

**POSTAL REGULATORY COMMISSION****[Docket No. T2021–1; Order No. 5817]****Income Tax Review****AGENCY:** Postal Regulatory Commission.**ACTION:** Notice.

**SUMMARY:** The Commission is recognizing a recent Postal Service filing concerning the calculation of the assumed Federal income tax on competitive products income for Fiscal Year 2020. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* March 5, 2021.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:**

David A. Trissell, General Counsel, at 202–789–6820.

**SUPPLEMENTARY INFORMATION:****Table of Contents**

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**I. Introduction**

In accordance with 39 U.S.C. 3634 and 39 CFR 3060.40 *et seq.*, the Postal Service filed its calculation of the assumed Federal income tax on competitive products income for fiscal year (FY) 2020.<sup>1</sup> The calculation details the FY 2020 competitive product revenue and expenses, the competitive products net income before tax, and the assumed Federal income tax on that net income.

**II. Notice of Commission Action**

In accordance with 39 CFR 3060.42, the Commission establishes Docket No. T2021–1 to review the calculation of the assumed Federal income tax and supporting documentation.

The Commission invites comments on whether the Postal Service's filing in this docket is consistent with the policies of 39 U.S.C. 3634 and 39 CFR 3060.40 *et seq.* Comments are due no later than March 5, 2021. The Postal Service's filing can be accessed via the

Commission's website (<http://www.prc.gov>).

The Commission appoints Jennaca D. Upperman to serve as Public Representative in this docket.

**III. Ordering Paragraphs**

*It is ordered:*

1. The Commission establishes Docket No. T2021–1 to consider the calculation of the assumed Federal income tax on competitive products for FY 2020.

2. Pursuant to 39 U.S.C. 505, Jennaca D. Upperman is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than March 5, 2021.

4. The Secretary shall arrange for publication of this Order in the **Federal Register**.

By the Commission.

**Erica A. Barker,**

*Secretary.*

[FR Doc. 2021–01390 Filed 1–21–21; 8:45 am]

**BILLING CODE 7710–FW–P**

**SECURITIES AND EXCHANGE COMMISSION****Sunshine Act Meetings**

**TIME AND DATE:** 2:00 p.m. on Wednesday, January 27, 2021.

**PLACE:** The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

**STATUS:** This meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:**

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at <https://www.sec.gov>.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

**CONTACT PERSON FOR MORE INFORMATION:**

For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: January 19, 2021.

**Vanessa A. Countryman,**

*Secretary.*

[FR Doc. 2021–01530 Filed 1–19–21; 4:15 pm]

**BILLING CODE 8011–01–P**

**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34–90933; File No. SR–IEX–2021–01]**

**Self-Regulatory Organizations:  
Investors Exchange LLC; Notice of  
Filing and Immediate Effectiveness of  
a Proposed Rule Change To Modify the  
Way It Handles Odd Lot Orders by  
Allowing Them To Be Displayed  
Orders and To Aggregate To Form a  
Protected Quotation**

January 15, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on January 6, 2021, the Investors Exchange LLC (“IEX” or the “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

Pursuant to the provisions of Section 19(b)(1) under the Act,<sup>3</sup> and Rule 19b–4 thereunder,<sup>4</sup> IEX is filing with the Commission a proposed rule change to modify the way it handles odd lot orders by allowing them to be displayed

<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)(1).

<sup>4</sup> 17 CFR 240.19b–4.

<sup>1</sup> See Notice of the United States Postal Service of Submission of the Calculation of the FY 2020 Assumed Federal Income Tax on Competitive Products, January 14, 2021.

orders and to aggregate to form a protected quotation. The Exchange has designated this rule change as “non-controversial” under Section 19(b)(3)(A) of the Act<sup>5</sup> and provided the Commission with the notice required by Rule 19b-4(f)(6) thereunder.<sup>6</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 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 modify the way it handles odd lot orders<sup>7</sup> by allowing them to be displayed orders and to aggregate to form a protected quotation. Specifically, the Exchange proposes to amend IEX Rules 11.190(b), 11.220(a), and 11.240(c) to provide that a User may enter displayed<sup>8</sup> as well as non-displayed<sup>9</sup> odd lot orders and to allow displayed odd lot orders to aggregate to form a Protected Quotation.<sup>10</sup> Additionally, the Exchange proposes to make related changes to IEX Rules 11.190(h) and 11.230(a)(4) to prevent a displayed odd lot order that is not protected from resulting in a lock or cross of IEX’s Order Book.<sup>11</sup> The Exchange also proposes to make conforming changes to IEX Rules 11.190(b) and 11.240(c). This proposal would align IEX’s treatment of odd lot orders with that of the other national

securities exchanges that trade equities (*i.e.*, equities exchanges), as detailed below.

#### Background

Currently, all odd lot orders on IEX are treated as non-displayed, whether the User<sup>12</sup> entered the order into the System<sup>13</sup> as an odd lot, or if the order began as a displayed round<sup>14</sup> or mixed<sup>15</sup> lot order, and was subsequently decremented to an odd lot order by execution or User order amendment.<sup>16</sup> When a displayed round or mixed lot order decrements to a non-displayed odd lot order, the order also loses its execution priority as a displayed order and also receives a new timestamp resulting in the order being ranked behind all resting displayed and non-displayed orders on the Order Book at the same price level.<sup>17</sup> Additionally, a displayed order that becomes non-displayed because it decremented to an odd lot will no longer be disseminated on IEX’s TOPS,<sup>18</sup> DEEP,<sup>19</sup> and Data Platform<sup>20</sup> data feeds (collectively, the “Data Feeds”), as applicable.

