limit order to buy (sell) is priced more aggressively than the NBO (NBB), IEX will adjust the order's price to the NBO (for bids) or the NBB (for offers).<sup>19</sup>

For example, if the NBBO<sup>20</sup> is \$10.00 x \$10.10, and IEX receives a non-displayed buy order<sup>21</sup> with a limit price of \$10.20, the incoming bid will be repriced to

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<sup>16</sup> See IEX Rule 1.160(s).

<sup>17</sup> The term "NBO" means the national best offer. See IEX Rule 1.160(u).

<sup>18</sup> The term "NBB" means the national best bid. See IEX Rule 1.160(u).

<sup>19</sup> This repricing could occur upon order entry, or after the NBBO changes such that the order is now priced more aggressively than the contra-side Protected Quotation.

<sup>20</sup> The term "NBBO" means the national best bid or offer, as set forth in Rule 600(b) of Regulation NMS under the Act. See IEX Rule 1.160(u).

<sup>21</sup> The example focuses on price sliding of non-displayed limit orders to buy, but the same rules would apply to non-displayed orders to sell.

the NBO, \$10.10, and execute against any eligible contra-side liquidity on IEX<sup>22</sup> or book at \$10.10 if IEX has no eligible contra-side liquidity (i.e., IEX has no offers resting on its Order Book).<sup>23</sup> However, if the incoming non-displayed buy order has a minimum quantity instruction<sup>24</sup> (“MQTY”) or other specific condition<sup>25</sup> that prevents it from matching with an order on the IEX Order Book, the System will reprice the incoming non-displayed buy order to a price one minimum price variant (“MPV”)<sup>26</sup> less aggressive than the NBO price if the IEX sell order is displayed at the NBO, or at the NBO if the IEX sell order is non-displayed.<sup>27</sup>

IEX believes it is appropriate to adjust the price of the non-displayed limit order whose specific conditions prevent an execution with IEX’s Protected Bid or Offer (as applicable) prior to posting, because the Member who submitted the order with specific conditions chose to reduce the number of situations in which the order could potentially execute. Thus, in the example above, if another non-displayed buy order arrives that is able to execute against the displayed sell order resting at the NBO, an execution will occur consistent with IEX’s execution priority rules<sup>28</sup>, including the rule that orders that

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<sup>22</sup> For purposes of this example, we are treating the orders as “IEX Only” (non-routable) orders. See IEX Rule 11.190(a)(1)(B). If the incoming order was designated as routable, it would first seek to execute against the IEX Order Book and any away markets before booking.

<sup>23</sup> Because the incoming order is non-displayed, it can be priced at the contra-side NBO without locking the away market NBO. See Reg NMS Rule 610(d), 17 CFR 242.610(d).

<sup>24</sup> See IEX Rule 11.190(b)(11). Significantly, only non-displayed orders can have specific conditions such as a Minimum Quantity that could prevent a match. Id.

<sup>25</sup> Any order that cannot be executed due to its specific conditions (but would otherwise be executable against a contra-side order) surrenders its precedence in the Order Book. See IEX Rule 11.220(a)(5). Usually, this issue arises when one or both orders have a MQTY instruction preventing an execution, but there are a few other specific conditions that prevent executions and cause an order to surrender precedence, such as an Offset Peg order being ineligible to trade during a locked market, see IEX Rule 11.190(h)(3)(C)(iii).

<sup>26</sup> See IEX Rule 11.210.

<sup>27</sup> See IEX Rule 11.220(a)(5).

<sup>28</sup> Orders execute in price, display, time priority, so the incoming bid, which would be priced at \$10.10 has priority over the bid with specific conditions resting at \$10.09. See IEX Rule



cannot execute due to their specific conditions surrender their precedence.<sup>29</sup>

However, when the resting sell order is non-displayed, and the two orders cannot execute because of a specific condition of one or both orders, IEX believes it is appropriate to allow the two non-displayed orders to book at the same price (the NBO), thereby “locking” the non-displayed Order Book.<sup>30</sup> If a later arriving buy order can execute with the resting non-displayed sell order at the NBO price, it will appropriately execute before the first buy order with specific conditions that prevented an execution, because the order with specific conditions surrenders its precedence.<sup>31</sup>

Therefore, IEX proposes to add text to IEX Rule 11.190(h)(2) specifying that if a repriced non-displayed limit order would lock or cross IEX’s Protected Quotation, the order will be adjusted to a price one MPV less aggressive than the NBO (for bids) or the NBB (for offers). IEX notes this functionality is identical to that of The Nasdaq Stock Market LLC (“Nasdaq”), which also reprices non-displayed minimum quantity orders that would otherwise “lock” a contra-side displayed order that does not meet its specific conditions to a price one MPV less aggressive than the price of the contra-side order.<sup>32</sup> Similarly, pursuant to Nasdaq rules, a non-displayed minimum quantity order can lock a contra-side non-displayed order priced at the Protected Quotation, because the order with specific conditions will surrender precedence to incoming orders that can execute against the contra-side order resting at the “locking” price.<sup>33</sup> Additionally, other exchanges, such

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11.220(a)(2).

<sup>29</sup> See IEX Rule 11.220(a)(5).

<sup>30</sup> IEX has always permitted non-displayed orders to lock on its non-displayed Order Book when a specific condition of one or both orders prevents an execution. See IEX 11.230(a)(4)(C).

<sup>31</sup> See IEX Rule 11.220(a)(5).

<sup>32</sup> See Nasdaq Rule 4703(e).

<sup>33</sup> See Nasdaq Rule 4703(e); see also Nasdaq Rule 4702(b)(3)(A) (allowing non-displayed orders to book at the price of an away market Protected Quotation).

as MIAX PEARL, will not allow minimum quantity orders to trade at a price above (below) any sell (buy) displayed orders that are priced below (above) the price of the minimum quantity order.<sup>34</sup> MIAX PEARL will only execute a non-displayed minimum quantity order that would otherwise “lock” a contra-side displayed order that does not meet its specific conditions at a price  $\frac{1}{2}$  MPV less aggressive than the contra-side displayed order.<sup>35</sup>

Example 1 demonstrates how, as proposed, IEX’s non-displayed price sliding rules will work:

#### Example 1

- NBBO for a stock is \$10.10 x \$10.20. IEX has no displayed quote.
- Order A, a displayed order to buy 100 shares with a limit price of \$10.09 arrives and is booked at \$10.09, thereby becoming IEX’s Protected Best Bid.
- Order B, a displayed order to sell 100 shares with a limit price of \$10.21 arrives and is booked at \$10.21, thereby becoming IEX’s Protected Best Offer.
- IEX’s PBBO for the stock is now \$10.09 x \$10.21.
- Order C, a non-displayed order to buy 300 shares with a limit price of \$10.30 and a minimum quantity<sup>36</sup> of 300 shares arrives.<sup>37</sup>
- Order C is repriced by the System to \$10.20, which is the NBO.
- The NBBO changes to \$10.10 x \$10.21. Order B, which is IEX’s Best Offer, is now equal to the NBO.

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<sup>34</sup> See MIAX PEARL Rule 2614(c)(7)(B)(iii).

<sup>35</sup> See MIAX PEARL Rules 2617(a)(4)(C) and (D). In the same situation, IEX is proposing to reprice the non-displayed order to a price one (1) MPV less aggressive than the contra-side displayed order, which IEX believes is a minor distinction from MIAX PEARL’s  $\frac{1}{2}$  MPV approach.

<sup>36</sup> See IEX Rule 11.190(b)(11).

<sup>37</sup> The example focuses on price sliding of non-displayed limit orders to buy, but the same rules would apply to non-displayed orders to sell.

- Order C remains priced at \$10.20, a price one MPV less aggressive than IEX's contra-side Protected Quotation of \$10.21.
- Order D, a displayed order to sell 100 shares with a limit price of \$10.20 arrives. Order C and Order D do not match because Order D does not satisfy Order C's minimum quantity requirements.
- Order D becomes the NBO, and the NBBO moves to \$10.10 x \$10.20.
- Order C is repriced to \$10.19, a price one MPV less aggressive than IEX's contra-side Protected Quotation of \$10.20.

As noted above and discussed in the Statutory Basis section below, these proposed changes would align IEX's non-displayed price sliding rules with those of the other equities exchanges.

## II. Impact of Midpoint Price Constraint Removal on Specific Order Types

As discussed above, this rule proposal impacts the price sliding behavior of non-displayed limit orders, including (i) non-displayed Discretionary Limit ("D-Limit")<sup>38</sup> orders; (ii) non-displayed portions of Reserve<sup>39</sup> orders, and (iii) non-displayed portions of D-Limit Reserve<sup>40</sup> orders, which will be able to rest and trade at prices up to the contra-side away market Protected Quotation. Additionally, as set forth below, this proposed rule change impacts the pricing and functionality of Offset Peg<sup>41</sup> and Primary Peg<sup>42</sup> orders, respectively.

Specifically, IEX proposes to amend IEX Rule 11.190(b)(13), describing Offset Peg orders, to allow them to be priced as aggressively as the contra-side Protected Quotation, dependent upon the limit price plus the offset amount. Currently, Offset Peg

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<sup>38</sup> See IEX Rule 11.190(b)(7).

<sup>39</sup> See IEX Rule 11.190(b)(2)(B).

<sup>40</sup> See IEX Rule 11.190(b)(2)(B).

<sup>41</sup> See IEX Rule 11.190(b)(13).

