

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-67273; File No. SR-BOX-2012-008)

June 27, 2012

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule to Amend the BOX Options Exchange LLC Limited Liability Company Agreement and the BOX Holdings Group LLC Limited Liability Company Agreement

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 June 21, 2012, BOX Options Exchange LLC (the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend each of the Limited Liability Company Agreement of the Exchange (the “Exchange LLC Agreement”) and the Limited Liability Company Agreement (the “BOX Holdings LLC Agreement”) of BOX Holdings Group LLC (“BOX Holdings”), in connection with the proposed acquisition of TMX Group Inc., a company incorporated in Ontario, Canada (“TMX Group”) by Maple Group Acquisition Corporation, a company incorporated in Ontario, Canada (“Maple”). The text of the proposed rule change is available

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<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)(3)(A).

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

from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at [www.boxexchange.com](http://www.boxexchange.com).

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

In its filing with the Commission, the 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

On April 27, 2012, the Commission granted the Exchange's Application for Registration as a National Securities Exchange, including the adoption of the Exchange LLC Agreement and the adoption of the BOX Holdings LLC Agreement.<sup>5</sup>

Currently, Montreal Exchange Inc., a company incorporated in Quebec, Canada ("MX"), is a direct subsidiary of TMX Group. MX US 2, Inc., a Delaware corporation and indirect, wholly owned subsidiary of MX ("MXUS2"), holds a 40% Economic Percentage Interest (as defined below) and 20% Voting Percentage Interest (as defined below) in the Exchange and a 53.83% ownership interest in BOX Holdings. Accordingly, MXUS2 is subject to, and a party to, each of the Exchange LLC Agreement and the BOX Holdings LLC Agreement.

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<sup>5</sup> See Securities Exchange Act Release No. 66871 (April 27, 2012) 77 FR 26323 (May 3, 2012) (File 10-206) (granting the application of BOX Options Exchange LLC for registration as a National Securities Exchange).

The Exchange is submitting the proposed rule change to the Commission to amend each of the Exchange LLC Agreement and the BOX Holdings LLC Agreement pursuant to the respective proposed Instruments of Accession in connection with the Acquisition (as defined below).

Maple's investors comprise Alberta Investment Management Corporation, Caisse de dépôt et placement du Québec, Canada Pension Plan Investment Board, CIBC World Markets Inc., Desjardins Financial Corporation, Dundee Capital Markets Inc., Fonds de solidarité des travailleurs du Québec (F.T.Q.), GMP Capital Inc., The Manufacturers Life Insurance Company, National Bank Financial & Co. Inc., Ontario Teachers' Pension Plan Board, Scotia Capital Inc. and TD Securities Inc. (collectively, the "Investors"). All of the Investors or their respective affiliates currently own common shares of Maple (the "Maple Shares"). Each of the Investors currently owns less than 12% of Maple. The Maple Shares are currently privately held, not listed on any recognized exchange and not qualified for public distribution. However, after the completion of the second step of the Acquisition, the Maple Shares will be freely tradable (subject to 5-year contractual standstill arrangements to which some of the Investors have agreed to comply) and will be listed for trading on Toronto Stock Exchange. Following the Acquisition, each of the Investors will own less than 9% of Maple and current shareholders of TMX Group will own at least 26% of Maple.

The Acquisition will be effected in two steps: (1) an offer (the "Offer") by Maple to the shareholders of TMX Group to exchange a minimum of 70% and a maximum of 80% of the outstanding common shares of TMX Group ("TMX Group Shares") for cash, and (2) a

subsequent transaction pursuant to a court-approved “plan of arrangement”<sup>6</sup> whereby TMX Group shareholders whose TMX Group Shares have not been acquired under the Offer will receive Maple Shares in exchange for their TMX Group Shares (the “Subsequent Arrangement”, and collectively with the Offer, the “Acquisition”). The Offer is set to expire on July 31, 2012, unless extended in accordance with the terms thereof and, subject to the terms and the conditions of the Offer, Maple will pay for TMX Group Shares validly deposited under the Offer and not properly withdrawn, within ten days after the expiration of the Offer. If the Offer is successful, Maple will use its best efforts to complete the Subsequent Arrangement within 35 days after the expiration of the Offer.

