

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-88300; File No. SR-BOX-2019-19)

February 28, 2020

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing of Amendment No. 2 to Proposed Rule Change to Adopt Rules Governing the Trading of Equity Securities on the Exchange Through a Facility of the Exchange Known as the Boston Security Token Exchange LLC

On September 27, 2019, BOX Exchange LLC (“Exchange” or “BOX”) 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 listing and trading of equity securities that would be NMS stocks on the Exchange through a facility of the Exchange known as the Boston Security Token Exchange LLC (“BSTX”). The proposed rule change was published for comment in the Federal Register on October 18, 2019.³ On November 29, 2019, 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 On December 26, 2019, the Exchange filed Amendment No. 1 to the proposed rule change, which amended the proposed rule change as originally filed.⁶

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 87287 (October 11, 2019), 84 FR 56022 (October 18, 2019).

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 87641 (November 29, 2019), 84 FR 66701 (December 5, 2019). The Commission designated January 16, 2020, 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.

⁶ When the Exchange filed Amendment No. 1 to BOX-2019-19, it also submitted the text of the partial amendment as a comment letter to the filing, which the

On January 16, 2020, the Commission published the proposed rule change, as modified by Amendment No. 1, for notice and comment and instituted proceedings under Section 19(b)(2)(B) of the Act⁷ to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.⁸ On February 19, 2020, the Exchange filed Amendment No. 2 to the proposed rule change, which replaced and superseded the proposed rule change as originally filed.⁹ The Commission has received four comment letters on the proposed rule change.¹⁰ The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change, as modified by Amendment No. 2, and as described in Items I and II below, which Items have been prepared by the Exchange.

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) of the Securities Exchange Act of 1934 as amended (“Exchange Act”),¹¹ BOX Exchange LLC (“BOX or the “Exchange”) is filing with the

Commission made publicly available at <https://www.sec.gov/comments/sr-box-2019-19/srbox201919-6613675-202939.pdf> (“Amendment No. 1”).

⁷ 15 U.S.C. 78s(b)(2)(B).

⁸ See Securities Exchange Act Release No. 88002 (January 16, 2020), 85 FR 4040 (January 23, 2020) (“Order Instituting Proceedings”).

⁹ Amendment No. 2 is available at: https://lynxstorageaccount.blob.core.windows.net/boxvr/SE_resources/SR-BOX-2019-19_Amendment_2.pdf.

¹⁰ See Letter from Ellen Greene, Managing Director, SIFMA, to Vanessa Countryman, Secretary, Commission, dated January 13, 2020; Letter from Dave G., dated January 17, 2020; Letter from Holly H. Smith, Partner, Eversheds Sutherland (US) LLP, to J. Matthew DeLesDernier, Assistant Secretary, Commission, dated February 12, 2020; and Letter from David A. Schrader, Partner, Paykin Krieg & Adams, LLP, to Vanessa Countryman, Secretary, Commission, dated February 25, 2020. All comments on the proposed rule change are available at: <https://www.sec.gov/comments/sr-box-2019-19/srbox201919.htm>.

¹¹ 15 U.S.C. 78s(b)(1).

Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to adopt rules to govern the trading of equity securities on the Exchange through a facility of the Exchange known as Boston Security Token Exchange LLC (“BSTX”). As described more fully below, BSTX would operate a fully automated, price/time priority execution system for the trading of “security tokens,” which would be equity securities that meet BSTX listing standards and for which ancillary records of ownership would be able to be created and maintained using distributed ledger (or “blockchain”) technology. The proposed additions to the Exchange’s Rules setting forth new Rule Series 17000 – 28000 are included as Exhibit 5A. All text set forth in Exhibit 5A would be added to the Exchange’s rules and therefore underlining of the text is omitted to improve readability. Forms proposed to be used in connection with the proposed rule change, such as the application to become a BSTX Participant, are included as Exhibits 3A through 3N.

In addition, the Exchange proposes to make certain amendments to several existing BOX Rules to facilitate trading on BSTX. The proposed changes to the existing BOX Rules would not change the core purpose of the subject Rules or the functionality of other BOX trading systems and facilities. Specifically, the Exchange is seeking to amend BOX Rules 100, 2020, 2060, 3180, 7130, 7150, 7230, 7245, IM-8050-3, 11010, 11030, 12030, and 12140. These proposed changes are set forth in Exhibit 5B. Material proposed to be added to the Rule as currently in effect is underlined and material proposed to be deleted is bracketed.

All capitalized terms not defined herein have the same meaning as set forth in the Exchange’s Rules.¹²

¹² The Exchange’s Rules can be found on the Exchange’s public website: <https://boxoptions.com/regulatory/rulebook-filings/>.

This Amendment No. 2 to SR-BOX-2019-019 amends and supersedes the original filing, as modified by Amendment No. 1, in its entirety.