<sup>42</sup> See IEX Rule 11.190(b)(8).

orders cannot be priced more aggressively than the Midpoint Price.<sup>43</sup> IEX is proposing to allow Offset Peg orders to rest at prices as aggressive as the contra-side Protected Quotation, irrespective of the Midpoint Price. Therefore, IEX proposes to amend IEX Rules 11.190(b)(13) to reflect the new offset functionality. Additionally, because Offset Peg orders will no longer rest or execute at the Midpoint Price if it is a sub-penny Midpoint Price<sup>44</sup>, IEX proposes to amend IEX Rule 11.190(a)(3) (Pegged Order) to reflect that Offset Peg orders cannot execute in sub-penny increments.

This rule filing also impacts Primary Peg orders, which currently book at a price one MPV less aggressive than the NBB (for bids) or NBO (for offers) and during periods of quote stability<sup>45</sup> can exercise discretion up to the NBB/NBO for bids/offers. Primary Peg orders are not currently eligible for Book Recheck because the Midpoint Price Constraint means there will not be any eligible non-displayed contra-side liquidity on the Order Book resting at a price aggressive enough to match the Primary Peg. And currently, Primary Peg orders cannot have a TIF of IOC or FOK, because the only types of orders Primary Pegs could match with upon entry are non-displayed odd lots priced at the contra-side Protected Quotation. Because, as proposed, non-displayed orders will be able to rest at the contra-side Protected Quotation, there is a greater chance a Primary Peg order could execute upon entry. Therefore, IEX proposes to amend IEX Rules 11.190(a)(3) and 11.190(b)(8) to allow Primary Pegs to be submitted with any TIF.

Notwithstanding that IEX is proposing to remove the Midpoint Price Constraint,

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<sup>43</sup> Currently, if the offset amount plus the limit price would result in a price more aggressive than the Midpoint Price, the Offset Peg would be priced at the Midpoint Price.

<sup>44</sup> Depending upon the difference between the NBB and NBO, the Midpoint Price for any execution over \$1.00 per share can be a whole penny or a sub-penny price (i.e., if the NBB is \$10.01 and NBO is \$10.05, the Midpoint Price is a sub-penny price, \$10.025. But if the NBB is \$10.01 and the NBO is \$10.06, the Midpoint Price is a whole penny price, \$10.03).

<sup>45</sup> See IEX Rules 11.190(b)(8)(K) and 11.190(g).

there are still several order types that Members seeking a Midpoint Price execution can use. Specifically, Midpoint Peg<sup>46</sup> orders (including Retail Liquidity Provider<sup>47</sup> orders) and Discretionary Peg<sup>48</sup> orders (including Corporate Discretionary Peg<sup>49</sup> orders), will continue to allow Members to submit orders that will execute at prices no more aggressive than the Midpoint Price.

### III. Expansion of Book Recheck Opportunities

Currently, all non-displayed orders, other than Primary Peg<sup>50</sup> orders, are eligible to be invited by the System to become active and check the Order Book for contra-side liquidity upon a change to the Order Book or NBBO, or as part of the processing of inbound messages (“Book Recheck” or “Recheck”).<sup>51</sup> Book Recheck allows resting orders to trade against other orders on the Order Book that were ineligible for execution, or did not satisfy the order’s conditions (i.e., minimum quantity) when they were originally booked.<sup>52</sup> Currently, to be eligible for Book Recheck, orders must be able to execute at a price equal to or more aggressive than the Midpoint Price.<sup>53</sup> IEX’s Book Recheck functionality is consistent with the manner in which other exchanges allow a resting order to become active if price changes or other circumstances allow two orders to execute with one another when they previously could not.<sup>54</sup>

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<sup>46</sup> See IEX Rule 11.190(b)(9).

<sup>47</sup> See IEX Rule 11.190(b)(14).

<sup>48</sup> See IEX Rule 11.190(b)(10).

<sup>49</sup> See IEX Rule 11.190(b)(16).

<sup>50</sup> As discussed above, Primary Peg orders are not currently eligible for Book Recheck because the Midpoint Price Constraint means there will not be any eligible non-displayed contra-side liquidity on the Order Book resting at a price aggressive enough to match the Primary Peg.

<sup>51</sup> See IEX Rule 11.230(a)(4)(D).

<sup>52</sup> See IEX Rule 11.230(a)(4)(D).

<sup>53</sup> See IEX Rule 11.230(a)(4)(D)(ii).

<sup>54</sup> See New York Stock Exchange (“NYSE”) Rules 7.37(b)(8) and (9) (Resting orders that are repriced and become marketable against contra-side orders on the order book will trade consistent

As described above, with the proposed removal of the Midpoint Price Constraint, IEX expects to have non-displayed orders resting on the Order Book that are priced more aggressively than the Midpoint Price. Therefore, IEX proposes to amend IEX Rule 11.230(a)(4)(D) to clarify that for an order to be eligible for Book Recheck, it must be able to execute against resting contra-side liquidity, irrespective of if the contra-side order is resting at the Midpoint Price. IEX also proposes to amend the Book Recheck references in IEX Rule 11.190(b) to align the language (and functionality) with IEX Rule 11.230(a)(4)(D). By way of example, with this proposed change, a resting non-displayed bid priced at \$10.03 with a NBBO of \$10.00 x \$10.10 would be eligible to Recheck against a resting sell order (either a displayed odd lot or a non-displayed order) with a limit price equal to or more aggressive than \$10.03.

As a result of this rule change, non-displayed limit orders will be allowed to rest at the contra-side Protected Quotation, which means there can now be circumstances when a resting Primary Peg order could execute against resting contra-side liquidity. Therefore, IEX also proposes to amend the Book Recheck rule to remove the language excluding Primary Peg orders from Book Recheck eligibility and amend the Primary Peg order definition to state they are eligible for Book Recheck.

#### IV. Minimum Quantity Order Changes

As described above, orders with specific conditions, such as MQTY orders, might not always be able to execute against contra-side liquidity with which they would

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with their ranking, and resting orders on both sides of market that reprice and become marketable against one another will trade consistent with their ranking); see also MIAX PEARL Rule 1901(a) (resting orders may become “Aggressing” orders if the PBBO or NBBO is updated, in which case the Aggressing order will check the order book for marketable contra-side liquidity); Nasdaq Rule 4702(a) (whenever an order receives a new timestamp, including if it was repriced, it is treated by Nasdaq as a new, active order).

otherwise match because of the Minimum Quantity order's specific conditions.<sup>55</sup>

Therefore, as discussed above, IEX proposes to amend IEX Rule 11.190(h)(2) to adjust the price of a minimum quantity order in such a circumstance to a price one MPV less aggressive than the contra-side Protected Quotation when the Exchange's Protected Quotation is equal to the NBBO. IEX also proposes a conforming change to amend IEX Rule 11.190(b)(11), governing MQTY orders, by adding a paragraph reflecting that the new repricing functionality in IEX Rule 11.190(h)(2) applies when an order's minimum quantity prevents it from executing with an order resting at the contra-side Protected Quotation. Specifically, IEX proposes to add subparagraph (G)(iii)(c) to IEX Rule 11.190(b)(11) specify that an incoming MQTY order that would otherwise be executable against a resting non-displayed order but for the MQTY order's specific conditions will be booked and ranked by the System at the less aggressive of the incoming MQTY order's limit price, if any, or the contra-side protected quotation (i.e. the NBO for buy orders and NBB for sell orders) unless the Exchange's Protected Bid (for offers) or Protected Offer (for bids) is equal to the current NBB (for offers) or current NBO (for bids), in which case the incoming MQTY order is booked and ranked on the Order Book non-displayed one (1) MPV below the current NBO (for bids) or one (1) MPV above the current NBB (for offers).

Additionally, IEX proposes to add subparagraph (G)(iv)(b) to IEX Rule 11.190(b)(11) to specify what happens when two MQTY orders cannot match because of at least one of the order's specific conditions. The proposed new subparagraph specifies

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<sup>55</sup> This scenario would not arise if the contra-side order were a displayed order because displayed orders cannot include a minimum quantity and would execute against any eligible contra-side order.

that in this situation, the incoming MQTY order would be booked and ranked by the System at the less aggressive of its limit price, if any, or the contra-side Protected Quotation (i.e., the NBO for buy orders and NBB for sell orders). However, if the Exchange's Protected Bid (for offers) or Protected Offer (for bids) is equal to the current NBB (for offers) or current NBO (for bids), the incoming MQTY order would be booked and ranked on the Order Book non-displayed one (1) MPV below the current NBO (for bids) or one (1) MPV above the current NBB (for offers), as set forth in IEX Rule 11.190(h)(2). As proposed, this functionality could result in a "crossed" non-displayed Order Book, as reflected in Example 2, below. Therefore, the Exchange proposes to amend IEX Rule 11.230(a)(4)(C) to remove the last sentence, which reads "Lastly, orders are never permitted to post non-displayed nor rest non-displayed on the Order Book at prices that cross contra-side liquidity."

#### Example 2

- NBBO for a stock is \$10.00 x \$10.10. IEX has no displayed orders resting on the Order Book.
- Order A, a non-displayed order to sell 10,000 shares with a limit price of \$10.08 and a MQTY of 3,000 shares arrives and is booked at \$10.08.
- Order B, a non-displayed order to buy 2,000 shares with a limit price of \$10.11 and a MQTY of 500 shares arrives.
- Order B does not satisfy Order A's MQTY, so the two orders do not match.
- Order B books at \$10.10, the contra-side Protected Quotation, because it is able to rest at the contra-side Protected Quotation so long as IEX does not have a Protected Quotation priced at the NBO.
- IEX's non-displayed Order Book is crossed at \$10.10 x \$10.08.

IEX notes that the manner in which it proposes to allow two MQTY orders to cross IEX's non-displayed Order Book is the same approach taken by other exchanges.



