

Winklevoss Order and other disapproval orders. The Exchange states that, while one may argue that the 1940 Act provides certain investor protections, those protections relate primarily to the composition of board of directors, limitations on leverage, and transactions with affiliates, among others, and thus do not confer additional protections to investors in relation to the underlying CME bitcoin futures market to justify different regulatory outcomes for Bitcoin Futures ETFs and non-1940 Act-regulated ETPs that hold spot bitcoin. The Exchange also adds that the largest Bitcoin Futures ETF has contracts representing about 37 percent of open interest in CME bitcoin futures, which, according to the Exchange, “seems to directly contradict” the “predominant influence” prong in establishing whether the CME bitcoin futures market constitutes a market of significant size.

The Commission disagrees with the premise of the Exchange’s argument. The proposed rule change does not relate to a product regulated under the 1940 Act, nor does it relate to the same underlying holdings as the Bitcoin Futures ETFs. The Commission considers the proposed rule change on its own merits and under the standards applicable to it. Namely, with respect to this proposed rule change, the Commission must apply the standards as provided by Section 6(b)(5) of the Exchange Act, which it has applied in connection with its orders considering previous proposals to list bitcoin-based commodity trusts and bitcoin-based trust issued receipts.¹⁷⁵ Accordingly, even if the Exchange’s Amendments No. 1, 2, and 3 had been timely filed, there is no additional information in such amendments that would enable the Commission to approve the proposed rule change as amended.

IV. Conclusion

For the reasons set forth above, the Commission does not find, pursuant to Section 19(b)(2) of the Exchange Act, that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with Section 6(b)(5) of the Exchange Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act, that proposed rule change SR-ChoeBZX-2021-019 be, and hereby is, disapproved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷⁶

J. Matthew DeLesDernier,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-93560; File No. SR-IEX-2021-15]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Juneteenth National Independence Day a Holiday of the Exchange

November 12, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 9, 2021, the Investors Exchange LLC (“IEX” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

Pursuant to the provisions of Section 19(b)(1) under the Act,³ and Rule 19b-4 thereunder,⁴ IEX is filing with the Commission a proposed rule change to amend IEX Rule 11.110 (Hours of Trading and Trading Days) to make Juneteenth National Independence Day a holiday of the Exchange. Juneteenth National Independence Day was designated a legal public holiday in June 2021. The Exchange has designated this rule change as “non-controversial” under Section 19(b)(3)(A) of the Act⁵ and provided the Commission with the notice required by Rule 19b-4(f)(6) thereunder.⁶

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

¹⁷⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(1).

⁴ 17 CFR 240.19b-4.

⁵ 15 U.S.C. 78s(b)(3)(A).

⁶ 17 CFR 240.19b-4.

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to amend IEX Rule 11.110 (Hours of Trading and Trading Days) to make Juneteenth National Independence Day a holiday of the Exchange. This rule filing is based on a proposal recently submitted by the New York Stock Exchange LLC (“NYSE”) and its affiliated exchanges.⁷ On June 17, 2021, Juneteenth National Independence Day was designated a legal public holiday.⁸ Consistent with industry sentiment,⁹ the approach recommended by the Securities Industry and Financial Markets Association (“SIFMA”),¹⁰ and IEX’s own determination that IEX’s rules should recognize this important date in American history, the Exchange proposes to add “Juneteenth National Independence Day” to the existing list of holidays in paragraph (b) of IEX Rule 11.110. As a result, the Exchange will not be open for business on Juneteenth National Independence Day, which falls on June 19 of each year. In accordance with paragraph (b) of IEX Rule 11.110, when the holiday falls on a Saturday, the Exchange will not be open for business on the preceding Friday, and when it falls on a Sunday, the Exchange will not be open for business on the

⁷ See Securities Exchange Act Release No. 93183 (September 30, 2021), 86 FR 55068 (October 5, 2021) (SR-NYSE-2021-56) (amending NYSE Rule 7.2 to include Juneteenth as an exchange holiday).

⁸ Public Law 117-17.

⁹ See, e.g., Bank of America Makes Juneteenth a Holiday, Joining JPMorgan, Wells Fargo.

¹⁰ SIFMA recommends a full market close in observance of Juneteenth National Independence Day. See SIFMA Revises 2022 Fixed Income Market Close Recommendations in the U.S. to Include Full Close for Juneteenth National Independence Day.

¹⁷⁵ See *supra* note 11.

following Monday, unless otherwise indicated by the Exchange.¹¹

Accordingly, as proposed paragraph (b) of IEX Rule 11.110 would be revised to read as follows (proposed additions underlined):

The Exchange will be open for the transaction of business on business days. The Exchange will not be open for business on the following holidays: New Year's Day, Dr. Martin Luther King Jr. Day, Presidents Day, Good Friday, Memorial Day, Juneteenth National Independence Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas. When any holiday observed by the Exchange falls on a Saturday, the Exchange will not be open for business on the preceding Friday. When any holiday observed by the Exchange falls on a Sunday, the Exchange will not be open for business on the following Monday, unless otherwise indicated by the Exchange.