Odd lots comprise an increasingly large portion of all securities transactions—in October 2020, 35.6% of all trades on IEX were odd lot executions. Odd lots account for an even larger percentage of trades on other equities exchanges—in October 2019, nearly half of all trades on equities exchanges were odd lot trades, which was nearly double the number of odd lot trades in 2016.<sup>21</sup> IEX understands that this growth in odd lot trading is driven by the increasing prevalence of stocks priced above \$1,000 per share (which translates to more than \$100,000 in notional value for the standard round

lot of 100 shares), as well as computerized trading strategies that increasingly employ odd lots.<sup>22</sup> However, odd lots are not subject to the same requirements as round lot orders under Regulation NMS, primarily in that only round lots can be protected quotations.<sup>23</sup> Thus, the Commission’s Division of Trading and Markets has provided guidance that:

trading centers are permitted to establish their own rules for handling odd-lot orders and the odd-lot portions of mixed-lot orders. For example, although trading centers are not required to handle odd-lot orders or the odd-lot portions of mixed lot orders in accordance with the requirements for automated quotations set forth in Rule 600(b)(4), they are free to incorporate such requirements in their rules if they wish to do so.<sup>24</sup>

Consistent with the above guidance, other equities exchanges have adopted rules that allow for odd lot orders to be displayed, which affects the orders’ execution priority and quotation dissemination on each exchange’s depth of book feed, where applicable.<sup>25</sup> In addition, equities exchanges enable displayed odd lot orders to aggregate at the same or multiple price points that equal at least one round lot to form a protected quotation under Rule 600(b)(62) of Regulation NMS.<sup>26</sup> Similarly, displayed odd lot orders can also be aggregated with displayed round and mixed lot orders at the same price level to form a protected quotation. When displayed odd lot orders aggregate to at least one round lot (either with other odd lot orders or with displayed round and/or mixed lot orders) and comprise the best bid or offer for an exchange, the other equities exchanges treat the aggregated quotation as their top of book quotation, which they disseminate to the appropriate Securities Information Processor (“SIP”)

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

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

<sup>14</sup> A round lot order is generally any order of 100 shares or a multiple thereof (*e.g.*, a 1,000 share order constitutes ten (10) round lots). See IEX Rule 11.180(a).

<sup>15</sup> A mixed lot order is generally any order of more than 100 shares that is not a multiple of 100 shares (*e.g.*, orders for 101 shares and 299 shares are both mixed lot orders). See IEX Rule 11.180(a).

<sup>16</sup> See IEX Rule 11.190(b)(4).

<sup>17</sup> See IEX Rule 11.220(a)(1)(C)(vii).

<sup>18</sup> See IEX Rule 11.330(a)(1) (describing how, among other things, TOPS offers aggregated top of book quotations for all displayed orders resting on the Order Book).

<sup>19</sup> See IEX Rule 11.330(a)(3) (describing how, among other things, DEEP provides “aggregated depth of book quotations for all displayed orders resting on the Order Book at each price level”).

<sup>20</sup> The IEX Data Platform, known as the “TOPS Viewer,” offers both aggregated top of book and aggregated depth of book quotations for all displayed orders resting on the Order Book. See IEX Rule 11.330(a)(2). The IEX Data Platform can be accessed at <https://iextrading.com/apps/tops/>.

<sup>21</sup> See Osipovich, Alexander: “Tiny ‘Odd Lot’ Trades Reach Record Share of U.S. Stock Market,” Wall Street Journal (October 23, 2019).

<sup>22</sup> See *supra* note 21.

<sup>23</sup> Regulation NMS defines “bids” and “offers” as the bid price or offer price for one or more round lots of an NMS security, and those definitions are referenced in the definitions of “quotations,” “protected bids,” and “protected offers.” See 17 CFR 242.600(b)(8), (b)(66), and (b)(61).

<sup>24</sup> See FAQ 7.03: “Odd-Lot Orders and Odd-Lot Portions of Mixed-Lot Orders,” Division of Trading and Markets: Responses to Frequently Asked Questions Concerning Rule 611 and Rule 610 of Regulation NMS (April 4, 2008), available at <https://www.sec.gov/divisions/marketregr/nmsfaq610-11.htm#sec7>.

<sup>25</sup> See, *e.g.*, The New York Stock Exchange LLC (“NYSE”) Rule 7.36(b) (“Display”) (describing how unless otherwise instructed, “odd-lot sized Limit Orders . . . are considered displayed for ranking purposes”).

<sup>26</sup> See, *e.g.*, The Nasdaq Stock Market LLC (“Nasdaq”) Rule 4756(c) (“Entry and Display of Quotes and Orders”) (describing the process for how Nasdaq aggregates displayed odd lot orders with other displayed interest to calculate its best ranked displayed orders for dissemination as the exchange’s top of book quotation).

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>6</sup> 17 CFR 240.19b-4.

<sup>7</sup> An odd lot order is generally any order of less than 100 shares (the size of a round lot order). See IEX Rule 11.180(a).

<sup>8</sup> See IEX Rule 11.190(b)(1). IEX offers three order types that may be entered as displayed orders: limit, reserve, and Discretionary Limit. See IEX Rule 11.190(a)(1), (b)(2), and (b)(7).

<sup>9</sup> See IEX Rule 11.190(b)(3).

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

<sup>11</sup> See IEX Rule 1.160(p).

and their own top of book feeds, as applicable.<sup>27</sup>

Based upon informal feedback from Members,<sup>28</sup> IEX understands that there is general interest in having IEX offer displayed odd lot orders, so that such orders are visible on the Exchange's depth of book feeds, are eligible to aggregate to form a protected quotation, and retain their execution priority consistent with how displayed odd lot orders are treated on other equities exchanges.