For example, MEMX LLC (“MEMX”) allows orders with minimum execution quantities to create a dark order book cross,<sup>56</sup> and MIAx PEARL allows its non-displayed order book to be internally locked or crossed, in the same manner IEX is proposing.<sup>57</sup>

#### V. Related Changes to the Retail Price Improvement Program

IEX’s Retail Price Improvement Program<sup>58</sup> currently allows a Retail<sup>59</sup> order to trade with a contra-side order resting at the Midpoint Price, or with an aggressively priced displayed odd lot order priced between the Midpoint Price and the contra-side Protected Quotation.<sup>60</sup> Because this proposed rule change will allow non-displayed orders to also be priced between the Midpoint Price and the contra-side Protected Quotation, IEX proposes to amend IEX Rule 11.232 to allow Retail orders to interact with any order priced between the Midpoint Price and the contra-side Protected Quotation. Specifically, IEX proposes to amend IEX Rules 11.232(a)(2) and 11.232(e)(2) to reflect this change.

Additionally, IEX proposes to amend Rule 11.232(e)(3) regarding Retail order priority, by adding subparagraph (iii), which states that non-displayed orders priced more aggressively than the Midpoint Price will have price priority over orders resting at the Midpoint Price because of their more aggressive price.<sup>61</sup> IEX also proposes to renumber subparagraph (iii) to (iv) to reflect the insertion of the new subparagraph (iii).

Finally, IEX proposes to add a new Example 6, to demonstrate how an aggressively priced non-displayed limit order will have execution priority over orders

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<sup>56</sup> See MEMX Rule 11.6(f)

<sup>57</sup> See MIAx PEARL Rule 2614(c)(7)(B)(iv).

<sup>58</sup> See IEX Rule 11.232.

<sup>59</sup> See IEX Rules 11.190(b)(15) and 11.232(a)(2).

<sup>60</sup> See IEX Rule 11.232(a)(2).

<sup>61</sup> An aggressively priced displayed odd lot order resting at the same price as the aggressively priced non-displayed limit order will have execution priority over the non-displayed limit order.

priced to execute at the Midpoint Price.

#### VI. Conforming Changes Caused by Midpoint Price Constraint Removal

IEX also proposes several conforming changes to other IEX rules. Specifically, IEX proposes to make the following conforming changes:

- Amend IEX Rule 11.190(a)(3) (Pegged Order) to remove the text stating that an Offset Peg order may be executed in sub-pennies if necessary to obtain a Midpoint Price. As noted below, Offset Peg orders would no longer be constrained by the Midpoint Price, and therefore will no longer execute in sub-pennies.<sup>62</sup>
- Amend IEX Rule 11.190(a)(3)(A) to remove the text stating that Primary Peg orders may not have a TIF of IOC or FOK. As discussed above, because the removal of the Midpoint Price Constraint means the IEX Order Book could have resting orders priced at the contra-side Protected Quotation, it is now possible for a Primary Peg order to execute upon entry, and therefore IEX proposes to allow Primary Peg orders to be submitted with a TIF of IOC or FOK. Relatedly, IEX proposes to amend subparagraph (E) of the same rule to remove the text saying that Primary Peg orders submitted with a TIF of IOC or FOK will be rejected on entry.
- Amend IEX Rule 11.190(b)(2) (Reserve Order) and the accompanying Supplementary Material to remove references to the Midpoint Price Constraint and replace them with references to the non-displayed price sliding rule. IEX also proposes to correct a typographical error by inserting a “B” into the last word of the sentence that reads: “[f]or example, NBBO is \$10.01 x \$10.02, and IEX does not have any orders resting at the NBO,” which will now end by saying “at the NBBO.” Further, IEX proposes to modify the example in Supplementary Material .01 (Reserve Orders) to describe a displayed odd lot reserve order with 50 shares displayed and 950 shares in reserve, to demonstrate how the displayed and non-displayed portions of a reserve order can be booked at different prices. Therefore, IEX proposes to end the example by changing the non-displayed portion’s resting price from \$10.015 (the Midpoint Price) to \$10.02, the NBO. Additionally, IEX proposes to reorder the paragraphs in the Supplementary Material about reserve orders such that the paragraph about D-Limit reserve orders is the last paragraph.
- Amend IEX Rule 11.190(b)(3) (Non-Displayed Order) to remove the text stating that Primary Peg orders are not eligible for Book Recheck. As

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<sup>62</sup> As set forth in IEX Rule 11.210, for securities that execute at sub-dollar prices (*i.e.*, the order is priced less than \$1.00 per share), the minimum price variation is \$0.0001. Therefore, sub-penny executions can still occur for any sub-dollar executions.

discussed above, these changes are proposed because Primary Peg orders have a higher likelihood of executing on entry now that non-displayed orders can rest at the contra-side Protected Quote.

- Amend IEX Rule 11.190(b)(8) (Primary Peg Order) to: amend subparagraph (B) to state that a Primary Peg order may have any TIF described in IEX Rule 11.190(a)(3); and remove the text in subparagraph (J) that says Primary Peg orders are not eligible for Book Recheck and add text saying that they are eligible to be invited to Recheck to trade against eligible resting contra-side interest. As discussed above, the TIF changes are proposed because Primary Peg orders have a better likelihood of executing on entry now that non-displayed orders can rest at the contra-side Protected Quote. Additionally, as discussed above, the proposed change to allow Primary Peg orders to Recheck the Order Book conforms to proposed changes to the Book Recheck rule to reflect that orders will no longer only be invited to recheck the Order Book if there is a contra-side order resting at the Midpoint Price.
- Amend IEX Rule 11.190(b)(9) (Midpoint Peg Order) to remove the text in subparagraph (J) that states that Midpoint Peg orders are eligible to be invited to Recheck to trade against interest resting at the Midpoint Price and replace it with text saying they are eligible to be invited to Recheck to trade against eligible resting contra-side interest. As discussed above, this conforms to proposed changes to the Book Recheck rule to reflect that orders will no longer only be invited to recheck the Order Book if there is a contra-side order resting at the Midpoint Price.
- Amend IEX Rule 11.190(b)(10) (Discretionary Peg Order) to remove the text in subparagraph (J) that says Discretionary Peg orders are eligible to be invited to Recheck to trade against interest resting at the Midpoint Price and replace it with text saying they are eligible to be invited to Recheck to trade against eligible resting contra-side interest. As discussed above, this conforms to proposed changes to the Book Recheck rule to reflect that orders will no longer only be invited to recheck the Order Book if there is a contra-side order resting at the Midpoint Price.
- Amend IEX Rule 11.190(b)(13) (Offset Peg Order) to remove the text in subparagraph (L) that provides that an Offset Peg order with an offset amount that results in a price more aggressive than the Midpoint Price will have the offset amount reduced so that the order is priced at the Midpoint Price until such time as the full offset amount will not result in the price of the order being more aggressive than the Midpoint Price. IEX further proposes to add text stating that if the offset amount results in a price more aggressive than the contra-side Protected Quotation, the offset amount will be reduced so that the order is booked and ranked on the Order Book non-displayed at the contra-side protected quotation (i.e. the NBO for buy

orders and NBB for sell orders), unless the Exchange's Best Bid (for offers) or Best Offer (for bids) is equal to the current NBB (for offers) or current NBO (for bids), in which case the order is booked and ranked on the Order Book non-displayed one (1) MPV below the current NBO (for bids) or one (1) MPV above the current NBB (for offers), as set forth in IEX Rule 11.190(h)(2), until such time as the full offset amount will not result in the price being more aggressive than the contra-side Protected Quotation. Additionally, as discussed above, because Offset Peg orders will no longer be eligible to be priced in sub-pennies, IEX proposes to remove the sentence describing how a sub-penny priced order is rounded up or down.

- Amend Supplementary Material .03 (Minimum Quantity Orders) to specify that the IEX PBBO for the example is \$10.01 x \$10.03 and modify the example to specify that Order #4 in the example would book at its limit price of \$10.02 (removing the text saying it would book at the Midpoint Price). Additionally, IEX proposes to reorder the paragraphs in the Supplementary Material about reserve orders such that the paragraph about D-Limit reserve orders is the last paragraph.
- Amend IEX Rule 11.190(b)(16) (Corporate Discretionary Peg Order) to remove the text in subparagraph (J) that says Corporate Discretionary Peg orders are eligible to be invited to Recheck to trade against interest resting at the Midpoint Price and replace it with text saying they are eligible to be invited to Recheck to trade against eligible resting contra-side interest. As discussed above, this conforms to proposed changes to the Book Recheck rule to reflect that orders will no longer only be invited to recheck the Order Book if there is a contra-side order resting at the Midpoint Price.
- Amend IEX Rule 11.190(h)(3) (Locked and Crossed Markets) to remove all references to the Midpoint Price Constraint and replace them with references to non-displayed price sliding. Additionally, amend IEX Rule 11.190(h)(3)(D)(i) to remove the reference to Offset Peg orders and add Corporate Discretionary Peg orders to the list of order types for which reference to the Midpoint Price is relevant.
- Amend IEX Rule 11.190(h)(4) (Short Sale Price Sliding) to remove subparagraph (E) and amend subparagraph (C) to remove references to displayed or displayable orders and the Permitted Display Price, and add a sentence saying that “[i]n the event the NBB changes such that the price of a non-displayed Order subject to Rule 201 of Regulation SHO would lock or cross the NBB, the order will receive a new timestamp, and will be re-priced by the System at the Permitted Price.” These changes reflect the fact that without the Midpoint Price Constraint, IEX’s short sale price sliding rules no longer need to distinguish between a “Permitted Display

Price” and a “Permitted Price.”