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

The Exchange is proposing to adopt a series of rules to govern the trading of equity securities through a facility of the Exchange known as BSTX and make certain amendments to the existing BOX rules to facilitate trading on BSTX. As described more fully below, BSTX would operate a fully automated, price/time priority execution system (“BSTX System”) for the trading of securities that will be considered “security tokens” under the proposed rules. The “security tokens” under the proposed rules would be equity securities that meet BSTX listing standards, and that trade on the BSTX System, and for which ancillary records of ownership would be able to be created and maintained using distributed ledger technology. These ancillary records of ownership that would be maintained using distributed ledger technology would not be official records of security token ownership. Instead, as described further herein, such records would be ancillary records that would reflect certain end-of-day security token position balance information as reported by market participants. All BOX Participants would be eligible to

participate in BSTX provided that they become a BSTX Participant pursuant to the proposed rules. Under the proposed rules, BSTX would serve as the listing market for eligible companies that wish to issue their registered securities as security tokens. Security tokens would trade as NMS stock.¹³ The Exchange is not proposing rules that would support its extension of unlisted trading privileges to other NMS stock, and accordingly the Exchange does not intend to extend any such unlisted trading privileges in connection with this proposal. The Exchange would therefore only trade security tokens listed on BSTX unless and until it proposes and receives Commission approval for rules that would support trading in other types of securities, including through any extension of unlisted trading privileges to other NMS stock. A guide to the structure of the proposed rule change is described immediately below.

The Exchange is filing this amendment to SR-BOX-2019-019, which was published for comment by the Commission on October 11, 2019,¹⁴ in order to: provide additional clarification and justification in support of the proposed rule change, delete and revise certain language in the Original Proposal, and respond to questions raised by the Commission¹⁵ and comment letters received regarding the proposal. This amendment supersedes and replaces the Original Proposal in its entirety.

I. Guide to the Scope of the Proposed Rule Change

The proposal for trading of securities that will be “security tokens” (under the BSTX Rules, as defined below) through BSTX generally involves changes to existing BOX Rules and

¹³ 17 CFR 242.600(b)(48).

¹⁴ See Securities Exchange Act Release No. 87287 (October 11, 2019), 84 FR 56022 (October 18, 2019) (“Original Proposal”).

¹⁵ See Securities Exchange Act Release No. 88002 (January 16, 2020), 85 FR 4040 (January 23, 2020) (“Order”).

new BOX Rules pertaining specifically to BSTX (“BSTX Rules”). In addition, BSTX corporate governance documents as well as certain discrete changes to existing BOX corporate governance documents are necessary, which the Exchange has submitted to the Commission through separate proposed rule changes. To support the trading of security tokens through BSTX, certain conforming changes are proposed to existing BOX Rules and entirely new BSTX Rules are also proposed as Rule Series 17000 through 28000.¹⁶ Each of those new Rule Series and the provisions thereunder are described in greater detail below. Where the BSTX Rules are based on existing rules of another national securities exchange, the source rule from the relevant exchange is noted along with a discussion of notable differences between the source rule and the proposed BSTX Rule. The proposed BSTX Rules are addressed in Part III below and they generally cover the following areas:

- Section 17000 – General Provisions of BSTX;
- Section 18000 – Participation on BSTX;
- Section 19000 – Business Conduct for BSTX Participants;
- Section 20000 – Financial and Operational Rules for BSTX Participants;
- Section 21000 – Supervision;
- Section 22000 – Miscellaneous Provisions;
- Section 23000 – Trading Practice Rules;
- Section 24000 – Discipline and Summary Suspension;
- Section 25000 – Trading Rules;
- Section 25200 – Market Making on BSTX;

¹⁶ The proposed changes to BOX Rules and the proposed BSTX Rules are attached as Exhibit 5A.

- Section 26000 – BSTX Listing Rules;
- Section 27000 – Suspension and Delisting;
- Section 27100 – Guide to Filing Requirements;
- Section 27200 – Procedures for Review of Exchange Listing Determinations; and
- Section 28000 – Dues, Fees, Assessments and Other Charges.

II. Overview of BSTX and Considerations Related to the Listing, Trading and Clearance and Settlement of Security Tokens

A. The Joint Venture and Ownership of BSTX

On June 19, 2018, t0.com Inc. (“tZERO”) and BOX Digital Markets LLC (“BOX Digital”) announced a joint venture to facilitate the trading of security tokens on the Exchange.¹⁷ As part of the joint venture, BOX Digital, which is a subsidiary of BOX Holdings Group LLC, and tZERO each own 50% of BSTX LLC. Pursuant to the BSTX LLC Agreement, BOX Digital and tZERO will perform certain specified functions with respect to the operation of BSTX. As noted, these details, as well as the proposed governance structure of the joint venture and accompanying changes to the Exchange’s current governance documents and bylaws, are the subject of separate proposed rule changes that the Exchange has submitted to the Commission.¹⁸

¹⁷ See tZERO and BOX Digital Markets Sign Deal to Create Joint Venture, Business Wire (June 19, 2018), available at <https://www.businesswire.com/news/home/20180619005897/en/tZERO-BOX-Digital-Markets-Sign-Deal-Create>.

¹⁸ See e.g., Exchange Act Release No. 87868 (December 30, 2019), 85 FR 345, 70748 (January 3, 2020).

B. BSTX Is a Facility of BOX That Would Support Trading in the New Asset Class of Security Tokens

BSTX would operate as a facility¹⁹ of BOX, which is a national securities exchange registered with the SEC. As a facility of BOX, BSTX's operations would be subject to applicable requirements in Sections 6 and 19 of the Exchange Act, among other applicable rules and regulations.²⁰ Currently, BOX functions as an exchange only for standardized options. While BSTX may eventually support a wider variety of securities, subject to Commission approval, at the time that BSTX commences operations it would only support trading in security tokens that are equity securities. Accordingly, this represents a new asset class for BOX, and this proposal sets forth the changes and additions to the Exchange's rules to support the trading of equity securities as security tokens on BSTX.