#### Proposal

The Exchange proposes to amend IEX Rules 11.190(b), 11.220(a), and 11.240(c) to provide that Users may enter odd lot orders as either displayed or non-displayed, rank displayed odd lot orders before non-displayed orders at the same price, show displayed odd lot orders on IEX's DEEP and Data Platform data feeds (collectively the "Depth of Book Data Feeds"), and aggregate displayed odd lot orders at the same or multiple price points that equal at least one round lot for purposes of transmitting the Exchange's best ranked displayed orders to the appropriate SIP for each security and to IEX's TOPS and Data Platform data feeds (collectively the "Top of Book Data Feeds").<sup>29</sup>

In addition, the Exchange proposes two related changes to prevent a displayed odd lot order that is not aggregated to form a protected quotation from resulting in a lock or cross of IEX's Order Book, as well as conforming changes to IEX Rules 11.190(b) and 11.240(c), each as described below.

Accordingly, with respect to displaying odd lot orders, IEX proposes to amend all the rules describing odd lot orders as non-displayed to reflect that odd lot orders may be either displayed or non-displayed, based upon User instruction per order. Consistent with this change, a displayed round lot order that decrements to an odd lot will retain its displayed status and execution priority, and IEX therefore proposes to remove any references to how decrementing a displayed round lot to an odd lot causes the order to lose its displayed status and execution priority. Thus, displayed odd lot orders would have priority over any non-displayed orders booked at the same price.<sup>30</sup>

As proposed, IEX will display odd lot orders in the same manner it displays round or mixed lot orders, with the

exception that an odd lot order that cannot be aggregated with other orders to form at least a round lot, will not be eligible to form a protected quotation and to be disseminated as IEX's top of book quotation. The proposed changes also enumerate the manner in which IEX will aggregate odd lot orders for purposes of forming a quotation that is eligible to be a protected quotation. Specifically, IEX will aggregate all of the displayed odd lot orders at the highest price to buy (or lowest price to sell) wherein the aggregate size of all displayed buy (sell) interest in the System greater than or equal (less than or equal) to that price is one round lot or greater. When the aggregate quotation is the Exchange's best ranked displayed order, IEX will disseminate this top of book quotation, rounded down to the nearest round lot,<sup>31</sup> to the appropriate SIP and the entire size of the top of book quotation to IEX's Top of Book Data Feeds.<sup>32</sup> As displayed orders, all of IEX's displayed odd lot interest will also be aggregated at each price level and disseminated to IEX's Depth of Book Data Feeds.<sup>33</sup>

The following example demonstrates how, as proposed, odd lot bids<sup>34</sup> would be aggregated both for dissemination to IEX's Data Products and the SIPs, when applicable:

- Protected NBBO<sup>35</sup> for a stock is 10.00 x 10.10.
- IEX's order book has two resting displayed bids for the stock:
  - Order A is a displayed odd lot to buy 25 shares at \$10.02.
  - Order B is a displayed odd lot to buy 65 shares at \$10.02.
- Orders A and B do not aggregate to a protected quotation and will not be disseminated to the Top of Book Data Feeds and the SIPs.
- IEX will disseminate to its Depth of Book Data Feeds that it has interest to buy 90 shares at \$10.02.
- Order C arrives: a displayed odd lot order to buy 30 shares at \$10.01.
- Orders A, B, and C will aggregate to form a protected quotation at 10.01, which is disseminated to the SIP (as one round lot) and Top of Book Data Feeds as interest to buy 120 shares at \$10.01.
- IEX will disseminate to its Depth of Book Data Feeds that it has interest to

buy 90 shares at \$10.02 and 30 shares at \$10.01.

As noted above and discussed in the Statutory Basis section below, these proposed changes would align IEX's treatment of odd lot orders with that of the other equities exchanges. Specifically, other equities exchanges allow odd lot orders to be treated as displayed or non-displayed<sup>36</sup> and to aggregate in the manner proposed.<sup>37</sup>

IEX also proposes several related rule changes to prevent a displayed odd lot order that is not protected from resulting in a lock or cross of IEX's Order Book.

First, IEX proposes to modify its non-displayed price sliding rules to prevent a displayed odd lot order priced equal to or more aggressively than the Midpoint Price<sup>38</sup> from locking or crossing a non-displayed incoming or resting order when the orders are unable to execute against each other because of the non-displayed order's specific conditions.<sup>39</sup> This issue does not arise currently because non-displayed orders are never priced more aggressively than the Midpoint Price in accordance with the "Midpoint Price Constraint"<sup>40</sup> and a displayed order priced equal to or more aggressively than the Midpoint Price would result in a change in the NBB<sup>41</sup> or NBO<sup>42</sup> and a corresponding

<sup>36</sup> See, e.g., NYSE Rule 7.36(b)(1) (describing how unless otherwise instructed, "odd-lot sized Limit Orders . . . are considered displayed for ranking purposes"); Cboe BZX Exchange, Inc. ("Cboe BZX") Rule 11.9(c)(2); Nasdaq Rule 4703(b); and MIAX PEARL, LLC ("MIAX Pearl") Rule 2611(a); and MEMX LLC ("MEMX") Rules 11.2(a) and 11.6(q)(2). See also Securities Exchange Act Release No. 87221 (October 3, 2019), 84 FR 54195 (October 9, 2019) (SR-LTSE-2019-02) (detailing how the Long Term Stock Exchange, Inc. ("LTSE") removed all references to odd lot orders being non-displayed, including removing language about how round lots decrementing to an odd lot become non-displayed and lose their priority, and clarifying that displayed odd lots can aggregate to form a protected quotation).

<sup>37</sup> See, e.g., Nasdaq Rule 4756(c); NYSE Rule 7.36(b)(3); Cboe BZX Rule 21.6(d); MIAX Pearl Rule 2616(b); MEMX Rule 11.9(b)(2); and LTSE Rule 11.410.

<sup>38</sup> See IEX Rule 1.160(t).

<sup>39</sup> The primary situation in which this would arise is if the non-displayed order is a Minimum Quantity order with a User instruction that it cannot match with an order the size of the displayed odd lot. 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.* It is also possible that a non-displayed order would be subject to another specific condition that would prevent matching with a displayed odd lot order in such circumstances, such as a Corporate Discretionary Peg ("C-Peg") order that cannot match because of the pricing conditions applicable to C-Peg orders. See IEX Rule 11.190(b)(16).