As a result of the Acquisition, if successful, TMX Group will become a direct, wholly owned subsidiary of Maple. Consequently, MXUS2 (including MXUS2’s 40% Economic Percentage Interest and 20% Voting Percentage Interest in the Exchange and MXUS2’s 53.83% ownership interest in BOX Holdings LLC) will become an indirect, wholly owned subsidiary of Maple. The Offer is subject to several conditions, including certain regulatory approvals, including, but not limited to, certain approvals from the Ontario Securities Commission, Autorité des marchés financiers (Québec), Alberta Securities Commission, British Columbia Securities Commission, Competition Bureau (Canada) and the Commission.

Maple has developed a preliminary business plan that it anticipates would be implemented upon completion of the Acquisition. The operations of each of MX and TMX Group will continue to be located in the same province in which it is currently located, and each

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<sup>6</sup> A “plan of arrangement” is a statutory procedure available under the Business Corporations Act (Ontario) as well as under the Canada Business Corporations Act and other provincial business corporations statutes. Where a corporation wishes to combine (or to make any other “fundamental change”) but cannot achieve the result it wants under another section of the statute, it can apply to the court for an order approving a proposed “plan of arrangement”.

will remain subject to its existing regulatory framework and oversight, including any changes to the recognition orders governing MX and TMX Group and additional undertakings that may be required by Canadian securities regulators as a condition of approving the Acquisition.

MXUS2's management of its ownership interests in each of the Exchange and BOX Holdings will remain essentially unaffected by the Acquisition. Ownership of interests in the Exchange and BOX Holdings through TMX Group, MX and MXUS2 will not be affected by the Acquisition and the ability of TMX Group, MX and MXUS2 to influence the Exchange and BOX Holdings will not change as a result of, the Acquisition.

Pursuant to Section 7.3(h) of the Exchange LLC Agreement, as previously approved by the Commission, the Exchange is required to amend the Exchange LLC Agreement to make a Controlling Person<sup>7</sup> a party to the Exchange LLC Agreement if such Controlling Person establishes a Controlling Interest<sup>8</sup> in any member of the Exchange that, alone or together with any Related Persons<sup>9</sup> of such member of the Exchange, holds an Economic Percentage Interest<sup>10</sup>

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<sup>7</sup> A "Controlling Person" is defined as "a Person who, alone or together with any Related Persons of such Person, holds a controlling interest in [an Exchange] Member." See Section 7.3(h)(v)(B), Exchange LLC Agreement.

<sup>8</sup> A "Controlling Interest" is defined as "the direct or indirect ownership of 25% or more of the total voting power of all equity securities of [an Exchange] Member (other than voting rights solely with respect to matters affecting the rights, preferences, or privileges of a particular class of equity securities), by any Person, alone or together with any Related Persons of such Person." See Section 7.3(h)(v)(A), Exchange LLC Agreement.

<sup>9</sup> A "Related Person" is defined as, "with respect to any Person: (A) any Affiliate of such Person; (B) any other Person with which such first Person has any agreement, arrangement or understanding (whether or not in writing) to act together for the purpose of acquiring, voting, holding or disposing of Units; (C) in the case of a Person that is a company, corporation or similar entity, any executive officer (as defined under Rule 3b-7 under the Exchange Act) or director of such Person and, in the case of a Person that is a partnership or limited liability company, any general partner, managing member or manager of such Person, as applicable; (D) in the case of any BOX Options Participant who is at the same time a broker-dealer, any Person that is associated with the BOX Options Participant (as determined using the definition of "person associated with a member" as defined under Section 3(a)(21) of the Exchange Act); (E) in the case of a

or Voting Percentage Interest<sup>11</sup> in the Exchange equal to or greater than 20%.<sup>12</sup> Therefore, since Maple is acquiring a Controlling Interest in TMX Group, whose wholly owned indirect subsidiary, MXUS2, owns a 40% Economic Percentage Interest and a 20% Voting Percentage Interest in the Exchange, Maple, as a Controlling Person, is required to be, and will become, a