The Exchange proposes to use the term "security token"²¹ to describe the BSTX-listed securities that would use blockchain technology as an ancillary recordkeeping mechanism, as described in further detail below. However, ownership of securities that are security tokens under the BSTX rules would still be able to be transferred without regard to the blockchain-

¹⁹ 15 U.S.C. 78c(a)(2). Section 3(a)(2) of the Exchange Act, provides that "the term 'facility' when used with respect to an exchange includes its premises, tangible or intangible property whether on the premises or not, any right to the use of such premises or property or any service thereof for the purpose of effecting or reporting a transaction on an exchange (including, among other things, any system of communication to or from the exchange, by ticker or otherwise, maintained by or with the consent of the exchange), and any right of the exchange to the use of any property or service." Because BSTX will share certain systems of the Exchange, BSTX is a facility of the Exchange.

²⁰ 15 U.S.C. 78f; 15 U.S.C. 78s.

²¹ The Exchange proposes to define the term "security token" to mean a NMS stock, as defined in Rule 600(b)(47) of the Exchange Act, trading on the BSTX System. References to a "security" or "securities" in the Rules include security tokens. See proposed Rule 17000(a)(30).

based ancillary recordkeeping functionality (as also described further below). Notwithstanding this, the Exchange believes that it is appropriate to describe these securities as “security tokens” to distinguish them from other securities for which there is no related legal and regulatory structure that is designed to use blockchain technology as an ancillary recordkeeping mechanism and as a way of indicating the additional proposed obligations of BSTX Participants trading security tokens to obtain a wallet address and report end-of-day security token balances to BSTX.²² The legal significance, therefore, of a security token is that a “security token” will be an equity security that is approved for listing on BSTX, and that trades on the BSTX System, and for which BSTX Participants are therefore required under BSTX Rule 17020 to obtain a whitelisted wallet address and report certain end-of-day security token position balance information to BSTX. A security that is offered by an issuer with the intent of it becoming listed on BSTX would therefore not become a “security token” under the proposed BSTX Rules unless and until it actually does become listed on BSTX and trades on the BSTX System. The Exchange believes that the obligations on a BSTX Participant under the proposal to obtain a wallet address and to report certain end-of-day security token position balance information to BSTX are the only legal rights or obligations associated with security tokens that would differ from how NMS stock is generally traded by market participants today.²³

²² See Part II, Sections G and J for further description of these obligations.

²³ The Exchange notes that its proposed Rule 17000(a)(30) defines “security token” to mean an “NMS stock, as defined in Rule 600(b)(47) of the Exchange Act, trading on the BSTX System.”

C. Security Tokens Would Be NMS Stocks

The security tokens would qualify as NMS stocks pursuant to Regulation NMS,²⁴ which defines the term “NMS security” in relevant part to mean “any security or class of securities for which transaction reports are collected, processed and made available pursuant to an effective transaction reporting plan”²⁵ The Exchange plans to join existing transaction reporting plans, as discussed in Part VIII below, for the purposes of security token quotation and transaction reporting.²⁶ The term “NMS stock” means “any NMS security other than an option”²⁷ and therefore security tokens traded on BSTX that represent equity securities will be classified as NMS stock.

D. BSTX Would Support Trading of Registered Securities

All security tokens traded on BSTX would generally be required to be registered with the Commission under both Section 12 of the Exchange Act²⁸ and Section 6 of the Securities Act of 1933 (“Securities Act”).²⁹ BSTX would not support trading of security tokens offered under an exemption from registration for public offerings, with the exception of certain offerings under Regulation A that meet the proposed BSTX listing standards.

²⁴ 17 CFR 242.600 through 613.

²⁵ 17 CFR 242.600(b)(47).

²⁶ 17 CFR 242.601(a)(1). The Rule states in relevant part that “every national securities exchange shall file [with the SEC] a transaction reporting plan regarding transactions in listed equity and Nasdaq securities executed through its facilities”

²⁷ 17 CFR 242.600(b)(47).

²⁸ 15 U.S.C. 78l.

²⁹ 15 U.S.C. 77f.

E. Clearance and Settlement of Security Tokens

BSTX would maintain certain rules, as described below, to address custody, clearance and settlement in connection with security tokens. All transactions in security tokens would clear and settle in accordance with the rules, policies and procedures of registered clearing agencies. Specifically, BSTX anticipates that at the time it commences operations, security tokens that are listed and traded on BSTX would be securities that have been made eligible for services by The Depository Trust Company (“DTC”) and that DTC would serve as the securities depository³⁰ for such security tokens. It is also expected that confirmed trades in security tokens on BSTX would be transmitted to National Securities Clearing Corporation (“NSCC”) for clearing such that NSCC would clear the trades through its systems to produce settlement obligations that would be due for settlement between participants at DTC. BSTX believes that this custody, clearance and settlement structure is the same general structure that exists today for other exchange traded equity securities. Importantly, for purposes of NSCC’s clearing activities and DTC’s settlement activities in respect of the security tokens, the relevant securities will be cleared and settled by NSCC and DTC in exactly the same manner as those activities are performed by NSCC and DTC currently regarding a class of NMS Stock. This is because the tokenized ancillary recordkeeping process that will be implemented through the operation of the proposed BSTX Rules will occur separate and apart from the clearance and settlement process and the security itself will not exist

³⁰ 15 U.S.C. 78c(a)(23)(A). Section 3(a)(23)(A) of the Exchange Act defines the term “clearing agency” to include “any person, such as a securities depository, who (i) acts as a custodian of securities in connection with a system for the handling of securities whereby all securities of a particular class or series of any issuer deposited within the system are treated as fungible and may be transferred, loaned, or pledged by bookkeeping entry without physical delivery of securities certificates, or (ii) otherwise permits or facilitates the settlement of securities transactions or the hypothecation or lending of securities without physical delivery of securities certificates.”

in tokenized form. Rather, the security will be an ordinary equity security for NSCC's and DTC's purposes. The tokenized feature in connection with the security that will be implemented through the operation of BSTX's Rules is that there will also be a separate, ancillary recordkeeping process that will use distributed ledger technology to record BSTX Participant end-of-day position balance information for the relevant security.