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

<sup>41</sup> See IEX Rule 1.160(u).

<sup>42</sup> See IEX Rule 1.160(u).

<sup>27</sup> See, e.g., Nasdaq Rule 4756(c).

<sup>28</sup> See IEX Rule 1.160(s).

<sup>29</sup> These proposed rule changes are consistent with how other equities exchanges handle displayed odd lot orders. See *supra* notes 25 and 26.

<sup>30</sup> See IEX Rule 11.220(a)(1)(B).

<sup>31</sup> The SIPs only accept quotations in round lots.

<sup>32</sup> See IEX Rule 11.330(a)(1) and (2).

<sup>33</sup> See IEX Rule 11.330(a)(2) and (3).

<sup>34</sup> The example focuses on the aggregation of displayed odd lot orders to buy, but the same process applies to aggregating displayed odd lot orders to sell, with the exception that the displayed odd lot orders to sell will aggregate at the lowest price wherein the aggregate size of all displayed interest to sell is one round lot or greater.

<sup>35</sup> See IEX Rule 1.160(cc).

change to the Midpoint Price. However, with the introduction of displayed, but unprotected, odd lot orders, there is the potential that a displayed odd lot order would post on the Order Book at a price equal to or more aggressive than the Midpoint Price and would lock or cross<sup>43</sup> a contra-side resting non-displayed order (or be locked or crossed by an incoming non-displayed order) if the non-displayed order's specific conditions prevent it from matching with the displayed odd lot order.<sup>44</sup>

In order to address this possible scenario, IEX proposes to amend the non-displayed price-sliding rules so that the price of a non-displayed order that, because of its specific conditions, is not executable against a contra-side displayed odd lot order that is priced equal to or more aggressively than the Midpoint Price is adjusted to one (1) minimum price variant ("MPV")<sup>45</sup> less aggressive than the price of the contra-side displayed odd lot order. Specifically, IEX proposes to modify IEX Rule 11.190(h)(2), and add new subsection (A), to specify that in such a circumstance, the non-displayed order will book at a price one (1) MPV less aggressive than the price of the contra-side displayed odd lot order.

These proposed changes to the non-displayed price sliding rules are thus designed to address the potential that an unprotected displayed odd lot order will result in the IEX Order Book becoming locked or crossed, by sliding orders in a reasonably expected manner based on current IEX rules, and consistent with the rules of several other equities exchanges. For example, Nasdaq re-prices non-displayed orders to a price one (1) MPV less aggressive than the price of a resting contra-side displayed odd lot order if the non-displayed order would lock or cross the displayed odd lot order because the non-displayed order's minimum quantity condition prevents the two orders from matching.<sup>46</sup> Similarly, to avoid a lock or cross on its order book, NYSE reprices orders with a minimum trade size ("MTS") modifier to a less aggressive price than the price of a resting contra-side displayed odd lot order with which it would have matched but for the MTS modifier.<sup>47</sup>

<sup>43</sup> A non-displayed order would cross the odd lot order if the non-displayed order is priced at the Midpoint and would lock if priced at the same price as the odd lot order.

<sup>44</sup> This scenario would not arise if the contra-side order is a displayed order because displayed orders cannot include a minimum quantity and would execute against the odd lot order.

<sup>45</sup> See IEX Rule 11.210.

<sup>46</sup> See Nasdaq Rule 4703(e).

<sup>47</sup> See NYSE Rule 7.31(i)(3)(C)(i).

And several other exchanges would execute a non-displayed order only at a less aggressive price than a contra-side unprotected displayed odd lot order to prevent the displayed odd lot order crossing each exchange's order book.<sup>48</sup>

This proposed change to the non-displayed price sliding rules applies to all non-displayed orders except for Discretionary Peg ("D-Peg") and C-Peg orders, which also can have specific conditions that prevent them from matching an aggressively priced contra-side displayed odd lot order with which they would otherwise match. However, because D-Peg and C-Peg orders book at a price one (1) MPV less aggressive than the NBBO,<sup>49</sup> they are different from other non-displayed orders and cannot lock or cross a displayed odd lot order priced equal to or more aggressive than the Midpoint Price.<sup>50</sup> However, both D-Peg and C-Peg orders have a "discretionary price" that allows them to exercise discretion and execute up to the less aggressive of the limit price (if any) or the Midpoint Price. Therefore, there is a limited circumstance in which a D-Peg or C-Peg could execute at a price that locks or crosses a displayed odd lot order priced at or more aggressively than the Midpoint Price. Accordingly, IEX also proposes to amend the non-displayed price sliding rules to state that in this scenario, the D-Peg or C-Peg order would not be able to exercise discretion up to the Midpoint Price, and instead the discretionary price for a D-Peg or C-Peg order will be either the less aggressive of the order's limit price (if any) or one (1) MPV less aggressive than the price of the contra-side unprotected displayed odd lot order. This manner of limiting the amount of discretion a D-Peg or C-Peg can exercise to prevent locking or crossing a contra-side displayed odd lot order is also consistent with other aspects of the proposed rule change to avoid locking or crossing an unprotected displayed odd lot order.

Second, the Exchange proposes to revise IEX Rule 11.230(a)(4) to provide that when a displayed order that was previously subject to price sliding to avoid locking or crossing a contra-side protected quotation of an another

national securities exchange becomes eligible to be re-priced to a more aggressive price as a result of a change in the NBBO, it will trade with an unprotected displayed odd lot on the IEX Order Book that it would lock or cross as it re-prices. In this circumstance, the orders will execute according to the priority of each order, and the remover of liquidity will be the order with the newest timestamp.