- Amend IEX Rule 11.220 (Priority of Orders) Supplementary Material .01 (Surrendering Precedence) to change the order #4 in the example to a midpoint peg order, so that the example will continue to demonstrate how MQTY orders booked at the Midpoint Price surrender precedence if their specific conditions prevent an execution.
- Amend IEX Rule 11.230(a)(4)(C) (Order Execution) to replace references to the Midpoint Price with references to contra-side Protected Quotation (i.e., the NBB or NBO), modify the first sentence of the subparagraph to specify that orders are permitted to post and rest non-displayed on the Order Book at prices that lock the protected quotation of an away market, so long as IEX does not have a protected quotation at the same price, and, as discussed above, delete the last sentence of the subparagraph that states that orders are never permitted to post non-displayed nor rest non-displayed on the Order Book at prices that cross contra-side liquidity.
- Amend IEX Rule 11.230(a)(4)(D) (Book Recheck) to include Corporate Discretionary Pegs in the list of orders eligible for Book Recheck and update the rule citations accordingly. Renumber subparagraphs (v) and (vi) to (iv) and (v) to reflect the deletion of subparagraph (iv), which said Primary Peg orders are not eligible for Book Recheck) as described above. And amend IEX Rule 11.230(a)(4)(D) Supplementary Material .01 to modify the example to reflect that a non-displayed limit order would be booked at its limit price of \$10.02, not the Midpoint Price of \$10.015.
- Amend IEX Rule 11.231 (Regular Market Session Opening Process for Non-IEX-Listed Securities) by removing the reference to the Midpoint Price from subparagraph (a)(v) and replacing it with a reference to the contra-side protected quotation (i.e., the NBO for buy orders and NBB for sell orders).
- Amend IEX Rule 11.340 (Compliance with Regulation NMS Plan to Implement a Tick Size Pilot) to remove the reference to the Midpoint Price Constraint in subparagraph (d)(4)(D)(ii) and replace it with a reference to the non-displayed price sliding rules set forth in IEX Rule 11.190(h)(2).

#### Implementation

This proposed rule change will be immediately effective upon filing, but subject to the thirty (30) day operative delay. The Exchange anticipates implementing the rule change within ninety (90) days of the effective date and will provide at least ten (10)

days' notice to Members and market participants of the implementation timeline.

## 2. Statutory Basis

The Exchange believes that this proposed rule change is consistent with Section 6(b) of the Act,<sup>63</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>64</sup> 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 removing the Midpoint Price Constraint for non-displayed limit orders is consistent with the protection of investors and the public interest because it is designed to incentivize the entry of more aggressively priced non-displayed limit orders, because it will allow Members to submit orders that are more likely to post at their instructed limit price, as opposed to being limited to posting no higher than the Midpoint Price. And these orders resting between the Midpoint Price and the contra-side Protected Quotation will trade before any orders resting at the Midpoint Price, which would enhance the aggressively priced orders' execution opportunities. Conversely, any contra-side orders that match with these aggressively priced non-displayed limit orders will benefit by the ability to obtain more price improvement than if they had executed at the Midpoint Price. Thus, IEX believes that allowing Members more control over the pricing of their non-displayed orders should both incentivize the submission of more orders to IEX (improving the overall liquidity profile of IEX) and

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<sup>63</sup> 15 U.S.C. 78f(b).

<sup>64</sup> 15 U.S.C. 78f(b)(5).

offer more potential price improvement opportunities, to the benefit of all market participants.

The Exchange further believes that removing the Midpoint Price Constraint and modeling its non-displayed price sliding rule on those of other equity exchanges is consistent with the Act because such treatment is designed to remove impediments to and perfect the mechanism of a free and open market and national market system by conforming IEX's treatment of non-displayed limit orders with the other equities exchanges.<sup>65</sup>

In addition, since this proposed rule change would make IEX's non-displayed price sliding rule consistent with that of the other equities exchanges, IEX believes that it will promote just and equitable principles of trade and foster cooperation and coordination with persons engaged in facilitating securities transactions because market participants will no longer have to potentially adjust their order routing strategies or trading algorithms to reflect that non-displayed limit orders are never allowed to be priced more aggressively than the Midpoint Price.

The Exchange further believes that modifying its Book Recheck functionality and Retail Price Improvement program are consistent with the protection of investors and the public interest because the rule change is designed to increase the opportunities for eligible orders to execute on the Exchange, which inures to the benefit of all market participants who send orders to the Exchange.

As discussed in the Purpose Section, each of these proposed changes is consistent with rules of other equities exchanges. Specifically:

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<sup>65</sup> See supra note 13.

- As proposed, IEX will slide the price of a non-displayed limit order priced more aggressively than the contra-side Protected Quotation to the price of the contra-side Protected Question. Cboe BZX Rule 11.9(g)(4), Nasdaq Rule 4702(b)(3)(A), and MIAX PEARL Rule 2614(g)(2) provide for the same functionality.<sup>66</sup>
- As proposed, IEX will slide the price of a non-displayed order that fails to match with a contra-side order because of the order's special conditions to a price one MPV less aggressive than the contra-side order. Nasdaq Rule 4703(e) provides for the same functionality.<sup>67</sup> And MIAX PEARL Rules 2617(a)(4)(C) and (D) provide for very similar functionality, with the only distinction being that MIAX PEARL allows the minimum quantity order that to trade at a price  $\frac{1}{2}$  MPV less aggressive than the price of the contra-side order against which it would match but for the minimum quantity instruction.<sup>68</sup>
- As proposed, IEX will allow resting orders to become active and check the Order Book if they become marketable against contra-side liquidity resting on the Order Book. NYSE Rules 7.37(b)(8) and (9), Nasdaq Rule 4702(a), and MIAX PEARL Rule 1901(a) provide for the same functionality.<sup>69</sup>
- As proposed, IEX will allow non-displayed order with specific conditions that prevent an execution against a contra-side order that also has specific conditions to cross on the non-displayed Order Book. MEMX Rule 11.6(f) and MIAX PEARL Rule 2614(c)(7)(B)(iv) provide for the same functionality.<sup>70</sup>

Overall, while the proposed rule change mirrors the functionality of several exchanges, IEX notes that the MIAX PEARL and Nasdaq rules are the most substantially similar to IEX's proposal. Specifically, IEX's non-displayed price sliding rule proposal mirrors that of MIAX PEARL with the sole exception that MIAX PEARL will reprice a non-displayed order that cannot match with a contra-side order because of the non-displayed order's minimum quantity at a price  $\frac{1}{2}$  of an MPV less aggressive than the contra-side order, while IEX proposes to rank the order at a price one MPV away from

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<sup>66</sup> See supra note 13.

<sup>67</sup> See supra note 32.

<sup>68</sup> See supra note 35.

<sup>69</sup> See supra note 54.

<sup>70</sup> See supra notes 56 and 57.



the price of the contra-side order. Further, Nasdaq's non-displayed price sliding rules mirror this proposal with the exception that Nasdaq does not explicitly state that it will allow two non-displayed minimum quantity orders to cross each other on the non-displayed order book, while IEX's rules explicitly permit such a cross.<sup>71</sup> Also, neither MIAX PEARL nor Nasdaq use identical terminology (e.g., descriptions of how resting orders can become active and check the order book for contra-side liquidity rather than use of the term "recheck" used in IEX rules).

IEX does not believe that these differences raise any new or novel issues, but merely reflect minor implementation differences. Both MIAX PEARL and IEX (as proposed) reprice a non-displayed order that cannot match with a contra-side order because of a minimum quantity, and it appears that both Nasdaq and IEX will allow two minimum quantity orders to cross each other on the non-displayed order book. Therefore, IEX does not believe that this proposal raises any new or novel issues that have not already been considered by the Commission.

Finally, IEX believes that the proposed conforming changes and typographical corrections further the purposes of the Act because they provide greater clarity and consistency to the IEX Rule Book thereby reducing the potential for confusion by market participants.

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.

The Exchange does not believe that the proposed rule change will impose any

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<sup>71</sup> IEX notes that Nasdaq's rules, while not explicit, appear to allow a crossed non-displayed order book in this particular situation.

burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the proposal is designed to enhance IEX's competitiveness with other markets by adopting rules providing for more prices at which non-displayed limit orders can execute or rest on the exchange and allowing for more circumstances in which orders eligible for Recheck or Retail orders will be able to interact with these aggressively priced non-displayed limit orders to the benefit of all market participants.

The Exchange also does not believe that the proposed rule change will impose any burden on intramarket competition because it will apply to all Members in the same manner. All Members are eligible to enter non-displayed limit orders and, as discussed in the Purpose section, all Members seeking a Midpoint Price may continue to use Discretionary Peg and Midpoint Peg orders which will not execute at a price more aggressive than the Midpoint Price. Moreover, the proposal would provide potential benefits to all Members to the extent that there is more liquidity available on IEX as a result of the ability to book non-displayed limit orders at more aggressive prices. The proposal is intended to incentivize the entry of more orders on the Exchange and thereby increase the likelihood of executions on the Exchange, which would benefit 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 Exchange has designated this rule filing as non-controversial under Section

19(b)(3)(A)<sup>72</sup> of the Act and Rule 19b-4(f)(6)<sup>73</sup> 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. In addition, the Exchange provided the Commission with 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 date of filing.<sup>74</sup>

The Exchange believes that the proposed rule change meets the criteria of subparagraph (f)(6) of Rule 19b-4<sup>75</sup> because it is consistent with the protection of investors and the public interest because it merely revises the prices at which non-displayed limit orders may be booked and executed in a manner consistent with the rules and functionality of other equities exchanges. As described in the Purpose and Statutory Basis sections, the Exchange does not believe that its proposed approach raises any new or novel issues not previously considered by the Commission.