1. Issuance of Equity Securities Eligible to Become a Security Token

With the exception of certain offerings under Regulation A that meet the proposed BSTX listing standards, all security tokens traded on BSTX will have been offered and sold in registered offerings under the Securities Act, which means that purchasers of the security tokens will benefit from all of the protections of registration. The Division of Corporation Finance will need to make a public interest finding in order to accelerate the effectiveness of the registration statements for these offerings. Because BSTX is a facility of a national securities exchange, all security tokens will be registered under Section 12(b) of the Exchange Act, thereby subjecting all of these issuers to the reporting regime in Section 13(a) of the Exchange Act.

All offerings of securities that are intended to be listed as security tokens on BSTX will be conducted in the same general manner in which offerings of exchange-listed equity securities are conducted today under the federal securities laws. An issuer will enter into a firm commitment or best efforts underwriting agreement with a sole underwriter or underwriting syndicate; the underwriter(s) will market the securities and distribute them to purchasers; and secondary trading in the securities (that are intended to trade on BSTX as security tokens) will thereafter commence on BSTX. The ancillary recordkeeping function associated with the

security token will not commence until the conclusion of the first day of the security token's secondary trading on BSTX pursuant to proposed BSTX Rule 17020.³¹

Issuers on BSTX could include both (1) new issuers who do not currently have any class of securities registered on a national securities exchange, and (2) issuers who currently have securities registered on a national securities exchange and who are seeking registration of a separate class of equity securities for listing on BSTX. BSTX does not intend for security tokens listed, or intended to be listed, on BSTX to be fungible with any other class of securities from the same issuer. If an issuer sought to list securities on BSTX that are not a separate class of an issuer's securities, BSTX does not intend to approve such a class of security for listing on BSTX, pursuant to BSTX's authority under BSTX Rule 26101. At the commencement of BSTX's operations, only equity securities would be eligible for listing as security tokens. This would be addressed by BSTX Rules 26102 (Equity Issues), 26103 (Preferred Security Tokens) and 26105 (Warrant Security Tokens), which would be part of BSTX's listing rules and would contemplate that only those specified types of equity securities would be eligible for listing.

2. Securities Depository Eligibility

BSTX would maintain rules that would promote a structure in which security tokens would be held in "street name" with DTC.³² BSTX Rule 26136 would require that for an equity

³¹ Although the smart contract that would be used to carry out the ancillary recordkeeping function related to the security would need to be built by or at the direction of the issuer prior to the commencement of the security's trading on BSTX, the corresponding smart contract would effectively remain dormant until the ancillary recordkeeping process contemplated under the proposed BSTX Rules is activated due to trading on the BSTX System in that security token.

³² The term "street name" refers to a securities holding structure in which DTC, through its nominee Cede & Co., would be the registered holder of the securities and, in turn, DTC would grant security entitlements in such securities to relevant accounts of its participants. Proposed BSTX Rule 26135 would also provide, with certain exceptions, that securities listed on BSTX must be eligible for a

security to be eligible to be a security token BSTX must have received a representation from the issuer that a CUSIP number that identifies the security is included in a file of eligible issues maintained by a securities depository that is registered with the SEC as a clearing agency. This is based on rules that are currently maintained by other equities exchanges.³³ In practice, BSTX Rule 26136 requires the security token to have a CUSIP number that is included in a file of eligible securities that is maintained by DTC because the Exchange believes that DTC currently is the only clearing agency registered with the SEC that provides securities depository services.³⁴

3. Book-Entry Settlement at a Securities Depository

BSTX would also maintain Proposed BSTX Rule 26137 regarding uniform book-entry settlement. The rule would require each BSTX Participant to use the facilities of a securities depository for the book-entry settlement of all transactions in depository eligible securities with another BSTX Participant or a member of a national securities exchange that is not BSTX or a member of a national securities association.³⁵ Proposed BSTX Rule 26137 is based on the depository eligibility rules of other equities exchanges and Financial Industry Regulatory Authority (“FINRA”).³⁶ Those rules were first adopted as part of a coordinated industry effort in

direct registration program operated by a clearing agency registered under Section 17A of the Exchange Act. DTC operates the only such program today, known as the Direct Registration System, which permits an investor to hold a security as the registered owner in electronic form on the books of the issuer.

³³ Proposed BSTX Rule 26136 is based on current NYSE Rule 777.

³⁴ See Exchange Act Release No. 78963 (September 28, 2016), 81 FR 70744, 70748 (October 13, 2016) (footnote 46 and the accompanying text acknowledge that DTC is the only registered clearing agency that provides securities depository services for the U.S. securities markets).