Under existing rules, any displayed orders that would be locked or crossed by a displayed order subject to re-pricing would either change the Protected NBBO<sup>51</sup> (if the displayed order is the best bid or best offer), or re-price such that the displayed order does not lock or cross the Protected NBBO.<sup>52</sup> With the introduction of unprotected displayed odd lot orders, it is now possible for a displayed order subject to display price sliding to re-price to a price where it locks or crosses a contra-side unprotected displayed odd lot order. Because IEX rules provide that it will never display a locked market, nor can a locked or crossed market exist within the System,<sup>53</sup> in such a scenario IEX must either again re-price one or both orders, or allow them to execute against each other. IEX believes that allowing these two orders to match when they become executable after re-pricing is consistent with investor expectations that marketable orders will match and could result in price improvement when the trade is at a better price than the NBBO. By contrast, IEX believes that subjecting displayed orders to additional price sliding to avoid locking or crossing a small odd lot order would not benefit investors, would disadvantage the re-pricing orders (because they receive a new timestamp and corresponding reduced priority), and would create unnecessary complexity.

IEX's proposal is consistent with the manner in which NYSE matches orders

<sup>51</sup> See IEX Rule 11.240(c)(1).

<sup>52</sup> Under existing rules, a displayed order (all of which are currently protected quotations) that on entry would lock or cross another order on the IEX Order Book will be executed against the resting order. Further, a displayed order will be subject to displayed price sliding to avoid locking or crossing a protected quotation of another national securities exchange and be subsequently re-priced to a more aggressive price if the NBBO changes and it would no longer lock or cross a protected quotation of another national securities exchange. However, a displayed order will not be able to re-price to a more aggressive price if the NBBO has not changed, even if the contra-side protected quotation is now an IEX protected quotation. This is because resting displayed orders do not become active orders that take other resting orders but wait for potential execution with either an incoming order or a non-displayed order that has become active through the recheck process.

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

<sup>48</sup> These exchanges would execute the order at a price 1/2 MPV less aggressive than the contra-side displayed odd lot. See Cboe BZX Rules 11.13(a)(4)(C) and (D); MEMX Rules 11.10(a)(4)(C) and (D); and MIAAX Pearl Rules 2617(a)(4)(C) and (D). In the same situation, IEX is proposing to re-price the non-displayed order to a price one (1) MPV less aggressive than the contra-side displayed odd lot order, which IEX believes is a minor distinction from the Cboe BZX, MEMX, and MIAAX 1/2 MPV approach.

<sup>49</sup> See IEX Rule 1.160(u).

<sup>50</sup> See IEX Rule 11.190(b)(10) and (16).

that become marketable against each other as a result of one or both orders re-pricing.<sup>54</sup> And this proposal is also analogous to how several exchanges with post-only order types allow such orders to take liquidity and match under limited circumstances when re-pricing.<sup>55</sup>

Similarly, IEX's proposal to have the orders execute according to the priority of each order is consistent with IEX's order priority rule,<sup>56</sup> other exchange's rules,<sup>57</sup> and the manner in which the System invites resting orders to recheck the IEX Order Book.<sup>58</sup> And the proposal to have the newest order be the remover of liquidity is consistent with the existing practice that the newer arriving order takes any liquidity it finds on an exchange's order book.<sup>59</sup>

Accordingly, IEX proposes to amend IEX rules as described below:

- Modify IEX Rule 11.190(b)(1) ("Displayed Order") to remove the language in subsection (H) providing that displayed orders must be at least one round lot, and that a round lot that decrements to an odd lot will be treated as non-displayed and will receive a new timestamp, and add new text specifying that displayed orders can be odd lots, mixed lots, or round lots.
- Modify IEX Rule 11.190(b)(2) ("Reserve Order") to remove the language in subsection (2)(H) providing that reserve orders must be at least one round lot, and to remove the language stating that if the displayed portion of the reserve order decrements to less than a round lot it loses its displayed status and receives a new timestamp. And add new text specifying that if a displayed reserve order is decremented to less than one round lot, the order will continue to be treated as a displayed order and will retain its priority.
- Modify IEX Rule 11.190(b)(4) ("Odd Lot Order") to remove the language providing

that all odd lot orders are non-displayed, and that a displayed order that decrements to less than a round lot is treated by the System as a non-displayed order, and add language specifying that odd lot orders marked for display are only eligible to be protected quotations if aggregated to form at least one round lot.

- Modify IEX Rule 11.190(b)(5) ("Mixed Lot Order") to remove the language providing that any displayed mixed lot order that decrements to less than a round lot is treated by the System as a non-displayed order.
- Modify IEX Rule 11.190(b)(7) ("Discretionary Limit Order") to remove the text in subsection (E)(vii) describing how D-Limit orders can only be displayed if they are at least one round lot, and that if a D-Limit order is decremented to less than a round lot it will be treated as non-displayed and given a new timestamp.
- Modify IEX Rule 11.220 ("Priority of Orders") to remove subsection (a)(1)(C)(vii), which states that a displayed order that decrements to less than a round lot receives a new timestamp and is considered a non-displayed order. And renumber subsection (a)(1)(C)(viii) to (a)(1)(C)(vii), because of the removal of the current subsection (a)(1)(C)(vii).
- Modify IEX Rule 11.220(a)(3) ("Decrementing Order Quantity and Priority") to remove the two references to how a displayed round lot order becomes a non-displayed order if the order is decremented to less than a round lot, as set forth in the to-be-removed Rule 11.220(a)(1)(C)(vii).
- Modify IEX Rule 11.240(c) ("Dissemination of Quotation Information") by adding new subsection (2) providing that pursuant to Rule 602 of Reg NMS, the Exchange will transmit for display to the appropriate SIP for each security the aggregate best ranked orders, as detailed in the following subsections:
  - Add new subsection (A), which specifies that the best priced buy order will be the highest price to buy wherein the aggregate size of all displayed buy interest greater than or equal to that price is one round lot or higher.
  - Add new subsection (B), which specifies that the aggregated best priced buy order in subsection (A) will be rounded down to the nearest round lot.
  - Add new subsection (C), which specifies that the best priced sell order will be the lowest price to sell wherein the aggregate size of all displayed sell interest less than or equal to that price is one round lot or higher.
  - Add new (D), which specifies that the aggregated best priced sell order in subsection (C) will be rounded down to the nearest round lot.
- Amend IEX Rule 11.190 to prevent a displayed odd lot order priced equal to or more aggressively than the Midpoint Price from locking or crossing a non-displayed incoming or resting order when the orders are unable to execute against each other because of the non-displayed order's specific conditions as follows:
  - Modify IEX Rule 11.190(h)(2) ("Non-Displayed Price Sliding") to add language providing that a displayed odd lot order

