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FairX Submission #2021-05E

June 4, 2021

Mr. Christopher J. Kirkpatrick
Secretary of the Commission
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

VIA CFTC Electronic Filing

Re: CFTC Regulation 40.6 Certification: Amendments to Rule 539 Trade Cancellations and Price Adjustments

Dear Mr. Kirkpatrick:

Pursuant to Commodity Futures Trading Commission (“CFTC” or “Commission”) Regulation 40.6(a), LMX Labs, LLC, operator of FairX (the “Exchange”) hereby submits for self-certification amendments to Exchange Rule 539 Trade Cancellations and Price Adjustments, as well as non-substantive changes to correct references to the FairX Control Center throughout the Exchange Rulebook.

Exchange Rule 539 describes the process by which the Exchange may adjust or bust an executed trade. The revisions to Rule 539 refer to the range of prices in which trades may not be adjusted as the “Non-Reviewable Range.” Additionally, the revisions provide that any request for review must be made by phone within ten minutes of the execution of the trade.

A copy of revisions in redline format is attached hereto as Exhibit A. The proposed Non-Reviewable Ranges for Exchange products, which will be posted on the Exchange website, are attached as Exhibit B.¹

The proposed amendments will become effective on or after June 17, 2021.

Compliance with Core Principles

The Exchange has reviewed the designated contract market (“DCM”) core principles (“Core Principles”) set forth in the Commodity Exchange Act and has identified that the amendments may most directly implicate the following Core Principles:

¹ Concurrent with the filing of this certification, the Exchange is filing with the CFTC certification of the products referenced in Exhibit B.

Core Principle 4 -- Prevention of Market Disruption

Establishing a process for the review of executed trades, including the adoption of No -Review ranges protects the market from large price fluctuations and, therefore, permits the Exchange to maintain and promote an orderly market.

Core Principle 7 -- Availability of General Information

When made effective, the revised rules will be contained in the Exchange Rulebook, which is available on the Exchange's website. Additionally, the Exchange will make the No Review Range for each product available on its website.

Core Principle 9 -- Execution of Transactions

The amendments will enable the Exchange to continue to provide a fair, transparent, and efficient market for executing transactions.

Certification

The Exchange is not aware of any substantive opposing views to the amendments. The Exchange certifies that the amendments comply with the Commodity Exchange Act and the rules and regulations promulgated thereunder.

The Exchange certifies that this submission has been concurrently posted on the Exchange's website at: www.fairx.com.

If you have any questions or require any further information, please contact me at 773-832-7973 or mpiracci@fairx.com.

Sincerely,

/s/

Michael A. Piracci
Chief Regulatory Officer and
Senior Counsel

Attachments: Exhibits A and B

EXHIBIT A

(additions underlined; deletions ~~struck through~~)

CHAPTER 1: DEFINITIONS

RULE 101. DEFINITIONS

When used in this Rulebook the following terms shall have the respective meanings as follows:

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“~~FairXExchange~~ Control Center” or “FCC” means the ~~FairXExchange~~ Control Center, a technical support center established and maintained by the Exchange to provide technical support and control over the operations of the Exchange Trading System.

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CHAPTER 5: TRADING PRACTICES AND BUSINESS CONDUCT

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RULE 536. LIMITATION OF LIABILITY, NO WARRANTIES

- (a) EXCEPT AS PROVIDED BELOW, AND EXCEPT IN INSTANCES WHERE A PARTY HAS BEEN FINALLY ADJUDICATED TO HAVE ENGAGED IN WILLFUL OR WANTON MISCONDUCT, IN WHICH CASE THE PARTY FOUND TO HAVE ENGAGED IN SUCH CONDUCT CANNOT AVAIL ITSELF OF THE PROTECTIONS IN THIS RULE 536, NEITHER THE EXCHANGE (INCLUDING ITS SUBSIDIARIES AND AFFILIATES, AND ANY TECHNOLOGY SERVICES PROVIDER AND CONTRACTORS PROVIDING SERVICES TO THE EXCHANGE), NOR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, CONSULTANTS, AND LICENSORS (THE “DISCLAIMING PARTY” OR “DISCLAIMING PARTIES”) SHALL BE LIABLE TO ANY PERSON FOR ANY LOSSES, DAMAGES, COSTS OR EXPENSES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF USE, AND DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES), ARISING FROM:
- (1) ANY FAILURE, MALFUNCTION, FAULT IN DELIVERY, DELAY, OMISSION, SUSPENSION, INACCURACY, INTERRUPTION, TERMINATION, OR ANY OTHER EVENT, IN CONNECTION WITH THE FURNISHING, PERFORMANCE, OPERATION, MAINTENANCE, USE OF OR INABILITY TO USE ALL OR ANY PART OF ANY OF THE SYSTEMS AND SERVICES OF THE EXCHANGE, OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS AND SERVICES, INCLUDING WITHOUT LIMITATION ELECTRONIC ORDER ENTRY/DELIVERY, TRADING THROUGH ANY ELECTRONIC MEANS, ELECTRONIC COMMUNICATION OF MARKET DATA OR INFORMATION, WORKSTATIONS USED BY PARTICIPANTS AND AUTHORIZED TRADERS, PRICE REPORTING SYSTEMS AND ANY AND ALL TERMINALS, COMMUNICATIONS NETWORKS, CENTRAL COMPUTERS, SOFTWARE, HARDWARE, AND FIRMWARE RELATING THERETO; OR