³⁵ FINRA is currently the only national securities association registered with the SEC.

³⁶ See e.g., FINRA Rule 11310. Book-Entry Settlement and NYSE Rule 776. Book-Entry Settlement of Transactions.

1995 to promote book-entry settlement for the vast majority of initial public offerings and “thereby reduce settlement risk” in the U.S. national market system.³⁷

4. Participation in a Registered Clearing Agency That Uses a Continuous Net Settlement System

Under proposed BSTX Rule 25140, each BSTX Participant would be required to either (i) be a member of a registered clearing agency that uses a continuous net settlement (“CNS”) system, or (ii) clear transactions executed on BSTX through a member of such a registered clearing agency. The Exchange believes that today NSCC is the only registered clearing agency that uses a CNS system to clear equity securities, and proposed BSTX Rule 25140 further specifies that BSTX will maintain connectivity and access to the Universal Trade Capture system of NSCC to transmit confirmed trade details to NSCC regarding trades executed on BSTX. The proposed rule would also address the following: (i) a requirement that each security token transaction executed through BSTX must be executed on a locked-in basis for automatic clearance and settlement processing; (ii) the circumstances under which the identity of contra parties to a security token transaction that is executed through BSTX would be required to remain anonymous or may be revealed; and (iii) certain circumstances under which a security token transaction may be cleared through arrangements with a member of a foreign clearing agency. Proposed BSTX Rule 25140 is based on a substantially identical rule of the Investor’s

³⁷ These coordinated depository eligibility rules resulted from proposed listing rules amendments developed by the Legal and Regulatory Subgroup of the U.S. Working Committee, Group of Thirty Clearance and Settlement Project. See Securities Exchange Act Release Nos 35774 (May 26, 1995) (SR-NASD-95-24), 60 FR 28813 (June 2, 1995); 35773 (May 26, 1995), 60 FR 28817 (June 2, 1995) (SR-NYSE-95-19).

Exchange, LLC (“IEX”), which, in turn, is consistent with the rules of other equities exchanges.³⁸

BSTX believes that the operation of its depository eligibility rule and its book-entry services rule would promote a framework in which security tokens that would be eligible to be listed and traded on BSTX would be equity securities that have been made eligible for services by a registered clearing agency that operates as a securities depository and that are settled through the facilities of the securities depository by book-entry. The Exchange believes that because DTC currently is the only clearing agency registered with the SEC that provides securities depository services, at the commencement of BSTX’s operations, security tokens would be securities that have been made eligible for services by DTC, including book-entry settlement services.

5. Settlement Cycle

Proposed BSTX Rule 25100(d) would address settlement cycle considerations regarding trades in security tokens. Security token trades that result from orders matched against the electronic order book of BSTX would be required to clear and settle pursuant to the rules, policies and procedures of a registered clearing agency. Additionally, Rule 25100(d) would provide that such security token transactions occurring through BSTX would settle one business day after the trade date (i.e., T+1) where that settlement cycle timing is permitted under the rules, policies and procedures of the relevant registered clearing agency. This creates a presumption of T+1 settlement for security token trades because, as described below, NSCC already processes

³⁸ See IEX Rule 11.250 (Clearance and Settlement; Anonymity), which was approved by the Commission in 2016 as part of its approval of IEX’s application for registration as a national securities exchange. Exchange Act Release No. 78101 (June 17, 2016); 81 FR 41142 (June 23, 2016); see also Cboe BZX Rule 11.14 (Clearance and Settlement; Anonymity).

trades for T+1 settlement pursuant to the authority in its approved rules, policies and procedures. However, market participants, including BSTX Participants, that are parties to a security token trade that occurs away from BTSX would have the ability to agree to a shorter or longer settlement cycle for the settlement of the security token trade as is permitted by applicable law, including under the rules, policies and procedures of a relevant registered clearing agency.

As noted above in connection with the description of proposed BSTX Rule 25140, BSTX expects at the commencement of its operations that it would transmit confirmed trade details to NSCC regarding security token trades that occur on BSTX and that NSCC would be the registered clearing agency that clears security token trades. BSTX believes that NSCC already has authority under its rules, policies and procedures to clear certain trades on a T+1 or T+0 basis, which are shorter settlement cycles than the longest settlement cycle of T+2 that is generally permitted under SEC Rule 15c6-1 for a security trade that involves a broker-dealer.³⁹ Furthermore, BSTX understands that NSCC does already clear trades in accordance with this authority. For example, based on information provided by a representative of DTCC to outside counsel for BSTX, BSTX understands that on average for each business day for the months of November and December 2019, NSCC cleared over 19,000 trades designated for T+1 settlement and over 2,000 trades designated for T+0 settlement.⁴⁰ As described above regarding BSTX Rules 26136 and 26137, all security token trades occurring on BSTX that are cleared by NSCC,

³⁹ 17 CFR 240.15c6-1. Under SEC Rule 15c6-1, with certain exceptions, a broker-dealer is not permitted to enter a contract for the purchase or sale of security that provides for payment of funds and delivery of securities later than the second business day after the date of the contract unless otherwise expressly agreed to by the parties at the time of the transaction.

⁴⁰ Mike McClain, Managing Director and General Manager of Equity Clearing and DTC Settlement Services at DTCC provided this information to BSTX's outside counsel, Andrew Blake, Partner, Sidley Austin LLP during a telephone conference on February 13, 2020.

including those for which the T+1 settlement presumption would apply, would be settled through book-entry settlement at DTC pursuant to its rules, policies and procedures.