booked at a price equal to or more aggressive than the Midpoint Price will affect the resting or discretionary price of non-displayed resting orders as set forth in new subsections (A) and (B).

- Add subsection (A) specifying that a non-displayed order (other than a D-Peg or C-Peg) that would otherwise be executable against a contra-side displayed odd lot order priced equal to or more aggressively than the Midpoint Price, but for the non-displayed order's specific conditions, will be ranked and displayed by the System at one (1) MPV less aggressive than the price of the contra-side displayed odd lot order.
- Add subsection (B) specifying that a D-Peg or C-Peg order that would otherwise be executable against a contra-side displayed odd lot order priced equal to or more aggressively than the Midpoint Price, but for the D-Peg or C-Peg order's specific conditions, will be booked 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 limited to 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.
  - Modify IEX Rule 11.190(b)(10) ("D-Peg") to make a conforming change specifying that the order's discretionary price may be changed as set forth in new IEX Rule 11.190(h)(2)(B).
  - Modify IEX Rule 11.190(b)(16) ("C-Peg") to make a conforming change specifying that the order's discretionary price may be changed as set forth in new IEX Rule 11.190(h)(2)(B).
- Amend IEX Rule 11.230 to provide that when a displayed order that was previously subject to price sliding to avoid locking or crossing a contra-side protected quotation of an another national securities exchange becomes eligible to be re-priced to a more aggressive price as a result of a change in the NBBO it will trade with an unprotected displayed odd lot on the IEX Order Book that it would lock or cross as it re-prices as follows:
  - Add subsection (E) to IEX Rule 11.230(a)(4) which specifies that in the case of a displayed order previously subject to price sliding, upon a change to the Order Book or the NBBO that would result in the displayed order re-pricing to a more aggressive price that would lock or cross a resting unprotected displayed odd lot order, the re-pricing order and the displayed odd lot order will execute according to the priority of each order, and the remover of liquidity will be the order with the newest timestamp.
- Make two conforming changes to IEX Rule 11.240(c)(1):
  - Move the phrase "pursuant to IEX Rule 11.220" to be clear it applies to both best-ranked orders to buy and best ranked orders to sell
  - Remove the extraneous sentence about the Exchange maintaining connectivity to the SIPs, which is already addressed in detail in IEX Rule 11.510.

## Implementation

This proposed rule change will be immediately effective upon filing, but

<sup>54</sup> See NYSE Rules 7.37(b)(8) and (9) (Resting orders that are repriced and become marketable against contra-side orders on 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).

<sup>55</sup> See Choe BZX Rule 11.9(g)(2)(D) (a displayed post only order subject to display-price sliding that can remove displayed liquidity from the exchange's order book will execute if the execution value (including fees/rebates) equals or exceeds the execution value of the post only order providing liquidity); see also Choe BZX Rule 11.9(c)(6) (describing the circumstances in which a post only order becomes the remover of liquidity). MEMX, MIAx Pearl, and Nasdaq all offer similar functionality in which a post only order subject to price sliding can become the remover of liquidity when the execution results in at least as much price improvement as the if the post only order remained a liquidity provider. See MEMX Rule 11.6(j)(1)(A)(iv); MIAx Pearl Rule 2614(g)(1)(D); Nasdaq Rule 4702(b)(4)(A).

<sup>56</sup> See IEX Rule 11.220.

<sup>57</sup> See *supra* note 54.

<sup>58</sup> See IEX Rule 11.230(a)(4)(D).

<sup>59</sup> See, e.g., NYSE Rule 7.31(d)(3)(B) (when two midpoint liquidity orders match, the order with the newer timestamp is the liquidity-removing order).

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 the 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 providing for displayed odd lot orders is consistent with the protection of investors and the public interest because it is designed to incentivize the entry of additional displayed limit orders on IEX by providing the opportunity for odd lot orders to receive displayed order execution priority and visibility, thereby enhancing price discovery and the overall liquidity profile on the Exchange to the benefit of all market participants.

The Exchange further believes that treating displayed odd lot orders in the same manner as it treats displayed round or mixed lot orders (with the exception that non-aggregated displayed odd lots cannot form a Protected Quotation) 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 standardizing the treatment of all displayed liquidity on the Exchange, and as discussed in the Purpose section, conforming IEX's treatment of odd lots with those of the other equities exchanges.

Additionally, the Exchange believes that making displayed odd lot orders eligible to aggregate to form Protected Quotations is consistent with the protection of investors and the public interest because such functionality is designed to increase displayed liquidity on IEX. Specifically, the proposed rule change will enable odd lots priced at the Protected NBBO to increase the size of

the Protected NBBO and enable odd lots priced more aggressively than the Protected NBBO to narrow the Protected NBBO (if they can be aggregated to at least one round lot), thereby contributing to the public price discovery process and offering potential price improvement opportunities to market participants that might otherwise be unaware of such better priced interest.

Furthermore, the Exchange believes that allowing odd lots to aggregate to form a quotation and be eligible to be the Exchange's Protected Quotation is consistent with the Act because such functionality is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system by providing market participants greater visibility into liquidity available on the Exchange via the SIPs and IEX's Data Feeds.