- (2) ANY FAILURE OR MALFUNCTION, FAULT IN DELIVERY, DELAY, OMISSION, SUSPENSION, INACCURACY, INTERRUPTION OR TERMINATION, OR ANY OTHER EVENT, OF ANY SYSTEM OR SERVICE OF THE EXCHANGE, OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES, CAUSED BY ANY THIRD PARTIES INCLUDING, BUT NOT LIMITED TO, INDEPENDENT SOFTWARE VENDORS AND NETWORK PROVIDERS; OR
- (3) ANY ERRORS OR INACCURACIES IN INFORMATION PROVIDED BY THE EXCHANGE OR ANY OR ANY OF THE EXCHANGE'S SYSTEMS, SERVICES OR FACILITIES; EXCEPT FOR INCORRECT ORDER STATUSING INFORMATION AS PROVIDED IN RULE 539 (THE ~~EXCHANGE~~ FAIRX CONTROL CENTER); OR
- (4) ANY UNAUTHORIZED ACCESS TO OR UNAUTHORIZED USE OF ANY OF THE EXCHANGE'S SYSTEMS, SERVICES, EQUIPMENT OR FACILITIES BY ANY PERSON. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY WHETHER A CLAIM ARISES IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, CONTRIBUTION OR OTHERWISE AND WHETHER THE CLAIM IS BROUGHT DIRECTLY OR AS A THIRD PARTY CLAIM. THE FOREGOING LIMITATION OF LIABILITY SHALL BE SUBJECT TO THE CEA AND REGULATIONS THEREUNDER.

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RULE 537. The FairX Exchange Control Center

- (a) Customer Support.
 - (1) The FairX ~~Exchange~~ Control Center ("EFCC") provides The Exchange Trading System customer support and problem management only to Clearing Firms, Participants and Authorized Traders.
 - (2) In order to be eligible for EFCC support, such Persons must be identified on a Participant as an authorized contact with the EFCC ("Authorized Contacts"). The EFCC provides customer support via a specified telephone number and during specified hours.
 - (3) EFCC employees may not always be available to assist Authorized Contacts.
 - (4) Persons other than Authorized Contacts must contact their Clearing Firms to make support requests.
- (b) EFCC Communications.
 - (1) As provided in Rule 537, the Exchange shall not be liable for any loss resulting from any inability to communicate with the EFCC.
 - (2) The liability of the Exchange for the negligent acts of EFCC staff shall be subject to the limitations and conditions of Rule 537.
 - (3) In no event, however, shall the Exchange be liable for the negligence of the EFCC if the Person claiming to have suffered a loss could have secured the support it sought from EFCC through its own administrative terminal, its Clearing Firm's terminal or an Independent Software Vendor's ("ISV") terminal.
 - (4) For purposes of this rule, a Person is deemed able to take action through its own administrative terminal, a Clearing Firm's terminal or an ISV's terminal unless such terminal was inoperative or such terminal service was interrupted at the time the EFCC took action.

- (c) Order Status
- (1) A Person who believes he has received an incorrect Order status or does not receive an appropriate status shall immediately notify the ~~EFCC~~. Additionally, such Person shall take any necessary and appropriate market action to mitigate any potential losses arising from the incorrect Order status or lack of appropriate Order status immediately after the Person knew or should have known that the Order status information was incorrect or should have been received. Any liability of the Exchange for incorrect Order status shall be subject to the limitations and conditions of Rule 537.
 - (2) Notwithstanding the above, the Exchange shall not be liable for losses related to incorrect Order status information if the Exchange provides prior notification that an Exchange system, service or facility may produce such incorrect information and also provides notification of a means to obtain correct Order status information from such system, service or facility. In the event that the ~~EFCC~~ and an Exchange system, service or facility provide conflicting information relating to an Order status, a Customer may only reasonably rely on the information received from the ~~EFCC~~. Any liability of the Exchange shall be subject to the liability caps and conditions of Rule 537.