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Person that is a natural person and a BOX Options Participant, any broker or dealer that is also a BOX Options Participant with which such Person is associated; (F) in the case of a Person that is a natural person, any relative or spouse of such Person, or any relative of such spouse who has the same home as such Person or who is a director or officer of the Exchange or any of its parents or subsidiaries; (G) in the case of a Person that is an executive officer (as defined under Rule 3b-7 under the Exchange Act) or a director of a company, corporation or similar entity, such company, corporation or entity, as applicable; and (H) in the case of a Person that is a general partner, managing member or manager of a partnership or limited liability company, such partnership or limited liability company, as applicable.” See Section 1.1, Exchange LLC Agreement.

An “Affiliate” is defined as, “with respect to any Person, any other Person controlling, controlled by or under common control with, such Person. As used in this definition, the term “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise with respect to such Person. A Person is presumed to control any other Person, if that Person: (i) is a director, general partner, or officer exercising executive responsibility (or having similar status or performing similar functions); (ii) directly or indirectly has the right to vote 25 percent or more of a class of voting security or has the power to sell or direct the sale of 25 percent or more of a class of voting securities of the Person; or (iii) in the case of a partnership, has contributed, or has the right to receive upon dissolution, 25 percent or more of the capital of the partnership.” See Section 1.1, Exchange LLC Agreement.

A “BOX Options Participant” is defined as, “a firm or organization that is registered with the Exchange pursuant to the 2000 Series of the BOX Rules for purposes of participating in options Trading on the BOX Market as an order flow provider or market maker.” See Section 1.1, Exchange LLC Agreement.

<sup>10</sup> The “Economic Percentage Interest” is defined as “the ratio of the number of Economic Units held by the [Exchange] Member, directly or indirectly, of record or beneficially, to the total of all of the issued and outstanding Economic Units held by [Exchange] Members, expressed as a percentage.” See Section 1.1, Exchange LLC Agreement.

<sup>11</sup> The “Voting Percentage Interest” is defined as “the ratio of the number of Voting Units held by the [Exchange] Member, directly or indirectly, of record or beneficially, to the total of all of the issued and outstanding Voting Units held by [Exchange] Members, expressed as a percentage.” See Section 1.1, Exchange LLC Agreement.

<sup>12</sup> See Section 7.3(h)(i), Exchange LLC Agreement.

party to the Exchange LLC Agreement pursuant to the proposed Exchange Instrument of Accession. As a result, Maple will agree to abide by all the provisions of the Exchange LLC Agreement, including those provisions requiring submission to the jurisdiction of the Commission.<sup>13</sup> The Exchange proposes to make this proposal operative upon the successful completion of the Offer, which is currently scheduled to expire on July 31, 2012.

Pursuant to Section 7.4(g) of the BOX Holdings LLC Agreement, as previously approved by the Commission, BOX Holdings is required to amend the BOX Holdings LLC Agreement to make a Controlling Person<sup>14</sup> a party to the BOX Holdings LLC Agreement if such Controlling Person establishes a Controlling Interest<sup>15</sup> in any member of BOX Holdings that, alone or

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<sup>13</sup> The Exchange LLC Agreement states, in part, that “the [Exchange] Members and the officers, directors, employees and agents of each, by virtue of their acceptance of such positions, shall be deemed to irrevocably submit to the jurisdiction of the U.S. federal courts and the SEC, for the purposes of any suit, action or proceeding pursuant to U.S. federal securities laws, the rules or regulations thereunder, arising out of, or relating to, activities of the Exchange or this Section 18.6, (except that such jurisdictions shall also include Delaware state courts for any such matter relating to the organization or internal affairs of the Exchange) and shall be deemed to waive, and agree not to assert by way of motion, as a defense or otherwise in any such suit, action or proceeding, any claims that they are not personally subject to the jurisdiction of the U.S. federal courts, the SEC or Delaware state courts, as applicable, that the suit, action or proceeding is an inconvenient forum or that the venue of the suit, action or proceeding is improper, or that the subject matter hereof may not be enforced in or by such courts or agency.” See Section 18.6(b), Exchange LLC Agreement.