Accordingly, the Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act<sup>76</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>77</sup>

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

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<sup>72</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>73</sup> 17 CFR 240.19b-4(f)(6).

<sup>74</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>75</sup> 17 CFR 240.19b-4(f)(6).

<sup>76</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>77</sup> 17 CFR 240.19b-4.

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>78</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-2022-04 on the subject line.

##### Paper Comments:

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

All submissions should refer to File Number SR-IEX-2022-04. This file number should be included in 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

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

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 Section, 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 will also be available for inspection and copying at the IEX's principal office and on its Internet website at [www.iextrading.com](http://www.iextrading.com). 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-2022-04 and should be submitted on or before [insert date 21 days from publication in the Federal Register]. For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>79</sup>

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<sup>79</sup> 17 CFR 200.30-3(a)(12).

## Exhibit 5 – Text of Proposed Rule Change

Proposed new language is underlined; proposed deletions are in brackets.

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## Rule 11.190. Orders and Modifiers

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## (a) General Order Types.

(1)-(2) No Change.

(3) Pegged Order. A non-displayed order that upon entry into the System and while resting on the Order Book, is pegged to a reference price based on the NBBO and the price of the order is automatically adjusted by the System in response to changes in the NBBO. A User can specify to peg the order to one of the following reference prices: one (1) MPV less aggressive than the primary quote (i.e., the NBB for buy orders and NBO for sell orders) while resting, and available for execution against opposing orders to its discretionary price (i.e., from the resting price to the primary quote) ("primary peg"); the midpoint of the NBBO ("midpoint peg"); or the midpoint of the NBBO upon entry, the inside quote on the same side of the market while resting, and available for execution against opposing orders within its discretionary range (i.e. from the resting price to the Midpoint Price or the order's limit, whichever is less aggressive) at a price that uses the minimum amount of discretion necessary to execute the order against an active order ("Discretionary Peg"); the primary quote plus or minus an offset amount ("Offset Peg"). A pegged order may have a limit price beyond which the order shall not be executed. A midpoint pegged order[, ] or a Discretionary Peg order[ or an Offset Peg order] may be executed in sub-pennies if necessary to obtain a Midpoint Price. A pegged order:

- (A) May have any TIF described in paragraph (c) of this IEX Rule. [Primary peg and ]Offset Peg orders may not have a TIF of IOC or FOK.
- (B)-(D) No change.
- (E) May only trade during the Regular Market Session. Pegged orders submitted in the Pre-Market Session may queue for the Opening Process as defined below. Pegged orders submitted during the Post-Market Session will be rejected by the System.
  - (i) Pegged orders marked IOC are rejected during the Pre-Market Session and Post-Market Session. Pegged orders (except for [Primary peg and ]Offset Peg orders) marked IOC are accepted and eligible to trade during the Regular Market Session. [Primary peg and ]Offset Peg orders

marked IOC are always rejected.

(ii) Pegged orders marked FOK are rejected during the Pre-Market Session and Post-Market Session[ (except for Primary peg and Offset Peg orders)]. Pegged orders (except for Offset Peg orders) marked FOK are accepted and eligible to trade during the Regular Market Session. [Primary peg and ]Offset Peg orders marked FOK are always rejected.

(iii)-(vi) No change.

(F)-(G) No change.

(4) No change.

(b) Order Parameters.

(1) No Change.

(2) Reserve Order. An order with a portion of the quantity displayed (“display quantity”) and with a non-displayed reserve portion of the quantity (“reserve quantity”). The User instructed display quantity may be a fixed or random number of shares; and an odd, mixed, or round lot quantity. An incoming reserve order is first processed as a single order of its full, unexecuted share size as it checks the Order Book for eligible resting contra interest. If it is not fully executed, it will be posted to the Order Book and effectively be treated as two discrete orders: one displayed for the User instructed fixed or random replenishments quantity (“displayed portion”), and one non-displayed for all other remaining, unexecuted shares (“non-displayed portion”). For the purposes of pricing reserve orders on the Order Book, displayed portions are treated as displayed orders and non-displayed portions are treated as non-displayed orders. As described in IEX Rule 11.190(h), it is possible for the non-displayed portion to rest at a different price than the displayed portion, since the non-displayed portion is subject to non-displayed price sliding[the Midpoint Price Constraint] while the displayed portion is subject to display-price sliding. The User must specify a base display quantity (“Max Floor”) and may enter a replenishment value as described in subparagraph (2)(A) of this Rule 11.190(b). If the reserve order has a Max Floor of at least one round lot and the displayed portion of the reserve order is decremented such that less than one round lot would be displayed, the displayed portion of the reserve order shall be replenished from the non-displayed portion pursuant to subparagraph (2)(A) of this Rule 11.190(b) (the “replenishment process”) or by the entire reserve quantity, if the total number of unexecuted shares in the order is smaller than the replenishment quantity determined by the replenishment process. If a reserve order has a Max Floor that is less than a round lot, and the displayed portion of the reserve order is decremented to zero shares, the displayed portion of the reserve order shall be replenished from the non-displayed

portion pursuant to the replenishment process, or by the entire reserve quantity, if the total number of unexecuted shares in the order is smaller than replenishment quantity determined by the replenishment process. Each time the displayed portion of the order is replenished from the reserve quantity, that portion is prioritized behind other existing displayed orders; the priority of the non-displayed portion, however, is unchanged by the replenishment process. A reserve order has the following attributes:

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- (3) Non-Displayed Order. An order for which no portion is displayed on the Exchange. A non-displayed order:
- (A)-(H) No change
  - (I) Is eligible to be invited by the System to Recheck as described in IEX Rule 11.230(a)(4)(D)[, except in the case of primary peg orders].
- (4)-(7) No change.
- (8) Primary Peg Order. A 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 one (1) MPV less aggressive than the primary quote (i.e. the NBB for buy orders and NBO for sell orders) or the order's limit price, if any. While resting on the Order Book, the order is automatically adjusted by the System in response to the changes in the NBB (NBO) for buy (sell) orders up (down) to the order's limit price, if any. In order to meet the limit price of active orders on the Order Book, a primary peg order will exercise price discretion to its discretionary price (defined as the primary quote), except during periods of quote instability as defined by paragraph (g) below or where the primary peg order is resting at its limit price, if any. When exercising price discretion, a primary peg order maintains time priority at its resting price and is prioritized behind any non-displayed interest resting at the discretionary price for the duration of that book processing action. If multiple primary peg orders are exercising price discretion during the same book processing action, they maintain their relative time priority at the discretionary price. A primary peg order:
- (A) No change.
  - (B) May[Must] have any TIF [of DAY, GTT, GTX, or SYS, as ]described in IEX Rule 11.190(a)(3).
  - (C)-(I) No change.
  - (J) [Is not eligible to be invited by the System to Recheck as described in IEX Rule 11.230(a)(4)(D).] Is eligible to be invited by the System to Recheck the Order Book to trade against eligible resting contra-side interest as described in IEX Rule 11.230(a)(4)(D).



(K) No change.

(i)-(ii) No change.

- (9) Midpoint Peg Order. A 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 Midpoint Price or the order's limit price, if any. While resting on the Order Book, the order is automatically adjusted by the System in response to changes in the midpoint of the NBBO as allowed by the order's limit price, if any. A midpoint peg order:

(A)-(I) No Change.

(J) Is e[E]ligible to be invited by the System to Recheck the Order Book to trade against eligible resting contra-side interest [resting at the Midpoint Price ]as described in IEX Rule 11.230(a)(4)(D).

- (10) Discretionary Peg Order. A pegged order that upon entry into the System, the price of the order is automatically adjusted by the System to be equal to the less aggressive of the Midpoint Price or the order's limit price, if any. When unexecuted shares of such order are posted 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 one (1) MPV less aggressive than the primary quote (i.e., the NBB for buy orders and NBO for sell orders) or the order's limit price and is automatically adjusted by the System in response to changes in the NBB (NBO) for buy (sell) orders up (down) to the order's limit price, if any. In order to meet the limit price of active orders on the Order Book, a Discretionary Peg order will exercise the least amount of price discretion necessary from the Discretionary Peg order's resting price to its discretionary price (defined as the less aggressive of the Midpoint Price or the Discretionary Peg order's limit price, if any, or as set forth in IEX Rule 11.190(h)(2)(B)), except during periods of quote instability as defined in paragraph (g) below when a Discretionary Peg order is only eligible to trade at its resting price. When exercising price discretion, a Discretionary Peg order maintains time priority at its resting price and is prioritized behind any non-displayed interest at the discretionary price for the duration of that book processing action. If multiple Discretionary Peg orders are exercising price discretion during the same book processing action, they maintain their relative time priority at the discretionary price. A Discretionary Peg order:

(A)-(I) No Change.

(J) Is eligible to be invited by the System to Recheck the Order Book to trade against eligible resting contra-side interest [resting at the Midpoint Price ]as described in IEX Rule 11.230(a)(4)(D).

(K) No change.

(i)-(ii) No change.

(11) Minimum Quantity Order (“MQTY”). A non-displayed, non-routable order which must have at least the minimum indicated share size satisfied in order to execute. Upon order entry or order amendment by the User the “effective minimum quantity” of an order is equal to the lesser of the submitted minimum quantity or the total share size of the order. A MQTY:

(A)-(F) No change.

(G) Based on User instruction, the Exchange utilizes one of the following methods to determine satisfaction of the minimum quantity parameter for an order:

(i)-(ii) No change.

(iii) When a MQTY is active (i.e. an active order).