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RULE 539. Trade Cancellations and Price Adjustments

- (a) ~~Exchange~~ FairX Control Center Authority Regarding Trade Cancellations and Price Adjustments
- (1) The FairX ~~Exchange~~ Control Center (“~~EFCC~~”) has authority to adjust trade prices or cancel (bust) trades when such action is necessary to mitigate market disrupting events caused by the improper or erroneous use of the Exchange Trading System or by system defects.
 - (2) Notwithstanding any other provisions of this Rule, the ~~EFCC~~ may adjust trade prices or bust any trade if the ~~EFCC~~ determines that allowing the trade to stand as executed may have a material, adverse effect on the integrity of the market.
 - (3) All decisions of the ~~EFCC~~ shall be final.
- (b) Review of Trades
- (1) The ~~EFCC~~ may determine to review a trade based on its independent analysis of market activity or upon request for review by a user of the Exchange Trading System. A request for review must be made to the FCC via phone within 105 minutes of the execution of the trade ~~by email or phone~~.
 - (2) The ~~EFCC~~ shall determine whether or not a trade will be subject to review. In the absence of a timely request for review, during volatile market conditions, upon the release of significant news, or in any other circumstance in which the ~~EFCC~~ deems it to be appropriate, the ~~EFCC~~ may determine, in its sole discretion, that a trade shall not be subject to review.
 - (3) Upon deciding to review a trade, the ~~EFCC~~ will promptly issue an alert to all Participants via the Exchange Trading System or electronic mail indicating that the trade is under review.
- (c) Price Adjustments and Cancellations
- (1) In reviewing a trade, the ~~EFCC~~ will first determine whether the trade price is within the Non-Reviewable Bust–Range for futures or within the Bid/Ask

Reasonability Allowance for options, as described in Rule 539(g). The Bid/Ask Reasonability Allowance for an option is the maximum width of the bid/ask range which will be considered reasonable for use in applying the parameters necessary to establish the Non-Reviewable Bust Range for the option.

- (2) In applying the Non-Reviewable Bust Range, the EFCC shall determine the fair value market price for that contract at the time the trade under review occurred. The EFCC may consider any relevant information, including, but not limited to, the last trade price in the contract or a better bid or offer price on the Exchange Trading System, a more recent price for a different maturity date, the price of the same or related contract established in another venue or another market, the market conditions at the time of the trade, and the theoretical value of an option based on the most recent implied volatility.
 - (3) Trade Price Inside the Non-Reviewable Bust Range. If the EFCC determines that the price of the trade is inside the Non-Reviewable Bust Range, the EFCC will issue an alert indicating that the trade shall stand.
 - (4) Trade Price Outside the Non-Reviewable Bust Range
 - i. Futures Contracts

If the EFCC determines that a trade price is outside the Non-Reviewable Bust Range for a futures contract, the trade price shall be adjusted to a price that equals the fair value market price for that contract at the time the trade under review occurred, plus or minus the Non-Reviewable Bust Range.

~~If the trade at issue involves~~ ~~In the event there are~~ multiple parties, prices and/or contracts ~~involved in the transactions at issue~~, the EFCC has the authority, but not the obligation, to bust or rather than price adjust such transactions. The EFCC will issue an alert regarding its decision.
 - ii. Option Contracts

If the EFCC determines that a trade price is outside the applicable Non-Reviewable Bust Range for an option contract, the trade price shall be adjusted. In the case of a buy (sell) error, the price will be adjusted to the determined ask (bid) price set forth in the Bid/Ask Reasonability Allowance in Section G plus (minus) the Non-Reviewable Bust Range.

~~If the trade at issue involves~~ ~~In the event there are~~ multiple parties, prices and/or contracts ~~involved in the transactions at issue~~, the EFCC has the authority, but not the obligation, to bust or rather than price adjust such transactions. The EFCC will issue an alert regarding its decision.
 - iii. ~~Busted trade prices and any prices that have been or adjusted~~ trades shall be cancelled in the Exchange's official record of time and sales. Trades that are price adjusted shall be inserted in the time and sales record at the adjusted trade price.
- (d) Alternative Resolution by Agreement of Parties
- (1) With the approval of the EFCC, parties to a trade that is price adjusted may instead mutually agree to cancel the trade.
 - (2) With the approval of the EFCC, parties to a trade that is busted may instead mutually agree to price adjust the trade to a price consistent with the adjustment provisions of Rule 539(c).
 - (3) Subject to section (d)(1) and (d)(2), parties to a trade that is cancelled or price

adjusted may mutually agree to a cash adjustment provided that such adjustments are reported to the EFCC and the parties maintain a record of the adjustment.