In adopting amendments to SEC Rule 15c6-1 in 2017 to shorten the standard settlement cycle for most broker-dealer transactions in securities from T+3 to T+2, the Commission stated its belief that the shorter settlement cycle would have positive effects regarding the liquidity risks and costs faced by members in a clearing agency, like NSCC, that performs central counterparty⁴¹ (“CCP”) services, and that it would also have positive effects for other market participants. Specifically, the Commission stated its belief that the resulting “reduction in the amount of unsettled trades and the period of time during which the CCP is exposed to risk would reduce the amount of financial resources that the CCP members may have to provide to support the CCP’s risk management process . . .” and that “[t]his reduction in the potential need for financial resources should, in turn, reduce the liquidity costs and capital demands clearing broker-dealers face . . . and allow for improved capital utilization.”⁴² The Commission went on to state its belief that shortening the settlement cycle “would also lead to benefits to other market participants, including introducing broker-dealers, institutional investors, and retail investors” such as “quicker access to funds and securities following trade execution” and “reduced margin charges and other fees that clearing broker-dealers may pass down to other market participants[.]”⁴³ The Commission also “noted that a move to a T+1 standard settlement cycle

⁴¹ See 17 CFR 240.17Ad-22(a)(2) (defining the term “central counterparty” to mean “a clearing agency that interposes itself between the counterparties to securities transactions, acting functionally as the buyer to every seller and the seller to every buyer”).

⁴² Exchange Act Release No. 80295 (March 22, 2017), 82 FR 15564, 15570-71 (March 29, 2017).

⁴³ Id. at 15571.

could have similar qualitative benefits of market, credit, and liquidity risk reduction for market participants[.]”⁴⁴ BSTX agrees with these statements by the Commission and has therefore proposed BSTX Rule 25100(d) in a form that would promote the benefits of a T+1 settlement cycle regarding security token trades where T+1 settlement is already permitted pursuant to the rules, policies and procedures of NSCC and DTC today.

F. Compatibility with the BSTX Security Token Protocol for BSTX-Listed Security Tokens to Facilitate Ancillary Recordkeeping

BSTX would maintain listing standards that would enable security tokens to have an ancillary record of ownership recorded on the Ethereum blockchain using a protocol standard determined by BSTX (the “BSTX Security Token Protocol” or the “Protocol”).⁴⁵ In this way, the Ethereum blockchain would serve as a complementary recordkeeping mechanism to official records of security token ownership maintained by market participants.

1. Background on Blockchain Technology

In general, a blockchain is an open, decentralized ledger that can maintain digital records of assets and transactions that are accessible to anyone running the same protocol.⁴⁶ The blockchain’s central function is to encode transitions or changes to the ledger, such as the movement of an asset from one person to another person. Whenever one change to the blockchain ledger occurs to record a state transition, the entire blockchain is immutably changed

⁴⁴ Id. at 15582.

⁴⁵ While BSTX initially intends to support only the trading of eligible security tokens that are compatible with the Ethereum public blockchain, BSTX may support tokens compatible with other blockchains that support smart contract functionality in the future.

⁴⁶ A “protocol” for this purpose is a set of rules governing the format of messages that are exchanged between the participants.

to reflect the state transition. The purpose of requiring security tokens to adopt the BSTX Security Token Protocol is to enable security token ownership to be recorded on the public Ethereum blockchain as an ancillary recordkeeping mechanism and to ensure uniformity among security tokens rather than permitting each security token to have its own unique specifications that might complicate updates to the blockchain and add unnecessary complexity.

2. Background on the Ethereum Blockchain

The Ethereum blockchain is an open-source, public blockchain that operates as a computing platform and operating system that supports smart contract functionality.⁴⁷ Smart contracts are computer protocols designed to digitally facilitate, verify, and enforce the performance of a contract. Ethereum-based smart contracts are executed on the Ethereum Virtual Machine, which can be thought of as a global computer network upon which the smart contracts run. Ether is the digital currency used to pay fees associated with operating smart contracts (known as “gas”) on the Ethereum networks. This is because there are costs involved in performing the computations necessary to execute a smart contract and to record any state transitions onto the Ethereum blockchain.⁴⁸ Thus, moving tokens from one address to another address (i.e., a state transition) requires some amount of Ether to pay the fee (i.e., “gas”) associated with recording the movement of tokens to the Ethereum blockchain. Parties to a transaction in Ethereum-based smart contracts can determine what those gas costs are depending on how quickly they would like the transaction to be reflected on the Ethereum blockchain.

⁴⁷ See Ethereum White Paper (last updated Aug. 1, 2018) available at <https://github.com/ethereum/wiki/wiki/White-Paper>.

⁴⁸ See What Is Gas, MyEtherWallet (2018) available at <https://kb.myetherwallet.com/posts/transactions/what-is-gas/>.

3. Background on Smart Contracts

The term “smart contract” is commonly used to describe computer-coded functions in connection with the Ethereum blockchain. An Ethereum smart contract is neither “smart” nor a legal contract in the traditional sense. Smart contracts in this context refer to immutable⁴⁹ computer programs that run deterministically⁵⁰ in the context of the Ethereum Virtual Machine. Smart contracts operate within a very limited execution context. They can access their own state, the context of the transaction that called them, and some information about the most recent blocks (i.e., the most recent recording of transactions and other events recorded to the Ethereum blockchain).