(a)-(b) No change.

(c) Any incoming MQTY order that would otherwise be executable against a resting non-displayed order but for the MQTY order’s specific conditions will be booked and ranked by the System at the less aggressive of the incoming MQTY order’s limit price, if any, or the contra-side protected quotation (i.e. the NBO for buy orders and NBB for sell orders) unless the Exchange’s Protected Bid (for offers) or Protected Offer (for bids) is equal to the current NBB (for offers) or current NBO (for bids), in which case the incoming MQTY order is booked and ranked on the Order Book non-displayed one (1) MPV below the current NBO (for bids) or one (1) MPV above the current NBB (for offers).

(iv) When a MQTY is resting on the Order Book (i.e. a resting order).

(a) No change.

(b) Any incoming MQTY order that would otherwise be executable against the resting MQTY order, but for either MQTY order’s specific conditions, will be booked and ranked by the System at the less aggressive of the incoming MQTY order’s limit price, if any, or the contra-side protected quotation (i.e. the NBO for buy orders and NBB for sell orders). Such order will not be eligible to trade at a

price above (below) any non-displayed sell (buy) orders that are priced below (above) the price of such MQTY order. If the Exchange's Protected Bid (for offers) or Protected Offer (for bids) is equal to the current NBB (for offers) or current NBO (for bids), the incoming MQTY order will be booked and ranked on the Order Book non-displayed one (1) MPV below the current NBO (for bids) or one (1) MPV above the current NBB (for offers).

- (H) No change.
- (12) No change.
- (13) Offset Peg Order. A 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 NBB for buy orders and NBO for sell orders) plus or minus an offset amount 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 the 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. An Offset Peg order:
- (A)-(K) No change.
- (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 contra-side protected quotation, the offset amount will be reduced so that the order is booked and ranked on the Order Book non-displayed at the contra-side protected quotation (i.e. the NBO for buy orders and NBB for sell orders), unless the Exchange's Best Bid (for offers) or Best Offer (for bids) is equal to the current NBB (for offers) or current NBO (for bids), in which case the order is booked and ranked on the Order Book non-displayed one (1) MPV below the current NBO (for bids) or one (1) MPV above the current NBB (for offers), as set forth in IEX Rule 11.190(h)(2).[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]contra-side protected quotation, except when the order is an active order. [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.

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## • • • Supplementary Material • • •

### .01 Reserve Orders

As stated in paragraph (b)(2) of this IEX Rule, if a reserve order is not fully executed on entry, it will be posted to the Order Book and effectively treated as two discrete orders: one displayed quantity based on the replenishment options set forth in paragraph (b)(2)(A) of this IEX Rule (“displayed portion”), and one non-displayed quantity for all other remaining, unexecuted shares (“non-displayed portion”). For the purposes of pricing reserve orders on the Order Book, displayed portions are treated as displayed orders and non-displayed portions are treated as non-displayed orders. As described in IEX Rule 11.190(h), it is possible for the non-displayed portion of a reserve order to rest at a different price than the displayed portion of the reserve order, since the non-displayed portion is subject to non-displayed price sliding[the Midpoint Price Constraint] while the displayed portion is subject to display-price sliding.

[D-Limit reserve orders function like any other reserve order, except they can only trade during the Regular Market Session, and if a D-Limit reserve order has been subject to an automatic price adjustment pursuant to paragraphs (b)(7)(C) and (D) of this IEX Rule, both the displayed and non-displayed portions of the D-Limit reserve order will continue to be ranked and displayed (in the case of the displayed portion) at the adjusted price. The adjusted price functions as an effective limit price for both the displayed and non-displayed portions of the D-Limit reserve order if one or both portions of the D-Limit reserve order are subsequently price adjusted pursuant to the Price Sliding provisions of paragraph (h) of this IEX Rule.]

For example, NBBO is \$10.01 x \$10.02, and IEX does not have any orders resting at the NBBO.

IEX receives a non-routable, reserve DAY buy order for 1000 shares with a limit of \$10.02 and a User instructed display quantity of [200]50 shares. After testing the Order Book at \$10.02 and receiving no execution, the order is split into the displayed portion, a displayed DAY buy order for [200]50 shares with a limit of \$10.02, and the non-displayed portion, a non-displayed DAY buy order for 950[800] shares with a limit of \$10.02. The displayed portion, subject to display-price sliding, is booked and ranked on the Order Book displayed at a price equal to one (1) MPV below the current NBO, which is \$10.01. The non-displayed portion, subject to non-displayed price sliding[the Midpoint Price Constraint], is booked and ranked on the Order Book non-displayed at a price equal to the NBO[new Midpoint Price], which is \$10.0[15]2.

D-Limit reserve orders function like any other reserve order, except they can only trade during the Regular Market Session, and if a D-Limit reserve order has been subject to an automatic price adjustment pursuant to paragraphs (b)(7)(C) and (D) of this IEX Rule, both the displayed and non-displayed portions of the D-Limit reserve order will continue to be ranked and displayed (in the case of the displayed portion) at the adjusted price. The adjusted price functions as an effective limit price for both the displayed and non-displayed portions of the D-Limit reserve order if one or both

portions of the D-Limit reserve order are subsequently price adjusted pursuant to the Price Sliding provisions of paragraph (h) of this IEX Rule.

## **.02 Priority of Non-Display Portions of Reserve Orders**

No Change.

## **.03 Minimum Quantity Orders**

Composite. When taking liquidity, minimum quantity size for a MQTY marked Composite is satisfied by one or more orders on the IEX Book, provided the amount traded in aggregate will at least equal the order's effective minimum quantity. For a resting MQTY marked Composite, if the specified minimum quantity of shares is not satisfied by a given contra side active order, the order will surrender its priority position only for the duration of processing said active order against the Order Book.

For example, NBBO is \$10.01 x \$10.02. IEX PBBO is \$10.01 x \$10.03.

IEX receives three non-routable, non-displayed DAY sell orders: the first order, ORDER#1, for 200 shares with a limit of \$10.02 is booked and ranked at the offer; the second order, ORDER#2, for 400 shares with a limit of \$10.02, joins the offer at IEX and is ranked behind ORDER#1; the third order, ORDER#3, for 500 shares with a limit of \$10.02, joins the offer at IEX and is ranked behind ORDER#2.

Next, IEX receives a non-routable, non-displayed DAY buy MQTY for 7,500 shares marked Composite with a limit price of \$10.02 and minimum quantity size of 1,000 shares, ORDER#4. Since the aggregate size of all three sell orders exceeds the minimum quantity size of ORDER#4, three discrete executions representing a cumulative 1,100 shares occur in one single atomic action, i.e. a single book processing action, in which ORDER#4 removes the resting sell interest. The first execution is for 200 shares at \$10.02, which fully fills the oldest resting sell limit order on the offer, ORDER#1. The second execution is for 400 shares at \$10.02, and fully fills the next oldest resting sell limit order on the offer, ORDER#2. The third execution is for 500 shares at \$10.02, and fully fills the youngest resting sell limit order on the offer, ORDER#3. As a result of this event, ORDER#4 is decremented to a quantity of 6,400 shares from the original 7,500 shares and booked at its limit price, \$10.02.[the Midpoint Price.]

MinExec with Cancel Remaining. When taking liquidity, minimum quantity size for a MQTY marked MinExec with Cancel Remaining must be satisfied by each order on the IEX Book that will execute against the MQTY. If the active MQTY reaches a resting order that would trade with it, but such order does not satisfy its minimum quantity size, the MQTY will post to the IEX Book or be cancelled back to the User as per the order's TIF instructions.

For example NBBO is \$10.01 x \$10.02.

IEX receives ORDER#1, a DAY midpoint peg buy MQTY for 900 shares marked MinExec with Cancel

Remaining with a limit price of \$10.05 and minimum quantity size of 500 shares. ORDER#1 is booked and ranked at the Midpoint Price, \$10.015.

IEX receives a DAY midpoint peg sell order for 200 shares with a limit price of \$9.99, ORDER#2, which is booked at the prevailing Midpoint Price of \$10.015.

IEX receives another DAY midpoint peg sell order for 600 shares with a limit price of \$10.00, ORDER#3. Order #3 will execute 600 shares against Order #1 because it meets the minimum quantity requirement of Order #1. The remaining 300 shares of Order #1 will cancel back to the User.

MinExec with AON Remaining. The only variation in behavior between MinExec with Cancel Remaining and AON Remaining in the example above is that ORDER#1's 300 remaining shares would remain on the Order Book and be treated as having an effective minimum quantity of 300 shares.

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(14)-(15) No change.

(16) Corporate Discretionary Peg Order. A Discretionary Peg buy order that upon entry into the System, the price of the order is automatically adjusted by the System to be equal to the less aggressive of the Midpoint Price, the consolidated last sale price, or the order's limit price, if any. When unexecuted shares of such order are posted 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 one (1) MPV less than the NBB, the consolidated last sale price, or the order's limit price and is automatically adjusted by the System in response to changes in the NBB and consolidated last sale price up to the order's limit price, if any (the order's "resting price"). In order to meet the limit price of active orders on the Order Book, a Corporate Discretionary Peg order will exercise the least amount of price discretion necessary from the order's resting price to its discretionary price (defined as the less aggressive of the Midpoint Price, consolidated last sale price, or the order's limit price, if any, or as set forth in IEX Rule 11.190(h)(2)(B)), except during periods of quote instability as defined in paragraph (g) below when a Corporate Discretionary Peg order is only eligible to trade at its resting price. When exercising price discretion, a Corporate Discretionary Peg order maintains time priority at its resting price and is prioritized behind any non-displayed interest at the discretionary price for the duration of that book processing action. If multiple Corporate Discretionary Peg orders are exercising price discretion during the same book processing action, they maintain their relative time priority at the discretionary price. A Corporate Discretionary Peg order:

(A)-(I) No Change.