- (4) An executed trade may not be reversed via transfer except where such trade is determined by EFCC to be outside of the ~~Non-Reviewable Bust~~ Range but not reported timely, subject to agreement of the parties and approval of the EFCC. Any such transfer must occur at the original trade price and quantity; however the parties may mutually agree to a cash adjustment.
- (e) Liability for Losses Resulting from Price Adjustments or Cancellations
- (1) A party entering an order that results in a price adjustment or trade bust shall be responsible for demonstrated claims of realized losses incurred by persons whose trade prices were adjusted or busted provided, however, that a claimant shall not be entitled to compensation for losses incurred as a result of the claimant's failure to take reasonable actions to mitigate the loss.
 - (2) A claim for a loss pursuant to this section must be submitted to the Exchange on an Exchange claim form within one business day of the event giving rise to the claim. The Exchange will reject any claim that is not filed in a timely manner and such decisions shall be final. Eligible claims shall be forwarded by the Exchange to the party responsible for the order(s) that resulted in a trade bust or a price adjustment and to the Clearing Firm through which the trade was placed. Such party, or the Clearing Firm on behalf of the party, shall, within ten business days of receipt of the claim, admit or deny responsibility in whole or in part. Failure to respond to the claim within ten business days shall be considered a denial of liability.
 - (3) To the extent that liability is admitted, payment shall be made within ten business days. Unless otherwise agreed upon in writing by the parties, failure to make the payment within ten (10) business days shall be considered a denial of liability for purposes of this rule. A copy of any such written agreement must be provided to the Exchange.
 - (4) To the extent that liability is denied, the party making the claim may submit the claim for arbitration pursuant to Chapter 8 of the Rules. Such claims must be submitted to the EFCC within ten business days of the date the party was issued notification that liability was denied.
- (f) Schedule of Administrative Fees
When EFCC busts or price adjusts a trade, the party responsible for entering the order into the Exchange Trading System that gave rise to the trade bust or price adjustment shall pay an administrative fee to the Exchange in the amount of \$500 for each such occurrence.
- (g) Exchange ~~Entity-Non-Reviewable Bust~~ Ranges will be made available on the Exchange website <https://www.fairx.com>.

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CHAPTER 6: PRIVATELY NEGOTIATED TRANSACTIONS

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RULE 601. Block Trades

- (a) The Exchange shall designate the products in which block trades shall be permitted and determine the minimum quantity thresholds for such transactions.
- (b) Products designated for Block Trades.
None.
- (c) The following shall govern block trades:
 - (1) A block trade must be for a quantity that is at or in excess of the applicable minimum threshold. Orders may not be aggregated in order to achieve the minimum transaction size, except by those entities described in Sections (9) and (10) below and as provided in Rule 601(c)(2).
 - (2) Each Person to a block trade must be an Eligible Contract Participant.
 - (3) A broker for a Person shall not execute any order by means of a block trade for a Person unless such Person has specified that the order be executed as a block trade.
 - (4) The price at which a block trade is executed must be fair and reasonable in light of (i) the size of the block trade, (ii) the prices and sizes of other transactions in the same contract at the relevant time, (iii) the prices and sizes of transactions in other relevant markets, including without limitation the underlying cash market or related futures markets, at the relevant time, and (iv) the circumstances of the markets or the Participants to the block trade.
 - (5) Block trades shall not set off conditional orders (e.g., Stop Orders and MIT Orders) or otherwise affect orders in the regular market.
 - (6) One of the Persons or the broker of one of the Persons to the block trade must ensure that each block trade is reported to the Exchange within 5 minutes of the transaction. The Exchange shall promptly publish such information separately from the reports of transactions in the regular market.
 - (7) Reporting Method and Information
 - i. Block trades must be reported to the Exchange by calling the FairXExchange Control Center or in accordance with another approved reporting method.
 - ii. The block trade report must include the information related to the block trade specified in the Exchange's approved reporting method, including: the identification of parties to the block trade; product details; trade quantity, price, and time; and, Clearing Firm.

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CHAPTER 8: ARBITRATION RULES

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RULE 803. Certain Claims against the Exchange Involving Trading Systems or Services

- (a) General. All claims arising out of or relating to the following matters shall be arbitrated in accordance with the rules of this Chapter:

- (1) receipt of an incorrect Order status or the failure to have received an appropriate Order status; or
- (2) the negligence of ~~EE~~ECC Personnel or any other Exchange staff.

Nothing in this Rule 803 or Rule 804 shall be construed to create a claim against the Exchange, to limit a defense available to the Exchange, or to obviate or modify any limitation of Exchange liability imposed by any other rule.

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EXHIBIT B**FAIRX NON-REVIEWABLE RANGE(NRR)**

Product	Symbol	NRR (Points)	NRR (Ticks)
Nano Bloomberg Large Cap Index Futures	B5	0.20	20
Calendar Spreads		0.20	20
Micro Bloomberg Large Cap Index Futures	LB5	20.00	200
Calendar Spreads		20.0	200
Nan SuperTech Index	TEC	0.20	20
Calendar Spreads		0.20	20
Micro SuperTech Index	LTEC	20.00	200
Calendar Spreads		20.00	200