In the context of security tokens, smart contracts generally may have three components: (i) functions, (ii) configurations; (iii) and events.⁵¹ Functions describe the basic operations of a smart contract, such as the ability to query a particular address to determine how many tokens belong to that address.⁵² Configurations are attributes of a smart contract that are typically set at the launch of a smart contract, such as designating the name of the smart contract (e.g., as XYZ security token). Events describe the functions of a smart contract that, when executed, result in a

⁴⁹ Smart contracts are immutable in that, once deployed, the code of a smart contract cannot change. Unlike with traditional software, the only way to modify a smart contract is to deploy a new instance.

⁵⁰ Deterministic in this context means that the outcome of the execution of a smart contract is the same for everyone who runs it, given the context of the transaction that initiated its execution.

⁵¹ However, a smart contract need not necessarily have each of these components. Some smart contracts may simply be used to support the functioning of other smart contracts and may not itself result in events being recorded to the Ethereum blockchain.

⁵² An “address” in this context refers to a number that is associated with a particular market participant within the smart contract that can be updated to reflect changes in ownership of tokens.

log or record being recorded to the Ethereum blockchain, such as the transfer of tokens from one address to another. Not all functions of a smart contract result in a log or record being recorded to the Ethereum blockchain. Smart contracts only run if they are called by a transaction.⁵³

Smart contracts can call another smart contract, which can call another contract, and so on. Smart contracts never run “on their own” or “in the background,” but rather lie dormant until a transaction triggers them to carry out a specified operation pursuant to the protocol on which they operate. All transactions execute in their entirety or not at all, regardless of how many smart contracts they call or what those smart contracts do. Only if a transaction successfully executes in its entirety is there an “event” representing a change to the state of the blockchain with respect that transaction. If an execution of a smart contract’s operation fails due to an error, all of its effects (e.g., events) are rolled back as if the transaction never ran.

4. Background on Tokens

Tokens historically referred to privately issued, special-purpose coin-like items (e.g., laundry tokens or arcade game tokens). In the context of blockchain technology, tokens generally mean blockchain-based abstractions that can be owned and that represent assets, currency, or access rights. A security token on the blockchain used for ancillary recordkeeping of ownership can be thought of as a digital representation of shareholder equity in a legal entity organized under the authority of state or federal law and that meet BSTX’s listing standards. Having a security token attributed to a particular address, however, would not convey ownership

⁵³ The term “transaction” in this context refer not to an actual execution or transaction occurring on BSTX or in the marketplace, but rather to an operation triggering a smart contract to carry out its specified function, which must ultimately originate from a human source.

of shareholder equity in the issuer because the official records of ownership would be maintained by participants at DTC.⁵⁴

To create a new token on Ethereum, including for purposes of facilitating ancillary recordkeeping of security token ownership, one must create a new smart contract. The smart contract would be configured to detail, among other things, the name of the issuer and the total supply of the tokens. Smart contracts can be designed to carry out any event that one wants, but using a set standard or protocol allows for participants transacting in those smart contracts to have uniform expectations and functionality with respect to the tokens.

5. Background on Protocols

A protocol (also sometimes referred to as a “standard” or “protocol standard”) defines the functions, events, configurations, and other features of a given smart contract. The most common protocol used with Ethereum is the ERC-20 protocol, which describes the minimum functions that are necessary to be considered an ERC-20 token.⁵⁵ The ERC-20 protocol offers basic functionalities to transfer tokens, obtain account balances, and query the total supply of tokens, among other features. The BSTX Security Token Protocol is compliant with the ERC-20 protocol but adds additional requirements and functionality, as described below.

⁵⁴ Rather, a digital representation of a security token associated with a particular address reflects an ancillary record of security token ownership based on data provided to BSTX by BSTX Participants. The records reflected on the Ethereum blockchain regarding security tokens may not be current to reflect the most recent transactions in the marketplace and may not reflect ownership by all market participants.

⁵⁵ See e.g., Jesus Najera, Understanding ERC20, Coin Central (Jan. 8, 2018), available at <https://coincentral.com/understanding-erc20/>; Alfonso de la Rocha, *Anatomy of an ERC: An Exhaustive Survey*, Medium (May 7, 2018), available at <https://medium.com/coinmonks/anatomy-of-an-erc-an-exhaustive-survey-8bc1a323b541>.

As noted above, Ether is the digital currency used to pay fees associated with operating smart contracts (known as “gas”) on the Ethereum network. Payment of gas is required to operate smart contracts because there are costs involved in performing the computations necessary to execute a smart contract and to record any state transitions onto the Ethereum blockchain.

There is an important conceptual distinction between ERC-20 tokens, including security tokens, and Ether itself. Where Ether is transferred by a transaction that has a recipient address as its destination, token transfers occur within the specific token contract state and have the token smart contract as their destination, not the recipient’s address. The token smart contract tracks balances and issues events to the Ethereum blockchain. In a token transfer,⁵⁶ no transaction is actually sent to the recipient of the token. Instead, the recipient’s address is added to a map within the token smart contract itself. In contrast, a transaction sending Ether to an address changes the state of an address. A transaction transferring a token to an address only changes the state of the token contract, not the state of the recipient address. Thus, an address is not really full of tokens; rather it is the token smart contract that has the addresses and balances associated with each address in it.

