

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-84031; File No. SR-BOX-2018-14)

September 5, 2018

Self-Regulatory Organizations; BOX Options Exchange LLC; Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change to Adopt Rules Governing the Trading of Complex Qualified Contingent Cross Orders and Complex Customer Cross Orders

I. Introduction

On May 22, 2018, BOX Options Exchange LLC (“BOX” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt rules governing the trading of Complex Qualified Contingent Cross Orders (“QCC”) and Complex Customer Cross Orders. The proposed rule change was published for comment in the Federal Register on June 8, 2018.³ On July 16, 2018, pursuant to Section 19(b)(2) of the Act,⁴ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.⁵ The Commission has received no comment letters

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 83367 (June 4, 2018), 83 FR 26719 (“Notice”).

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 83647, 83 FR 34635 (July 20, 2018). The Commission designated September 6, 2018, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change.

regarding the proposed rule change. This order institutes proceedings pursuant to Section 19(b)(2)(B) of the Act⁶ to determine whether to approve or disapprove the proposed rule change.

II. Description of the Proposal

BOX has proposed to adopt rules governing the trading of Complex Customer Cross Orders⁷ and Complex QCC Orders.⁸ The proposal also applies two existing Complex Order price protections, the debit/credit check and the maximum price protection, to the proposed Complex Customer Cross and Complex QCC Orders.⁹

Proposed BOX Rule 7110(c)(7) provides that a Complex Customer Cross order will be executed automatically upon entry provided that the execution (i) is at least \$0.01 better than

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ A Complex Customer Cross Order is comprised of one Public Customer Complex Order to buy and one Public Customer Complex Order to sell at the same price and for the same quantity. See proposed BOX Rule 7240(b)(4)(iii).

⁸ A Complex QCC Order is comprised of an originating Complex Order to buy or sell where each component is at least 1,000 contracts that is identified as being part of a qualified contingent trade, as defined in IM-7110-2, coupled with a contra-side Complex Order or orders totaling an equal number of contracts. See proposed BOX Rule 7240(b)(4)(iv). A “qualified contingent trade” is a transaction consisting of two or more component orders, executed as agent or principal, where: (1) at least one component is an NMS Stock, as defined in Rule 600 of Regulation NMS under the Exchange Act; (2) all components are effected with a product or price contingency that either has been agreed to by all the respective counterparties or arranged for by a broker-dealer as principal or agent; (3) the execution of one component is contingent upon the execution of all other components at or near the same time; (4) the specific relationship between the component orders (e.g., the spread between the prices of the component orders) is determined by the time the contingent order is placed; (5) the component orders bear a derivative relationship to one another, represent different classes of shares of the same issuer, or involve the securities of participants in mergers or with intentions to merge that have been announced or cancelled; and (6) the transaction is fully hedged (without regard to any prior existing position) as a result of other components of the contingent trade. See BOX IM-7110-2. See Notice, supra note 3, for additional description of the proposed rule change, including examples demonstrating the operation of the proposed Complex Customer Cross and Complex QCC Orders.

⁹ See proposed BOX IM-7240-1(a)(5) and (b)(5).

(inside) the cBBO¹⁰ and any Public Customer Complex Order on the Complex Order Book; (ii) is at or better than any non-Public Customer Complex Order on the Complex Order Book; and (iii) is at or between the cNBBO.¹¹ The system will reject a Complex Customer Cross Order if, at the time of receipt of the Complex Customer Cross Order: (i) the strategy is subject to an ongoing auction (including the COPIP, Facilitation, and Solicitation auctions); or (ii) there is an exposed order on the strategy pursuant to BOX Rule 7240(b)(3)(B).¹² Complex Customer Cross Orders will be cancelled automatically if they cannot be executed, and Complex Customer Cross Orders may only be entered in the minimum trading increments applicable to Complex Orders under BOX Rule 7240(b)(1).¹³ BOX proposes to apply BOX IM-7140-1 to the entry and execution of Complex Customer Cross Orders.¹⁴

¹⁰ The cBBO is the best net bid and offer price for a Complex Order Strategy based on the BBO on the BOX Book for the individual options components of the Strategy. See BOX Rule 7240(a)(1). The BOX Book is the electronic book of orders on each single option series maintained by the BOX Trading Host. See BOX Rule 100(a)(10).

