

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-98583; File No. SR-IEX-2023-09)

September 28, 2023

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Correct Six Typographical Cross-Reference Errors in IEX Rule 11.190(b)

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 September 22, 2023, 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 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 the Exchange is filing with the Commission a proposed rule change to correct six typographical cross-reference errors in IEX Rule 11.190(b). 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

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.

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

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange makes this filing to correct six inadvertent and identical typographical cross-reference errors in IEX Rule 11.190(b). Specifically, the definitions of the Primary Peg⁷, Midpoint Peg⁸, Discretionary Peg⁹, Offset Peg¹⁰, Corporate Discretionary Peg¹¹, and Fixed Midpoint Peg¹² order types all contain cross-references to IEX Rule 11.190(a)(3)(D) to describe how the System¹³ handles a pegged order marked with a Time-in-Force¹⁴ (“TIF”) of “DAY” that

⁷ See IEX Rule 11.190(b)(8)(F).

⁸ See IEX Rule 11.190(b)(9)(F).

⁹ See IEX Rule 11.190(b)(10)(F).

¹⁰ See IEX Rule 11.190(b)(13)(F).

¹¹ See IEX Rule 11.190(b)(16)(F).

¹² See IEX Rule 11.190(b)(19)(F).

¹³ See IEX Rule 1.160(nn).

¹⁴ See IEX Rule 11.190(c).

is submitted before, during, or after the Regular Market Session.¹⁵ However, the order type definitions should instead cross-reference IEX Rule 11.190(a)(3)(E)(iii), which contains the relevant text. Notwithstanding the cross-reference errors, the rules describing the six pegged order types in question each accurately set forth how an order with a TIF of DAY is handled by the System.

Specifically, each rule states the following with respect to a pegged order marked with a TIF of DAY: the order is eligible to trade only during the Regular Market Session, if submitted to the System before the opening of the Regular Market Session will be queued by the System until the start of the Regular Market Session, and if submitted into the System after the closing of the Regular Market Session will be rejected.¹⁶ This language is functionally identical to the description in IEX Rule 11.190(a)(3)(E)(iii) of how a pegged order with a TIF of DAY functions before, during, and after the Regular Market Session:

Pegged orders marked DAY submitted before the open of the Regular Market Session are queued by the System until the Regular Market Session Opening Process, pursuant to IEX Rule 11.231. Pegged orders marked DAY submitted during the Regular Market Session are accepted and begin trading immediately. Pegged orders entered into the System marked DAY, if not fully executed or canceled by the User, expire at the end of the Regular Market Session. Pegged orders marked DAY are rejected during the Post-Market Session.

IEX therefore proposes to amend subparagraph (F) of IEX Rules 11.190(b)(8), 11.190(b)(9), 11.190(b)(10), 11.190(b)(13), 11.190(b)(16), and 11.190(b)(19) from starting “As provided in IEX Rule 11.190(a)(3)(D)...” to instead begin with “As provided in IEX Rule 11.190(a)(3)(E)(iii)...” IEX notes that correcting this cross-reference in the six affected order

¹⁵ See IEX Rule 1.160(gg).

¹⁶ See IEX Rules 11.190(b)(8)(F); 11.190(b)(9)(F); 11.190(b)(10)(F); 11.190(b)(13)(F); 11.190(b)(16)(F); and 11.190(b)(19)(F).

type definitions will not substantively change the meaning of each rule, because everything but the rule cross-references in these subparagraphs IEX accurately describes the manner in which the System handles a pegged order with a TIF of DAY that is submitted before, during, and after the Regular Market Session. And the incorrect cross-reference to IEX Rule 11.190(a)(3)(D) contains an unrelated provision that states that a pegged order may be submitted with or without a limit price and therefore does not change the meaning of the IEX Rules 11.190(b)(8), 11.190(b)(9), 11.190(b)(10), 11.190(b)(13), 11.190(b)(16), and 11.190(b)(19).

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b)¹⁷ of the Act in general, and furthers the objectives of Section 6(b)(1) of the Act¹⁸ in particular, in that it is designed to enforce compliance by the Exchange's Members¹⁹ and persons associated with its Members, with the provisions of the rules of the Exchange. In particular, the Exchange believes that the proposed rule change will provide greater clarity to Members and the public regarding the Exchange's rules by correcting six inadvertent and identical typographical cross-referencing errors without changing their substance and providing consistency within the Exchange's Rulebook.

As described in the Purpose section, the rules describing the six pegged order types accurately describe how the System handles a pegged order with a TIF of DAY that is submitted before, during, and after the Regular Market Session. This rule filing does not propose any substantive changes to the functionality of the pegged order types; it merely proposes to correct

¹⁷ 15 U.S.C. 78f.

¹⁸ 15 U.S.C. 78f(b)(1).

¹⁹ See IEX Rule 1.160(s).

cross-references within such rules. The proposed changes will also make it easier for Members to interpret the Exchange's Rulebook.

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. As described in the Purpose and Statutory Basis sections, this rule filing merely proposes to correct cross-references in six IEX rules that describe pegged order type functionality, and would not make any substantive changes to the functionality of the pegged order types. The proposed rule change is not designed to address any competitive issues but rather to correct six inadvertent and identical typographical errors, thereby eliminating any potential confusion regarding such rule provisions without changing their substance.

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)²⁰ of the Act and Rule 19b-4(f)(6)²¹ 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

²⁰ 15 U.S.C. 78s(b)(3)(A).

²¹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) 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.

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.

A proposed rule change filed under Rule 19b-4(f)(6)²² normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),²³ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay because this rule filing merely corrects typographical errors for which the rest of the rule is otherwise clear. Therefore, IEX believes there is no need to delay implementation of this rule change, so that the Exchange may promptly correct these typographical errors and avoid any potential confusion on the part of market participants. For these reasons, and because the proposed rule change does not raise any novel legal or regulatory issues, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.²⁴

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)²⁵ of the Act to determine whether the proposed rule change should be approved or disapproved.

²² 17 CFR 240.19b-4(f)(6).

²³ 17 CFR 240.19b-4(f)(6)(iii).

²⁴ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²⁵ 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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-IEX-2023-09 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-2023-09. 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 (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office

of the Exchange. Do not include personal identifiable information in submissions. You should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-IEX-2023-09 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁶

Sherry R. Haywood,

Assistant Secretary.

²⁶ 17 CFR 200.30-3(a)(12).