- (J) Is eligible to be invited by the System to Recheck the Order Book to trade against eligible resting contra-side interest [resting at the Midpoint Price ]as described in IEX Rule 11.230(a)(4)(D).
- (K) No Change.
- (17) No change.
- (c)-(g) No change.
- (h) Price Sliding. The System will process orders pursuant to the “price sliding process,” which includes the following:
- (1) Display-Price Sliding.
- (A)-(C) No change.
- (2) Non-Displayed Price Sliding[ (“Midpoint Price Constraint”)]. A non-displayed limit order posting to the Order Book which has a limit price more aggressive than the NBO (NBB) for bids (offers)[Midpoint Price ]is booked and ranked on the Order Book non-displayed at the contra-side protected quotation (i.e. the NBO for buy orders and NBB for sell orders), unless the Exchange’s Best Bid (for offers) or Best Offer (for bids) is equal to the current NBB (for offers) or current NBO (for bids), in which case the order is booked and ranked on the Order Book non-displayed one (1) MPV below the current NBO (for bids) or one (1) MPV above the current NBB (for offers) (“non-displayed price sliding”)[a price equal to the Midpoint Price]. To reflect changes to the NBBO, the order is automatically re-priced by the System in response to changes in the NBBO to be equal to the less aggressive of the order’s limit price or the [Midpoint Price]contra-side protected quotation, unless the Exchange’s Best Bid (for offers) or Best Offer (for bids) is equal to the current NBB (for offers) or current NBO (for bids), in which case the order is automatically repriced to the less aggressive of the order’s limit price or one (1) MPV below the current NBO (for bids) or one (1) MPV above the current NBB (for offers). Notwithstanding the foregoing, if a contra-side displayed odd lot order is booked and ranked on the Order Book at a price greater than or equal to the NBB (for bids) and less than or equal to the NBO (for offers)[at a price equal to or more aggressive than the Midpoint Price]:
- (A) Any incoming non-displayed order or non-displayed order resting on the Order Book (except for Discretionary Peg or Corporate Discretionary Peg orders) that would otherwise be executable against the contra-side displayed odd lot order, but for the non-displayed order’s specific conditions, will be booked and ranked by the System at one (1) MPV less aggressive than the price of the contra-side displayed odd lot order.

- (B) Any resting Discretionary Peg or Corporate Discretionary Peg order that would otherwise be executable against the contra-side displayed odd lot order, but for the Discretionary Peg or Corporate Discretionary Peg order's specific conditions, will be booked and ranked by the System in the manner set forth in Rule 11.190(b)(10) or Rule 11.190(b)(16), respectively, but the discretionary price of the order will be the less aggressive of the limit price, if any, or one (1) MPV less aggressive than the price of the contra-side displayed odd lot order.
- (3) Locked and Crossed Markets
- (A)-(B) No change.
- (C) In the event that the market becomes locked, the System will observe the following practices for non-displayed orders:
- (i)-(ii) No change.
- (iii) In the event that the market becomes locked, Offset Peg orders are not eligible to trade 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). Offset Peg orders resting on or posting to the Order Book while the market is locked are priced at the less aggressive of the locking price plus or minus an offset amount or the order's limit price, if any. 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 non-displayed price sliding[the Midpoint Price Constraint].
- (D) In the event that the market becomes crossed, the System will observe the following practices for non-displayed orders:
- (i) In the event the market becomes crossed, the Exchange shall consider the Midpoint Price indeterminable. Midpoint peg orders, Discretionary Peg orders, [Offset Peg ]Corporate Discretionary Peg orders and non-displayed orders [that would otherwise be subject to Midpoint Price Constraint, pursuant to paragraph (2) above, ]will be priced by the System to be no more aggressive than the crossing price, the lowest Protected Offer for buy orders and the highest Protected Bid for sell orders.
- (ii)-(iii) No change.
- (4) Short Sale Price Sliding. The re-pricing described in this sub-paragraph constitutes "short sale price sliding" for short sale orders.
- (A)-(B) No change.



- (C) A [displayable ]short sale order not marked short exempt that, at the time of entry, could not be executed or displayed in compliance with Rule 201 of Regulation SHO will be repriced and ranked by the System on the Order Book [displayed ]at a price equal to one MPV above the current NBB (the “Permitted [Display ]Price”). To reflect declines in the NBB, the System will continue to re-price a resting [displayed ]short sale order not marked short exempt to be equal to the higher of the order’s limit price or the[a] Permitted [Display ]Price. In the event the NBB changes such that the price of a non-displayed Order subject to Rule 201 of Regulation SHO would lock or cross the NBB, the order will receive a new timestamp, and will be re-priced by the System at the Permitted Price.
- (D) No change.
- [(E) A non-displayable short sale order not marked short exempt that, at the time of entry, could not be executed in compliance with Rule 201 of Regulation SHO 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 Book Price”). In situations where the current Midpoint Price is equal to the NBB (i.e. a locked market) or the market is crossed, the Permitted Non-Displayed Book Price will be equal the Permitted Display Price. During a Short Sale Period, non-displayed short sale orders not marked short exempt (including non-displayed portions of short sale reserve orders not marked short exempt) resting on the Order Book that become locked or crossed by the NBB will be re-priced by the System at a Permitted Non-Displayed Book Price. To reflect declines in the NBB, the System will continue to re-price a resting non-displayed short sale order not marked short exempt to be equal to the higher of the order’s limit price or a Permitted Non-Displayed Book Price.]
- (E[F]) During a Short Sale Period, orders marked "short exempt" will not be subject to short sale price sliding. The System will accept orders marked "short exempt" at any time when the System is open for order entry, regardless of whether the Short Sale Price Test has been triggered.

(5) No change.

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Rule 11.220 Priority of Orders

(a)-(b) No change.

• • • **Supplementary Material** • • •

**.01 Surrendering Precedence**

Scenario #1: In the event a resting order having precedence on the Order Book cannot be executed due to its specific conditions, the resting order surrenders its precedence in the Order Book only for the duration of the System processing the current active order.

For example, NBBO is \$10.01 x \$10.02.

IEX receives ORDER#1, a midpoint peg buy MQTY marked MinExec with Cancel Remaining for 1,000 shares with a minimum quantity size of 400 shares. ORDER#1 is booked and ranked at the Midpoint Price, \$10.015.

IEX receives ORDER#2, a second midpoint peg buy order for 500 shares, which is also booked and ranked at the Midpoint Price behind ORDER#1.

IEX receives ORDER#3, a sell limit order for 300 shares with a limit price of \$10.01. ORDER#1, the resting MQTY, surrenders precedence, because it cannot execute against the active order due to its minimum quantity condition. However, ORDER#3, the active sell limit order, executes 300 shares against next ranked order to buy, ORDER#2.

Scenario #2: In the event a resting order having precedence on the Order Book cannot be executed due to the active order's specific conditions, that resting order does not surrender its precedence, and the active order stops executing for this book processing action.

For example, NBBO is \$10.01 x \$10.02.

Resting on the Order Book are the following orders ranked in their respective order: (1) ORDER#1, buy limit order on the bid for 2,000 shares, (2) ORDER#2, buy limit order on the bid for 1,000 shares, and (3) ORDER#3, buy limit order on the bid for 2,000 shares.

IEX receives ORDER#4, a midpoint peg [an IEX Only marketable] sell MQTY for 5,000 shares marked MinExec with AON Remaining with a minimum quantity size of 2,000 shares. ORDER#4 executes 2,000 shares against ORDER#1, but ORDER#2 does not meet the active order's condition (2,000 share minimum quantity size), so IEX posts the remaining 3,000 shares of ORDER#4 at the Midpoint Price.

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## Rule 11.230 Order Execution

Subject to the restrictions under these Exchange Rules or the Act and the rules and regulations thereunder, orders shall be matched for execution in accordance with this IEX Rule 11.230.

- (a) Execution Against the IEX Order Book. For purposes of this IEX Rule 11.230 any order falling within the parameters of this paragraph shall be referred to as "executable." An order will be canceled back to the User if, based on market conditions, User instructions, applicable IEX Rules and/or the Act and the rules and regulations thereunder, such order is not executable, cannot be routed to an away trading center pursuant to IEX Rule 11.230(b)(2) below and cannot be posted to the Order Book.

- (1)-(3) No change.
- (4) Execution against the IEX Order Book. An incoming non-routable order will attempt to be matched for execution against orders in the Order Book, as described below.
- (A)-(B) No change.
- (C) Consistent with Rule 11.190, orders are permitted to post non-displayed and rest non-displayed on the Order Book at prices that lock contra-side liquidity of the protected quotation of an away market (i.e. the NBO for buy orders and NBB for sell orders) so long as IEX does not have a protected quotation at the same price[at the Midpoint Price], provided, however, that the System will never display a locked market. Subject to sub-paragraph (A) or (B) above, if an incoming order would execute [at the Midpoint Price,] against contra-side resting liquidity that [is]would otherwise lock[ing] the NBB or NBO[Midpoint Price], the orders may execute [against the incoming order ]if the resting order(s)' conditions are met.[ Lastly, orders are never permitted to post non-displayed nor rest non-displayed on the Order Book at prices that cross contra-side liquidity.]
- (D) Order Execution Recheck (“Book Recheck” or “Recheck”). Upon a change to the Order Book, the NBBO, or as part of the processing of inbound messages, the System may invite orders on one or both sides of its market to become active and check against the contra side (i.e. become the remover of liquidity) of the Order Book to determine if new executions can occur as a consequence of the change in the Order Book or prevailing market conditions. Orders resting on the Order Book may be eligible to trade against other orders on the Order Book that were ineligible for execution, or did not satisfy the order's conditions (i.e. minimum quantity) when they were originally booked.
- (i) Resting orders are invited to Recheck according to the resting priority of each order.
- (ii) To be eligible for Book Recheck, orders must be able to execute against resting contra-side liquidity[able to execute at a price equal to or more aggressive than the Midpoint Price]. Orders invited to Recheck will be eligible to trade at their full limit price, adjusted by applicable peg instructions, market conditions and all applicable rules and regulations.