In addition, since this proposed rule change would make IEX's treatment of odd lot orders consistent with that of the other equities exchanges,<sup>62</sup> 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 odd lots are never displayed on IEX, and will be readily able to accommodate the dissemination of displayed odd lots on IEX's Depth of Book Data Feeds. Moreover, IEX does not believe that these proposed changes raise any new or novel issues not already considered by the Commission since other equities exchanges have substantially similar rules.

Furthermore, as discussed in the Purpose section, IEX believes that the proposed revisions to the non-displayed price sliding rules and the execution rules for displayed orders subject to price sliding are consistent with the protection of investors and the public interest because they are designed to avoid an unprotected odd lot order resulting in a locked or crossed market in a manner that would be reasonably expected based on current IEX rules and design, consistent with the rules of several other equities exchanges, and designed to avoid unnecessary complexity.

Specifically, the Exchange believes that the proposed changes to IEX's non-displayed price sliding rules are consistent with the Act because such changes would prevent the unlikely, but

possible, situation in which an unprotected odd lot order priced equal to or more aggressively than the Midpoint Price would result in a cross of IEX's Order Book because the displayed odd lot is unable to match with a non-displayed order priced at or more aggressively than the Midpoint Price because of the non-displayed order's specific conditions. These proposed changes are also designed to protect against a D-Peg or C-Peg order exercising discretion to the point that it executes at a price that locks or crosses the price of a contra-side displayed odd lot. The Exchange notes that these changes are designed to remove impediments to and perfect the mechanism of a free and open market and a national market system by protecting market participants from having their non-displayed orders be inadvertently crossed by an unprotected displayed odd lot. This proposed change is also consistent with Regulation NMS's goals of avoiding crossed markets.

Similarly, the Exchange believes that the proposed change to IEX's execution rules to allow displayed orders previously subject to price sliding to match with liquidity provided by a contra-side unprotected displayed odd lot order that the re-pricing order would otherwise lock or cross are consistent with the Act because the proposed rule change is designed to protect investors and the public interest by facilitating the execution of marketable orders that would otherwise be blocked from executing by the price sliding rules in order to prevent the market from becoming locked or crossed, while increasing price improvement opportunities (by allowing the orders to execute at prices more aggressive than the Protected NBBO). Furthermore, as discussed in the Purpose section, this proposed change is consistent with investor expectations and will minimize the unnecessary complexity that would result from requiring an unprotected displayed odd lot order priced more aggressively than the Protected NBBO to force a marketable contra-side displayed order to continually re-price to avoid locking or crossing the contra-side displayed odd lot order.

Moreover, as noted in the Purpose section, other exchanges have adopted similar mechanisms to prevent displayed odd lot orders from resulting in a locked or crossed market (both for non-displayed and displayed orders). Therefore, the Exchange believes that these aspects of the proposed rule change also do not raise any material new or novel issues not previously considered by the Commission.

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

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

<sup>62</sup> See *supra* notes 25 and 26.

Additionally, IEX believes that the proposed conforming changes to IEX Rules 11.190(b)(10) and (16) and 11.240(c)(1) further the purposes of the Act because they provide greater clarity and consistency to the IEX Rule Book thereby reducing the potential for confusion of any market participants. Specifically, the proposed conforming changes to IEX Rules 11.190(b)(10) and (16) will prevent any confusion to market participants about how D-Peg and C-Peg orders' discretionary prices would be impacted by the presence of a contra-side non-displayed order with specific conditions that prevented the otherwise marketable orders from matching. Similarly, the proposed conforming change to IEX Rule 11.240(c)(1) will make clear to market participants that the same priority rules apply to determining both the best-ranked order to buy and the best-ranked order to sell, and to reduce any possible confusion that could arise from the mention of how IEX connects to the SIPs, when all connectivity is addressed in great detail in IEX Rule 11.510.

#### *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 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 displayed odd lots that are comparable to those in place at other equities exchanges. As discussed in the Purpose section, the proposal is designed to incentivize the entry of additional displayed limit orders on IEX by providing the opportunity for odd lot orders to receive displayed order execution priority and visibility, thereby enhancing price discovery, and increasing the overall displayed liquidity profile on the Exchange to the benefit of all market participants.

IEX's proposed approach to prevent the potential occurrence of an unprotected displayed odd lot order locking or crossing IEX's Order Book is based upon the approaches of other equities exchanges that are designed to mitigate the same issue in a manner consistent with each exchange's particular technical design and functionality. IEX's proposed rule changes are designed to function in

reasonably predictable ways consistent with the expectations of market participants and competing equities exchanges that may route odd lot orders to the Exchange. To the extent there are minor differences in IEX's proposed approach to address the potential that an unprotected displayed odd lot order could result in a locked or crossed market, the differences are not based on competitive considerations but rather simply to provide for reasonably predictable outcomes in a manner consistent with IEX's system design.

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 displayed odd lot orders and all Members may continue to use non-displayed odd lot orders. 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 enter displayed odd lot orders. As discussed above, the proposal is intended to incentivize the entry of additional odd lot orders, which would provide additional available liquidity to all Members.

#### *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>63</sup> of the Act and Rule 19b-4(f)(6) <sup>64</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.

The Exchange believes that the proposed rule change meets the criteria of subparagraph (f)(6) of Rule 19b-4 <sup>65</sup> because it is consistent with the protection of investors and the public interest because it is designed to incentivize the entry of additional

displayed limit orders on IEX by providing the opportunity for odd lot orders to receive displayed order execution priority and visibility, thereby enhancing price discovery and the overall liquidity profile on the Exchange to the benefit of all market participants, as discussed in the Purpose, Statutory Basis, and Burden on Competition sections. Further, the Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest because it would standardize the treatment of all displayed liquidity on the Exchange, and as discussed in the Purpose and Statutory Basis sections, substantially conform IEX's treatment of odd lots with those of the other equities exchanges in a manner consistent with the existing IEX rules and investor expectations.

