

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-87637; File No. SR-BOX-2019-33)

November 27, 2019

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Add IM-7620-1 (Sub-Penny Cabinet) to Allow Transactions to Take Place at a Price that is Below \$1 Per Option Contract

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 13, 2019, BOX 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 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 add IM-7620-1 (Sub-Penny Cabinet) to allow transactions to take place at a price that is below \$1 per option contract. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission’s Public Reference Room and also on the Exchange’s Internet website at <http://boxoptions.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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 the proposed rule change is to add Rule IM-7620-1 (Sub-Penny Cabinet) to allow transactions to take place at a price that is below \$1 per option contract. An “accommodation” or “cabinet” trade refers to trades in listed options on the Exchange that are worthless or not actively traded. Cabinet trading is conducted in accordance with the Exchange Rule 7620 which sets forth the terms and conditions for engaging in cabinet trades. Currently, a cabinet order is defined as a closing limit order at a price of \$1 per option contract for the account of a customer or Floor Market Maker. In certain cases opening orders³ may be matched with a cabinet order.⁴ Only Floor brokers may represent cabinet orders on the BOX Trading Floor. Cabinet transactions occur via open outcry at a cabinet price of \$1 per option contract in any options series open for trading in the Exchange. Once the cabinet order has been either crossed or matched, the Floor Broker must submit the designated cabinet form as soon as possible but no later than the close of business that trading day. Cabinet order transactions are reported as late trades on the Exchange.⁵

The purpose of this rule change is to add Rule IM-7620-1 to allow for transactions to take place in open outcry at a price of at least \$0 but less than \$1 per option contract (“sub-penny

³ The Exchange notes an “opening order” is a contra-side opening order in response to a Customer who submits a closing order to clear their position.

⁴ See BOX Rule 7620(c), (d), and (e).

⁵ The Exchange notes there have been no issues in processing and clearing cabinet trade transactions since Rule 7620 has been implemented.

cabinet orders”). These lower priced transactions would be traded pursuant to the same procedures applicable to \$1 cabinet trades, except that (i) bids and offers for opening transactions would only be permitted to accommodate closing transactions in order to limit use of the procedure to liquidations of existing positions, and (ii) the procedures would also be made available for trading in option classes participating in the Penny Pilot Program.⁶ The Exchange notes that the rule proposal is consistent with cabinet trading rules of other exchanges, previously approved by the Commission⁷, and supports the purpose of cabinet trading by facilitating liquidations of worthless or inactive positions. The Exchange believes that allowing sub-penny cabinet orders will better accommodate the closing of options positions in series that are worthless or not actively traded, particularly due to market conditions which may result in a significant number of series being out-of-the-money. For example, a market participant might have a long position in a call series with a strike price of \$100 and the underlying stock might now be trading at \$30. In such a case, there might not otherwise be a market for that person to close-out its position even at the \$1 cabinet price (e.g., the series might be quoted no bid).

As with other cabinet trades, all transactions for less than \$1 must be reported to the Exchange no later than the close of business each day. The Exchange represents that there would be no operational issues in processing and clearing sub-penny cabinet trades. The Exchange does not believe that the Options Clearing Corporation (“OCC”) will have any operational issues with processing sub-penny cabinet trades, as they will be reported to and

⁶ The \$1 cabinet trading procedures are not available in Penny Pilot Program classes because in those classes an option series can trade in a standard increment as low as \$0.01 per share (or \$1.00 per option contract with a 100 share multiplier). Because this proposal would allow trading below \$0.01 per share (or \$1.00 per option contract with a 100 share multiplier), the procedures would be made available for all classes, including those classes participating in the Penny Pilot Program.

⁷ See, e.g., NYSE Arca Options Commentary .01 to Rule 6.80-O; and NASDAQ Phlx Options 8, Sec. 33(d).

submitted by the Exchange like all other cabinet trades. Additionally, the Exchange notes that because sub-penny cabinets will be reported and processed like all other cabinet trades, market participants will not be impacted nor have to take on any additional reporting or processing burden.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,⁸ in general, and Section 6(b)(5) of the Act,⁹ in particular, in that sub-penny cabinet trades will promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market, by allowing all market participants to submit and execute accommodation transactions at a price that is below \$1 per option contract.

Specifically, the rule proposal will offer market participants additional opportunities to trade away unwanted worthless option positions priced even lower than current cabinet trades. The Exchange believes this will help remove impediments to and better provides a free and open market because it facilitates the closing of options positions that are worthless or not actively traded. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁰ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers, because all market participants may avail themselves of sub-penny cabinet orders.

The proposed rule does not propose to implement new or unique functionality that has not been previously filed with the Commission, found to be consistent with the Act, or is not available on other exchanges. The proposed change facilitates transactions in securities by

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ Id.

ensuring that the rule covers cabinet trades in all series, not only those with a price of \$1 per option contract. The Exchange also believes that the proposed change will protect investors because there would be no operational issues in processing and clearing sub-penny cabinet trades because sub-penny cabinet trades would be reported to the Exchange and submitted to the OCC like current cabinet trades. Additionally, because sub-penny cabinets will be reported and processed like all other cabinet trades, market participants will not be impacted nor have to take on any additional reporting or processing burden. As such, BOX believes the proposed rule change protects investors, and is therefore, consistent with the Act.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that liquidation trades promote competition and afford market participants the opportunity to close out their worthless options positions. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition because the proposed sub-penny cabinet orders will be available to all market participants to execute in the same manner as they execute cabinet orders currently. The Exchange also does not believe that the proposed rule change will impose any burden on intermarket competition. As discussed above, the basis for the proposed rule change regarding sub-penny cabinets are the rules of other options exchanges, which have already been found consistent with the Act and approved by the Commission.¹¹ In addition to this, other exchanges have substantially similar rules regarding sub-penny cabinet trading.¹²

As such, 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.

¹¹ See supra note 7.

¹² See id.

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 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 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)(iii) of the Act¹³ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁴

A proposed rule change filed under Rule 19b-4(f)(6)¹⁵ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁶ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Exchange notes that sub-penny cabinet orders are already allowed on other exchanges and that waiver of the operative delay would permit the Exchange to compete for sub-penny cabinet order flow. As the proposal raises no novel issues, the Commission believes that waiving the 30-day operative delay is consistent with the protection of

¹³ 15 U.S.C. 78s(b)(3)(A)(iii).

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

¹⁵ 17 CFR 240.19b-4(f)(6).

¹⁶ 17 CFR 240.19b-4(f)(6)(iii).

investors and the public interest. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.¹⁷

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 to determine whether the proposed rule change should be approved or disapproved.

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-BOX-2019-33 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-BOX-2019-33. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

¹⁷ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 Number SR-BOX-2019-33 and should be submitted on or before [date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Jill M. Peterson
Assistant Secretary

¹⁸ 17 CFR 200.30-3(a)(12).