¹¹ The cNBBO is the best net bid and offer price for a Complex Order Strategy based on the NBBO for the individual options components of the Strategy. See BOX Rule 7240(a)(3).

¹² See proposed BOX Rule 7110(c)(7).

¹³ See proposed BOX Rule 7110(c)(7)(i) and (ii).

¹⁴ See proposed BOX Rule 7110(c)(7)(iii). BOX IM-7140-1 provides: “[BOX Rule 7140(b)] prevents an Options Participant executing agency orders to increase its economic gain from trading against the order without first giving other trading interest on BOX an opportunity to trade with the agency order pursuant to Rule 7150 (Price Improvement Period), Rule 7245 (Complex Order Price Improvement Period) or Rule 7270 (Block Trades). However, the Exchange recognizes that it may be possible for an Options Participant to establish a relationship with a Customer or other person (including affiliates) to deny agency orders the opportunity to interact on BOX and to realize similar economic benefits as it would achieve by executing agency orders as principal. It will be a violation of [BOX Rule 7140(b)] for an Options Participant to circumvent [BOX Rule 7140(b)] by providing an opportunity for a Customer or other person (including affiliates) to execute against agency orders handled by the Options Participant immediately upon their entry into the Trading Host.”

BOX also proposes to adopt rules governing Complex QCC Orders. Proposed BOX Rule 7110(c)(8) provides that a Complex QCC Order will be automatically executed upon entry provided that the execution (i) is not at the same price as a Public Customer Complex Order; (ii) is at least \$0.01 better than (inside) the cBBO; (iii) is at or better than any non-Public Customer Complex on the Complex Order Book; and (iv) each option leg executes at or between the NBBO. The system will reject a Complex QCC Order if, at the time of receipt of the Complex QCC Order, the strategy is subject to an ongoing auction (including COPIP, Facilitation, and Solicitation auctions) or there is an exposed order on the strategy pursuant to BOX Rule 7240(b)(3)(B).¹⁵ Complex QCC Orders will be automatically cancelled if they cannot be executed, and Complex QCC Orders may only be entered in the minimum trading increments applicable to Complex Orders under BOX Rule 7240(b)(1).¹⁶

BOX acknowledges that, unlike the rules of the Miami International Securities Exchange, LLC (“MIAX”), BOX’s proposed rules will not require that each component leg of a Complex QCC Order execute at a price that is better than Public Customer Orders on the BOX Book.¹⁷ Thus, BOX’s proposed rule does not provide the same price protection for Public Customers as MIAX’s Complex QCC rule.¹⁸ BOX notes, however, that its proposed requirement that a Complex QCC Order execute at a price that is at least \$0.01 better than the cBBO is consistent with BOX’s general approach to Complex Orders and that this approach respects all interest on

¹⁵ See proposed BOX Rule 7110(c)(8).

¹⁶ See proposed BOX Rules 7110(c)(8)(i) and (ii).

¹⁷ See Notice, 83 FR at 26722. MIAX Rule 515(h)(4) provides that Complex Qualified Contingent Cross Orders (“cQCC Orders”) are automatically executed upon entry provided that, with respect to each option leg of the cQCC Order, the execution (i) is not at the same price as a Priority Customer Order on the Exchange’s Book; and (ii) is at or between the NBBO.