<sup>14</sup> A “Controlling Person” is defined as “a Person who, alone or together with any Related Persons of such Person, holds a controlling interest in [a BOX Holdings] Member.” See Section 7.4(g)(v)(B), BOX Holdings LLC Agreement.

<sup>15</sup> A “Controlling Interest” is defined as “the direct or indirect ownership of 25% or more of the total voting power of all equity securities of a[n Exchange] Member (other than voting rights solely with respect to matters affecting the rights, preferences, or privileges of a particular class of equity securities), by any Person, alone or together with any Related Persons of such Person.” See Section 7.4(g)(v)(A), BOX Holdings LLC Agreement.

together with any Related Persons<sup>16</sup> of such member of BOX Holdings, holds a Percentage Interest<sup>17</sup> in BOX Holdings equal to or greater than 20%.<sup>18</sup> Therefore, since Maple is acquiring

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<sup>16</sup> A “Related Person” is defined as, “with respect to any Person: (A) any Affiliate of such Person; (B) any other Person with which such first Person has any agreement, arrangement or understanding (whether or not in writing) to act together for the purpose of acquiring, voting, holding or disposing of Units; (C) in the case of a Person that is a company, corporation or similar entity, any executive officer (as defined under Rule 3b-7 under the Exchange Act) or director of such Person and, in the case of a Person that is a partnership or limited liability company, any general partner, managing member or manager of such Person, as applicable; (D) in the case of any BOX Options Participant who is at the same time a broker-dealer, any Person that is associated with the BOX Options Participant (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act); (E) in the case of a Person that is a natural person and a BOX Options Participant, any broker or dealer that is also a BOX Options Participant with which such Person is associated; (F) in the case of a Person that is a natural person, any relative or spouse of such Person, or any relative of such spouse who has the same home as such Person or who is a director or officer of the Exchange or any of its parents or subsidiaries; (G) in the case of a Person that is an executive officer (as defined under Rule 3b-7 under the Exchange Act) or a director of a company, corporation or similar entity, such company, corporation or entity, as applicable; and (H) in the case of a Person that is a general partner, managing member or manager of a partnership or limited liability company, such partnership or limited liability company, as applicable.” See Section 1.1, BOX Holdings LLC Agreement.

An “Affiliate” is defined as, “with respect to any Person, any other Person controlling, controlled by or under common control with, such Person. As used in this definition, the term “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise with respect to such Person. A Person is presumed to control any other Person, if that Person: (i) is a director, general partner, or officer exercising executive responsibility (or having similar status or performing similar functions); (ii) directly or indirectly has the right to vote 25 percent or more of a class of voting security or has the power to sell or direct the sale of 25 percent or more of a class of voting securities of the Person; or (iii) in the case of a partnership, has contributed, or has the right to receive upon dissolution, 25 percent or more of the capital of the partnership.” See Section 1.1, BOX Holdings LLC Agreement.

A “BOX Options Participant” is defined as, “a firm or organization that is registered with the Exchange pursuant to the 2000 Series of the BOX Rules for purposes of participating in options Trading on the BOX Market as an order flow provider or market maker.” See Section 1.1, BOX Holdings LLC Agreement.