The Exchange also notes that several other national securities exchanges have added Juneteenth National Independence Day as an exchange holiday as well.¹²

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b)¹³ of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act¹⁴ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Specifically, the Exchange believes that the proposed change would remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest because the proposed amended rule would clearly state that the Exchange will not be open for business on Juneteenth National Independence Day, which is a federal holiday, and would address what day would be taken off if June 19 fell on a Saturday or Sunday. The change would thereby promote clarity and transparency in the Exchange rules by updating the list of holidays of the Exchange.

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

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed correction does not impact competition in any respect since it is designed to simply amend the Exchange rule regarding holidays.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁵ and Rule 19b-4(f)(6)(iii) thereunder.¹⁶

A proposed rule change filed under Rule 19b-4(f)(6)¹⁷ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁸ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative prior to 30 days after the date of the filing. The Exchange states that waiver of the operative delay would be consistent with the protection of investors and the public interest because the proposed rule change, as described above, would state that the Exchange will not be open for business on Juneteenth National Independence Day, which is a federal holiday, and would address what day would be taken off if June 19 fell on a Saturday or

Sunday. The Exchange further states that the proposed change does not raise any new or novel issues. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.¹⁹

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

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-IEX-2021-15 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to File Number SR-IEX-2021-15. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the

¹¹ The Exchange might otherwise indicate if unusual business conditions exist such as the ending of a monthly or yearly accounting period.

¹² See BOX Exchange LLC Rule 7020(e); Miami International Securities Exchange LLC Rule 501; MIAX Emerald, LLC Rule 501; MIAX Pearl, LLC Rule 501; NYSE Rule 7.2; NYSE American LLC Rule 7.2E; NYSE Arca, Inc. Rules 7.2-E and 7.2-O; NYSE Chicago, Inc. Rule 7.2 and NYSE National Rule 7.2.

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁷ 17 CFR 240.19b-4(f)(6).

¹⁸ 17 CFR 240.19b-4(f)(6)(iii).

¹⁹ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. 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-2021-15, and should be submitted on or before December 9, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-93562; File No. SR-BOX-2021-26]

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

November 12, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 28, 2021, BOX Exchange LLC ("Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposal effective upon filing with the Commission. The

Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange is filing with the Securities and Exchange Commission ("Commission") a proposed rule change to amend the Fee Schedule on the BOX Options Market LLC ("BOX") options facility. While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on November 1, 2021. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at <http://boxexchange.com>.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to amend Section II.A. (QOO Order Fees) and Section II.C. (QOO Order Rebate) of the BOX Fee Schedule. Specifically, the Exchange proposes to amend Section II.A. (QOO Order Fees) to remove the QOO Order fee cap of \$75,000 per month per Broker Dealer and Section II.C. (QOO Order Rebate) to remove the QOO Order rebate cap of \$30,000 per month per Broker Dealer.

Currently, QOO Order fees for Broker Dealers on BOX are capped at \$75,000 per month per Broker Dealer. The Exchange proposes to eliminate this monthly QOO Order fee cap for Broker Dealers. The fee cap was intended to incentivize Broker Dealers to submit floor transactions on the Exchange by capping manual transaction fees. The Exchange no longer believes such fee cap is necessary because, as discussed herein, the fee cap was initially

established to incentivize Broker Dealers to bring increased liquidity and order flow to the new BOX Trading Floor, however the BOX Trading Floor is now well established and does not need this incentive to encourage order flow to the Trading Floor.

The Exchange also applies a QOO Order rebate cap of \$30,000 per month per Broker Dealer. Currently, Floor Brokers are eligible to receive a \$0.075 per contract rebate for all Broker Dealer and Market Maker QOO Orders presented on the BOX Trading Floor.⁵ The rebate is not applied to Public Customer executions, executions subject to the Strategy QOO Order Fee Cap, or Broker Dealer executions where the Broker Dealer is facilitating a Public Customer. The Exchange proposes to remove the monthly rebate cap for Broker Dealer executions.⁶ The Exchange notes that it is not making any other changes to the QOO Order fees or the QOO Order Rebate. The QOO Order fees and QOO Order rebate will be assessed and applied in the same manner as they are today.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(4) and 6(b)(5) of the Act,⁷ in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed elimination of the QOO Order fee cap of \$75,000 per month per Broker Dealer and the QOO Order rebate cap of \$30,000 per month per Broker Dealer is reasonable, equitable, and not unfairly discriminatory. As discussed above, the Exchange established the QOO Order fee cap and rebate cap in an effort to incentivize market participants to send order flow to the BOX Trading Floor. The Exchange believes such incentive is no longer necessary because the Exchange has a well-established trading floor and no longer needs this incentive to encourage increased order flow to the BOX Trading Floor.

⁵ Floor Brokers are also eligible to receive a \$0.05 per contract rebate for all Professional Customer QOO Orders presented on the BOX Trading Floor.

⁶ The Exchange notes that BOX has removed the QOO Order rebate cap in the past. See Securities Exchange Act Release No. 87704 (December 10, 2019), 84 FR 68499 (December 16, 2019) (SR-BOX-2019-35).

⁷ 15 U.S.C. 78f(b)(4) and (5).

²⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).