¹⁸ See *supra* note 17.

the regular Book, not just the interest of Public Customers, thereby providing a level of protection to all Participants.¹⁹ BOX further notes that its proposal respects resting Complex Order interest by requiring a Complex QCC Order to execute at a price that is better than resting Public Customer Complex Orders and the same or better than resting non-Public Customer Complex Orders.²⁰

III. Proceedings to Determine Whether to Approve or Disapprove SR-BOX-2018-14 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act²¹ to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposal, as discussed below. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,²² the Commission is providing notice of the grounds for disapproval under consideration. BOX proposes to allow Complex QCC Orders to be automatically executed upon entry provided that the execution (i) is not at the same price as a Public Customer Complex Order; (ii) is at least \$0.01 better than (inside) the cBBO; (iii) is at or better than any non-Public Customer Complex Order on the Complex Order Book; and (iv) each option leg executes at or between the NBBO. As discussed above, BOX's proposed rules do not

¹⁹ See Notice, 83 FR at 26722.

²⁰ See id. and proposed BOX Rule 7110(c)(8).

²¹ 15 U.S.C. 78s(b)(2)(B).

²² Id.

require that each component options leg of a Complex QCC Order execute at a price that is better than resting Public Customer interest on the BOX Book. Thus, under BOX's proposal, if there is customer interest on the BOX Book at the best bid or offer on each component leg of a Complex QCC Order, the Complex QCC Order would be able to trade ahead of resting customer interest at the same price on one or more legs of the Complex QCC Order. The Commission is concerned about allowing Complex QCC Orders to execute as a "clean" cross ahead of resting Public Customer interest on the BOX Book. The Commission notes that, unlike in BOX's Complex Order Price Improvement Period, Facilitation Auction, and Solicitation Auction,²³ Public Customer interest on the BOX Book would not have an opportunity to trade with a Complex QCC Order because Complex QCC Orders would be executed automatically upon entry. The Commission is concerned that Public Customers' inability to participate in a Complex QCC transaction, and the ability of Complex QCC Orders to trade ahead of resting Public Customer interest at the same price, would unduly disadvantage resting Public Customer interest on the BOX Book.

The Commission is instituting proceedings to allow for additional analysis of, and input from commenters with respect to, the consistency of the proposal with Sections 6(b)(5)²⁴ and 6(b)(8)²⁵ of the Act. Section 6(b)(5) of the Act requires that the rules of a national securities exchange be designed, among other things, to promote just and equitable principles of trade, 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, and not be designed to

²³ See BOX Rule 7245, IM-7270-7, and IM-7270-8.

²⁴ 15 U.S.C. 78f(b)(5).

²⁵ 15 U.S.C. 78f(b)(8).

permit unfair discrimination between customers, issuers, brokers, or dealers. Section 6(b)(8) of the Act requires that the rules of a national securities exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their data, views, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is consistent with Section 6(b)(5), 6(b)(8), or any other provisions of the Act, or rules and regulations thereunder. Although there does not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of data, views, and arguments, the Commission will consider, pursuant to Rule 19b-4 under the Act,²⁶ any request for an opportunity to make an oral presentation.²⁷

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved by [insert date 21 days from publication in the Federal Register]. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by [insert date 35 days from publication in the Federal Register]. The Commission asks that commenters address the sufficiency and merit of the Exchange's statements in support of the proposal, in addition to any other comments they may

²⁶ 17 CFR 240.19b-4.

²⁷ Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Pub. L. 94-29 (June 4, 1975), grants to the Commission flexibility to determine what type of proceeding – either oral or notice and opportunity for written comments – is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

wish to submit about the proposed rule change.

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 No. SR-BOX-2018-14 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 No. SR-BOX-2018-14. The 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 also will be available for inspection and copying at the principal office 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 No. SR-BOX-2018-14 and should be submitted by [insert date 21 days from the date of publication in the Federal Register]. Rebuttal comments should be submitted by [insert date 35 days from date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁸

Eduardo A. Aleman
Assistant Secretary

²⁸ 17 CFR 200.30-3(a)(12); 17 CFR 200.30-3(a)(57).