<sup>17</sup> “Percentage Interest” is defined as “the ratio of the number of Units held by the Member to the total of all of the issued Units, expressed as a percentage and determined with



a Controlling Interest in TMX Group, whose wholly owned indirect subsidiary, MXUS2, owns a 53.83% ownership interest in BOX Holdings, Maple, as a Controlling Person, is required to be, and will become, a party to the BOX Holdings LLC Agreement pursuant to the proposed BOX Holdings Instrument of Accession. As a result, Maple will agree to abide by all the provisions of the BOX Holdings LLC Agreement, including those provisions requiring submission to the submission to the jurisdiction of the Commission.<sup>19</sup> BOX Holdings proposes to make this proposal operative upon the successful completion of the Offer, which is currently scheduled to expire on July 31, 2012.

For the reasons stated above, the Exchange is submitting to the Commission the proposed Instruments of Accession to each of the Exchange LLC Agreement and the BOX Holdings LLC Agreement as a rule change.

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respect to each class of Units, whenever applicable.” See Section 1.1, BOX Holdings LLC Agreement.

<sup>18</sup> See Section 7.4(g)(i), BOX Holdings LLC Agreement.

<sup>19</sup> The BOX Holdings LLC Agreement states, in part, that “the [BOX Holdings] Members and the officers, directors, employees and agents of each, by virtue of their acceptance of such positions, shall be deemed to irrevocably submit to the jurisdiction of the U.S. federal courts, the SEC and the Exchange, for the purposes of any suit, action or proceeding pursuant to U.S. federal securities laws, the rules or regulations thereunder, arising out of, or relating to, activities of the Exchange and BOX Market or Section 11.1 or this Section 18.6, (except that such jurisdictions shall also include Delaware state courts for any such matter relating to the organization or internal affairs of BOX Holdings) and shall be deemed to waive, and agree not to assert by way of motion, as a defense or otherwise in any such suit, action or proceeding, any claims that they are not personally subject to the jurisdiction of the U.S. federal courts, the SEC, the Exchange or Delaware state courts, as applicable, that the suit, action or proceeding is an inconvenient forum or that the venue of the suit, action or proceeding is improper, or that the subject matter hereof may not be enforced in or by such courts or agency.” See Section 18.6(a), BOX Holdings LLC Agreement.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,<sup>20</sup> in general, and furthers the objectives of Section 6(b)(1),<sup>21</sup> in particular, in that it enables the Exchange to be so organized so as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that this filing furthers the objectives of Section 6(b)(5) of the Act<sup>22</sup> in that it is designed to facilitate transactions in securities, 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 regulating, clearing, settling, processing information with respect to, and 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.

Additionally, the Exchange notes that the provisions of the Exchange LLC Agreement, together with the provisions of the BOX Holdings LLC Agreement, each previously approved by the Commission, provide a framework for addressing the Acquisition. Accordingly, the Exchange believes the Acquisition does not present any novel issues that have not been anticipated and addressed by the Exchange LLC Agreement and the BOX Holdings LLC Agreement.

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

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<sup>20</sup> 15 U.S.C. 78f(b).

<sup>21</sup> 15 U.S.C. 78f(b)(5).

<sup>22</sup> 15 U.S.C. 78f(b)(5).

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has neither solicited nor received comments from members, participants or others on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>23</sup> and Rule 19b-4(f)(6)<sup>24</sup> thereunder.

The Exchange has asked the Commission to waive the 30-day operative delay.<sup>25</sup> The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the Acquisition does not present any novel issues that have not been anticipated and addressed by the Exchange LLC Agreement and the BOX

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<sup>23</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>24</sup> 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 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.

<sup>25</sup> 17 CFR 240.19b-4(f)(6)(iii).

Holdings LLC Agreement. Accordingly, the Commission designates the proposal operative upon filing.<sup>26</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.

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-BOX-2012-008 on the subject line.

##### Paper comments:

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

All submissions should refer to File Number SR-BOX-2012-008. 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>).

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<sup>26</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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 office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer

to File Number SR-BOX-2012-008 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.<sup>27</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>27</sup> 17 CFR 200.30-3(a)(12).