(iii) Additionally, for Primary Peg, Discretionary Peg, and Corporate Discretionary Peg orders to be eligible for Book Recheck, the System must consider the quote to be stable for the order in question pursuant to IEX Rules 11.190(b)(8), (10), and (16), respectively.

[(iv) Primary peg orders are not eligible for Book Recheck.]

(iv) Displayed orders are not eligible for Book Recheck.

(v[i]) No orders are eligible for Book Recheck during a crossed market.

(E) No change.

••• **Supplementary Material** •••

**.01 Book Recheck**

Book Recheck invites resting orders to become active orders and recheck the Order Book for execution opportunities.

For example, NBBO is \$10.01 x \$10.02.

IEX receives ORDER#1, a non-routable, non-displayed buy MQTY marked Composite for 7,500 shares with a limit price of \$10.02 and minimum quantity size of 5,000 shares. ORDER#1 is booked and ranked at its limit price, \$10.02.[the Midpoint Price, \$10.015.]

ORDER#2, a non-routable sell order for 3,000 shares joins the offer at \$10.02 (3,000 does not satisfy the ORDER#1's 5,000 minimum quantity size).

ORDER#3, a second non-routable sell order for 2,000 shares joins the offer at \$10.02.

Since the 5,000 cumulative shares resting on the offer satisfy the ORDER#1's 5,000 minimum quantity, ORDER#1 is invited to Recheck the Order Book. Two executions for a cumulative 5,000 shares occur: the first execution for 3,000 shares at \$10.02, against ORDER#2, and the second execution for 2,000 shares at \$10.02, against ORDER#3. ORDER#1 is decremented to a quantity of 2,500 shares from 7,500.

(b)-(e) No change.

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## Rule 11.231. Regular Market Session Opening Process for Non-IEX-Listed Securities

- (a) Order Entry and Cancellation before the Regular Market Session Opening Process (“Opening Process”). Prior to the beginning of Regular Market Hours, Users who wish to participate in the Opening Process may enter orders designated with a TIF of DAY and limit orders designated with a TIF of GTX, which shall queue in the System and are eligible for execution in the Opening Process (the “Cross Book”); interest resting on the Order Book in the Pre-Market Session available for continuous trading (i.e., orders on the Continuous Book) are also eligible for execution in the Opening Process (collectively, “Cross Eligible Orders”). Orders with a Minimum Quantity as defined in Rule 11.190(b)(11) are not eligible for execution in the Opening Process, and therefore not Cross Eligible Orders.

(1) Orders on the Continuous Book and orders on the Cross Book (collectively, the Order Book) shall be ranked and maintained for the Opening Process pursuant to Rule 11.220(a)(2), as follows:

(i)-(iv) No change.

(v) Non-displayed limit orders and non-displayed portions of reserve orders on the Continuous Book are ranked and eligible for execution in the Opening Process at the less aggressive of the contra-side protected quotation (i.e. the NBO for buy orders and NBB for sell orders) [Midpoint Price ] or the order’s limit price.

(vi) Displayed limit orders on the Continuous Book are ranked and eligible for execution in the Opening Process at their resting price.

(b)-(f) No change.

## Rule 11.232. Retail Price Improvement Program

(a) Definitions.

(1) No Change.

(2) “Retail order” has the meaning specified in IEX Rule 11.190(b)(15) and will operate in accordance with paragraph (e) of this Rule 11.232. A Retail order must be a Discretionary Peg order or Midpoint Peg order with a Time-in-Force of IOC or FOK, and is only eligible to trade at a price between the NBB and the Midpoint Price (for bids) or between the NBO and the Midpoint Price (for offers).[at the Midpoint Price, except that a Retail order to buy (sell) is also eligible to trade against a displayed odd lot to sell (buy) priced at or between the NBB (NBO) and the Midpoint Price.]

(3) No Change.

(b)-(d) No Change.

(e) Priority and Order Execution.

(1) No change.

(2) Retail orders shall seek to execute upon entry into the System at the Midpoint Price, except that a Retail order to buy (sell) may also seek to execute against sell (buy) orders priced greater (less) than or equal to the NBB (NBO) and less (greater) than or equal to the Midpoint Price.[a displayed odd lot to sell (buy) priced at or between the NBB (NBO) and the Midpoint Price.]

(3) Retail orders shall execute against orders resting on the Order Book in price/time priority in accordance with IEX Rule 11.230 subject to the following:

(A) A Retail order to buy (sell) shall execute upon entry against sell (buy) orders resting on the Order Book in the following order:

(i) displayed sell (buy) orders at the NBO (NBB) during a locked or crossed market;

(ii) displayed sell (buy) odd lot orders priced to trade between the NBB (NBO) and the MidPoint Price;[ and]

(iii) non-displayed sell (buy) orders priced to trade between the NBB (NBO) and the Midpoint Price; and

~~(iii)~~(iv) Retail Liquidity Provider orders and nondisplayed orders priced to trade at the Midpoint Price.

Examples of priority and order allocation are as follows:

NBBO for security ABC is \$10.00 — \$10.10. It is not a period of quote instability as defined in Rule 11.190(g).

User 1 enters an unpriced Retail Liquidity Provider order to buy ABC for 500 shares

User 2 then enters an unpriced Discretionary Peg order to buy 500 shares of ABC

User 3 then enters a Midpoint Peg order to buy 500 shares of ABC at a limit price of \$10.04

Example 1: Retail Member Organization enters a Retail order to sell 800 shares of ABC. The order will first execute against the full size of User 1's buy order, and then execute against 300 shares of User 2's buy order, at which point the entire size of the Retail order to sell 800 shares is depleted. In this example the Retail order does not execute against User 3's buy order because the order is not priced to execute at or above

\$10.05, the current Midpoint Price.

Example 2: Assume the same facts above, except that User 2's unpriced Discretionary Peg order to buy ABC is for 100 shares. The incoming Retail order to sell 800 shares executes first against User 1's buy order for 500 shares at \$10.05, then against User 2's buy order for 100 shares at \$10.05. The Retail order still does not execute against User 3's buy order because the order is not priced to execute at or above \$10.05, the current Midpoint Price. The Retail order is filled for 600 shares and the balance of 200 shares is cancelled back to the Retail Member Organization.

Example 3: Assume the same facts as Example 1, except that User 3 enters a nondisplayed limit order to buy 300 shares of ABC at a limit price of \$10.05. The incoming Retail order to sell 800 shares executes first against User 1's order for 500 shares at \$10.05, then against User 3's order for 300 shares (because it has priority over User 2's Discretionary Peg order pursuant to IEX Rule 11.220(a)(1)(C)(vii)), completing the Retail order's 800 share quantity. User 2's buy order is not executed because it is ranked behind Users 1 and 3.

Example 4: Assume the same facts as Example 1, except that User 3 enters an unpriced Midpoint Peg order to buy 300 shares before User 1 enters an unpriced Retail Liquidity Provider order to buy 300 shares. The incoming Retail order to sell 800 shares executes first against User 3's order to buy 300 shares at \$10.05 (because it has priority over User 1's Retail Liquidity Provider order pursuant to IEX Rule 11.232(e)(3)(A)(iii)), then against User 1's buy order for 300 shares at \$10.05, and then against User 2's buy order for the remaining 200 shares at \$10.05, completing the Retail order's 800 share quantity.

Example 5: Assume the same facts as Example 1, except that User 3 enters a displayed odd lot limit order to buy 50 shares of ABC at a limit price of \$10.06. The incoming Retail order to sell 800 shares executes first against User 3's order for 50 shares at \$10.06, then against User 1's buy order for 500 shares at \$10.05, and then against User 2's buy order for the remaining 250 shares at \$10.05, completing the Retail order's 800 share quantity.

Example 6: Assume the same facts as Example 1, except that User 3 enters a nondisplayed limit order to buy 300 shares of ABC at \$10.06. The incoming Retail order to sell 800 shares executes first against User 3's order for 300 shares at \$10.06, and then against User 1's buy order for 500 shares at \$10.05, completing the Retail order's 800 share quantity. User 2's buy order is not executed because it is ranked behind Users 1 and 3.

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## Rule 11.340. Compliance with Regulation NMS Plan to Implement a Tick Size Pilot

(a)-(c) No change.

(d) Exchange handling of orders during the Pilot Period for the Plan

This section sets forth IEX's specific procedures for handling, executing, re-pricing and displaying of certain orders and modifiers applicable to Pilot Securities. Unless otherwise indicated, this section applies to orders in all three Test Group Pilot Securities.

(1)-(3) No change.

(4) For Pilot Securities in Test Group Three:

(A)-(B) No change.

(C) Non-displayed Orders. If after being posted to the Order Book, the NBBO or PBBO changes so that a non-displayed order would 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 this subparagraph and IEX Rule 11.190(h).

(i) No change.

(ii) Trade-At Prohibition for Opposite Side Protected Quotations. 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 non-displayed price sliding rules set forth in IEX Rule 11.190(h)(2)[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.

(D) No change.

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