

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-89146; File No. SR-IEX-2020-07)

June 24, 2020

Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend IEX Rule 11.190(b)(13) to Discontinue the Market Maker Peg Order and Make Conforming Changes

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on June 15, 2020, the Investors Exchange LLC (“IEX” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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 Act⁴ and Rule 19b-4 thereunder,⁵ IEX is filing with the Commission a proposed rule change to amend IEX Rule 11.190(b)(13) (Market Maker Peg Order) to discontinue the Market Maker Peg Order and make conforming changes. The Exchange has designated this rule change as “non-controversial” under Section 19(b)(3)(A) of the Act⁶ and provided the Commission with the notice required by Rule 19b-4(f)(6) thereunder.⁷ The text of the proposed rule change is available at the

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ 15 U.S.C. 78s(b)(1).

⁵ 17 CFR 240.19b-4.

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4.

Exchange's website at www.iextrading.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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

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

1. Purpose

The purpose of this proposed rule change is to amend IEX Rule 11.190(b)(13) (Market Maker Peg Order) to discontinue the Market Maker Peg Order and make conforming changes to other IEX rules.

The Market Maker Peg order is a one-sided displayed limit order that is designed to simplify market maker compliance with the continuous quoting and pricing obligations set forth in IEX Rule 11.151 by providing quotation adjusting functionality.⁸ Only IEX Members registered as Market Makers pursuant to IEX Rule 11.150 may use Market Maker Peg Orders, and use of such orders is optional.

In addition to its quotation adjusting functionality, the Market Maker Peg order is also designed to provide an effective compliance tool to facilitate market makers' compliance with

⁸ See IEX Rule 11.190(b)(13) for a complete description of the Market Maker Peg order.

the requirements of Rule 15c3-5 under the Act (the “Market Access Rule”)⁹ and Regulation SHO.¹⁰ Specifically, when using a Market Maker Peg order, market makers would have control of order origination, as required by the Market Access Rule, while also allowing market makers to make marking and locate determinations prior to order entry, as required by Regulation SHO, while also facilitating compliance with their Exchange market making obligations.

Market Maker Peg Orders are not eligible for routing pursuant to IEX Rule 11.230(b) and are always displayed on the Exchange. In addition, a new timestamp is created for the order each time that it is automatically adjusted in accordance with the proposed rule. Market Maker Peg Orders may only be entered by a registered Market Maker, pursuant to IEX Rule 11.150.

There are currently no Members registered as Market Makers and therefore no Members eligible to use the order. Accordingly, the Exchange proposes to discontinue the Market Maker Peg order, delete the existing text of IEX Rule 11.190(b)(13) (which describes the Market Maker Peg order), and reserve that provision.

In conjunction with the proposed discontinuation of the Market Maker Peg order, the Exchange proposes to make two conforming changes. First, the Exchange proposes to delete the text of IEX Rule 11.340(d)(1)(A), related to rounding of the price of Market Maker Peg Orders in connection with the Plan to Implement a Tick Size Pilot Program (which has terminated). Second, the Exchange proposes to delete text in IEX Rule 11.510(c)(1) which provides that, pursuant to Rule 11.190(b)(13), each time a Market Maker Peg Order is automatically adjusted by the System, all inbound and outbound communications related to the modified order instruction will traverse an additional POP between the Market Maker Peg Order repricing logic

⁹ 17 CFR 240.15c3-5.

¹⁰ 17 CFR 242.200 through 242.204.

and the Order Book. Both of these provisions are rendered obsolete with the discontinuation of the Market Maker Peg order, as proposed.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with Section 6(b) of the Act in general,¹¹ and furthers the objectives of Section 6(b)(5) of the Act,¹² 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, 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.

As discussed in the Purpose section, the proposed rule change is designed to discontinue the Market Maker Peg Order, because no Members are eligible to use the order type. Consequently, the Exchange believes is consistent with the protection of investors and the public interest to discontinue the Market Maker Peg Order since the lack of current demand for the order type does not warrant the infrastructure and ongoing maintenance expenses required to support it. Further, the Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest since it is designed to avoid any potential confusion regarding the availability of the Market Maker Peg Order to Members. In addition, the Exchange notes that use of the Market Maker Peg Order is purely optional on the part of a Market Maker and, in the event that any Member were to register as a Market Maker, such Member could use other IEX order types to comply with the continuous quoting and pricing

¹¹ 15 U.S.C. 78f.

¹² 15 U.S.C. 78f(b)(5).

obligations set forth in IEX Rule 11.151. Lastly, the Exchange does not believe that this proposal will permit unfair discrimination among customers, brokers, or dealers because the Market Maker Peg Order will no longer be available to any Member of the Exchange.

Further, the Exchange believes that the proposed conforming rule changes, as discussed in the Purpose section, are consistent with the protection of investors and the public interest because they will provide clarity to market participants by deleting references to the now discontinued Market Maker Peg Order.

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

The Exchange does not believe that the proposal will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather remove an order type for which there is currently no demand and eliminate the infrastructure and ongoing maintenance expenses to support it.

Furthermore, the Exchange believes the proposed rule change does not impose any burden on intra-market competition not necessary or appropriate in furtherance of the purposes of the Act because, as described above, the Market Maker Peg order will no longer be available to any Member of the Exchange, and thus all Members will be impacted in the same manner. Further, as discussed in the Statutory Basis section, use of the Market Maker Peg Order by a registered Market Maker is optional and not required in order to comply with the in the continuous quoting and pricing obligations set forth in IEX Rule 11.151.

The Exchange also does not believe that the proposed rule change would impose a burden on inter-market competition since other exchanges are free to adopt or discontinue comparable order types.

Finally, the proposed conforming rule changes, as discussed in the Purpose section, are not designed to address any competitive issue, but rather to provide clarity to market participants by deleting references to the now discontinued Market Maker Peg Order.

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)¹³ of the Act and Rule 19b-4(f)(6)¹⁴ 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.

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)¹⁵ of the Act to determine whether the proposed rule change should be approved or disapproved.

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁵ 15 U.S.C. 78s(b)(2)(B).

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 e-mail to rule-comments@sec.gov. Please include File Number SR-IEX-2020-07 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-IEX-2020-07. This file number should be included on the subject line if e-mail 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 will also be available for inspection and copying at the IEX's

principal office and on its Internet website at 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-2020-07 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.¹⁶

J. Matthew DeLesDernier
Assistant Secretary

¹⁶ 17 CFR 200.30-3(a)(12).