IEX also does not believe that the proposed changes raise any new or novel material issues that have not already been considered by the Commission because it would substantially conform IEX's treatment of odd lot orders to the manner in which such orders are treated by other equities exchanges, as discussed in the Purpose and Statutory Basis sections. Specifically, the manner in which IEX proposes to allow odd lot orders to be displayed and aggregated to form a protected quote is substantially similar to the functionality of the other equities exchanges.<sup>66</sup> Similarly, IEX's proposed approach to prevent a displayed odd lot order from locking or crossing a non-displayed contra-side order that has a specific condition that prevent the orders from matching is consistent with Nasdaq and NYSE rules,<sup>67</sup> and also similar to the rules of the Cboe BZX, MEMX, and MIAX Pearl exchanges.<sup>68</sup> Finally, the manner in which IEX will match one or more displayed odd lot orders that become executable against a contra-side displayed order as a result of a re-pricing triggered by market changes is consistent with the approaches taken by several other exchanges that match resting orders that re-price to a point of marketability.<sup>69</sup> Accordingly, the Exchange does not believe that the proposed approaches raise 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)

<sup>63</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>64</sup> 17 CFR 240.19b-4(f)(6).

<sup>65</sup> 17 CFR 240.19b-4(f)(6).

<sup>66</sup> See *supra* notes 25 and 26.

<sup>67</sup> See *supra* notes 46 and 47.

<sup>68</sup> See *supra* note 48.

<sup>69</sup> See *supra* notes 54 and 55.



of the Act<sup>70</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>71</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 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>72</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-2021-01 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-2021-01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of

10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal offices 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-2021-01, and should be submitted on or before February 12, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>73</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021-01402 Filed 1-21-21; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-90932/January 15, 2021]

### Order Making Fiscal Year 2021 Annual Adjustments to Transaction Fee Rates

#### I. Background

Section 31 of the Securities Exchange Act of 1934 ("Exchange Act") requires each national securities exchange and national securities association to pay transaction fees to the Commission.<sup>1</sup> Specifically, Section 31(b) requires each national securities exchange to pay to the Commission fees based on the aggregate dollar amount of sales of certain securities ("covered sales") transacted on the exchange.<sup>2</sup> Section 31(c) requires each national securities association to pay to the Commission fees based on the aggregate dollar amount of covered sales transacted by or through any member of the association other than on an exchange.<sup>3</sup>

Section 31 of the Exchange Act requires the Commission to annually adjust the fee rates applicable under Sections 31(b) and (c) to a uniform adjusted rate.<sup>4</sup> Specifically, the Commission must adjust the fee rates to a uniform adjusted rate that is reasonably likely to produce aggregate fee collections (including assessments on security futures transactions) equal to the regular appropriation to the

Commission for the applicable fiscal year.<sup>5</sup>

The Commission is required to publish notice of the new fee rates under Section 31 not later than 30 days after the date on which an Act making a regular appropriation for the applicable fiscal year is enacted.<sup>6</sup> On December 27, 2020, the President signed into law the Consolidated Appropriations Act, 2021, which includes total appropriations of \$1,926,162,000 to the SEC for fiscal year 2021.

#### II. Fiscal Year 2021 Annual Adjustment to the Fee Rate

The new fee rate is determined by (1) subtracting the sum of fees estimated to be collected prior to the effective date of the new fee rate<sup>7</sup> and estimated assessments on security futures transactions to be collected under Section 31(d) of the Exchange Act for all of fiscal year 2021<sup>8</sup> from an amount equal to the regular appropriation to the Commission for fiscal year 2021, and (2) dividing by the estimated aggregate dollar amount of covered sales for the remainder of the fiscal year following the effective date of the new fee rate.<sup>9</sup>

As noted above, the Consolidated Appropriations Act, 2021, includes total appropriations of \$1,926,162,000 to the Commission for fiscal year 2021.<sup>10</sup> The

<sup>5</sup> 15 U.S.C. 78ee(j)(1) (the Commission must adjust the rates under Sections 31(b) and (c) to a "uniform adjusted rate that, when applied to the baseline estimate of the aggregate dollar amount of sales for such fiscal year, is reasonably likely to produce aggregate fee collections under [Section 31] (including assessments collected under [Section 31(d)]) that are equal to the regular appropriation to the Commission by Congress for such fiscal year.").

<sup>6</sup> 15 U.S.C. 78ee(g).

<sup>7</sup> The sum of fees to be collected prior to the effective date of the new fee rate is determined by applying the current fee rate to the dollar amount of covered sales prior to the effective date of the new fee rate. The exchanges and FINRA have provided data on the dollar amount of covered sales through November, 2020. To calculate the dollar amount of covered sales from December, 2020 to the effective date of the new fee rate, the Commission is using the same methodology it used in fiscal year 2020. This methodology is described in Appendix A of this order.

<sup>8</sup> OneChicago, LLC, the only reporting entity for single stock futures, ceased operations in September, 2020; its last R-31 report was filed in October, 2020. Accordingly, the forecast for the assessments for all of fiscal year 2021 for single stock futures is the reported assessments on single stock futures from September, 2020 by OneChicago, LLC.

<sup>9</sup> To estimate the aggregate dollar amount of covered sales for the remainder of fiscal year 2021 following the effective date of the new fee rate, the Commission is using the same methodology it used previously. This methodology is described in Appendix A of this order.

<sup>10</sup> The President signed into law the "Consolidated Appropriations Act, 2021" on December 27, 2020. This legislation included an

<sup>70</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>71</sup> 17 CFR 240.19b-4.

<sup>72</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>73</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78ee.

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

<sup>3</sup> 15 U.S.C. 78ee(c).

<sup>4</sup> In some circumstances, the SEC also must make a mid-year adjustment to the fee rates applicable under Sections 31(b) and (c).