6. BSTX Security Token Protocol

BSTX Rule 26138 requires that a BSTX listed company’s security tokens must comply with the Protocol to trade on BSTX. The purpose of this requirement is to ensure that all security tokens are governed by the same set of specifications and controls that allow for

⁵⁶ A “transfer” in the context of the BSTX Security Token Protocol regarding a security token refers to a reallocation of the digital representation of a security token on the Ethereum blockchain as an ancillary recordkeeping mechanism to reflect corresponding changes in ownership of the security token.

ownership of security tokens to be recorded to the Ethereum blockchain as an ancillary recordkeeping mechanism.

The Protocol involves three smart contracts. The Asset Smart Contract is the primary smart contract that contains the balances of security tokens associated with each address and carries out the functions necessary to reflect changes in ownership. There are two ancillary smart contracts that are called by the Asset Smart Contract in executing transactions. The first of these is the Registry Smart Contract (“Registry”), which contains the list of permissioned (or “whitelisted”) addresses, and the second is the Compliance Smart Contract, which includes a variable list of additional compliance related rules that the Asset Smart Contract must comply with in executing a transaction. Each of these three smart contracts are described in greater detail below:

- (1) Asset Smart Contract – The Asset Smart Contract defines and establishes the security tokens (e.g., the maximum number of security tokens available for a particular issuance) for purposes of the Ethereum blockchain ancillary recordkeeping function and records a list of market participant addresses and the security tokens associated with each address.
- (2) Registry Smart Contract – The Registry Smart Contract (or “Registry”) defines the permissions available to different types of market participants to perform certain functions. Under the Protocol, there are five different types of market participants connected with the Registry, each with different abilities and permissions (as detailed below):⁵⁷ (1) Contract Owner, (2) Custodian, (3) Broker Dealer, (4) Custodial-

⁵⁷ There are additional roles that are not technically part of the Registry and are instead specific to certain smart contracts. For example, an “Issuer” is an Asset Smart Contract-specific role. Also, an “Administrator” is a Compliance Smart

Account, and (5) Investor. The Registry also contains the list of whitelisted addresses to which security tokens may be sent and additional information associated with each address (e.g., whether an address has been suspended).

(3) Compliance Smart Contract – The Compliance Smart Contract is the set of rules held in a separate smart contract that a security token can be configured to abide by to ensure compliance with applicable laws and regulations (e.g., by restricting a movement of security tokens to an address that has not been added to the Registry for purposes of the Ethereum blockchain ancillary recordkeeping mechanism). The Compliance Smart Contract can be modified to add or remove applicable rules in light of changes to applicable regulatory requirements.

Each of these three smart contracts work together to facilitate the ancillary recordkeeping mechanism for Security Tokens using the Ethereum blockchain. The details of the specific functions, configurations, and events under the Protocol are set forth in greater detail in Exhibit 3N.

The Exchange selected the Ethereum blockchain among other possible blockchains that support smart contracts as the blockchain upon which security tokens would be built in accordance with the BSTX Security Token Protocol for ancillary recordkeeping purposes because of, among other reasons, its widespread use, the public's familiarity with Ethereum, and its smart contract functionality. Ethereum has maintained the second largest market capitalization behind Bitcoin among blockchain-based digital assets for at least two years and is

Contract-specific role that allows such a user to, for example, freeze the transfer of tokens for purposes of the ancillary recordkeeping function under certain circumstances and modify or add compliance rules to govern a security token.

widely recognized by the public.⁵⁸ Over 200,000 different ERC-20 tokens have been built on the Ethereum blockchain, demonstrating its wide-spread use and functionality. The Exchange believes that the Ethereum blockchain is able to support all of the necessary functions of the BSTX Security Token Protocol to carry out the security token ancillary recordkeeping function. The Exchange also believes that using a widely-known smart contract platform as opposed to a lesser-known smart contract platform may help issuers become more comfortable with the ancillary recordkeeping process as well as allow them to more-readily locate service providers as necessary to assist them in building their security tokens in accordance with the BSTX Security Token Protocol. As noted, the Exchange may consider the use of other blockchains supporting smart contract functionality in the future, subject to applicable rule filing requirements with the Commission pursuant to Section 19 of the Exchange Act.⁵⁹

G. Obtaining a Whitelisted Wallet Address

Pursuant to proposed Rule 17020(a), a BSTX Participant must, either directly or through its carrying firm, establish a wallet address to which its end-of-day security token balances may be recorded by contacting BSTX.⁶⁰ A BSTX Participant that is a carrying broker-dealer for other BSTX Participants would be assigned the wallet address with the status of a Custodian, which would allow that BSTX Participant to request wallet addresses on behalf of other BSTX Participants (for which it serves as the carrying broker-dealer) as either a Custodial Account or

⁵⁸ The Commission has also publicly recognized Ethereum and its native currency Ether. See William Hinman, Director, Division of Corporation Finance, Digital Asset Transactions: When Howey Met Gary (Plastic) (June 14, 2018) available at <https://www.sec.gov/news/speech/speech-hinman-061418>.

⁵⁹ 15 U.S.C. 78s.

⁶⁰ Multiple security token issuances can be attributed to a BSTX Participant's wallet address. A BSTX Participant would not need a separate wallet address for each security token issuance that it trades.

Broker-Dealer wallet address, as described above. A BSTX Participant that is not a carrying broker-dealer could request a Broker-Dealer wallet address, a Custodial Account wallet address in coordination with its carrying firm, and an Investor wallet address on behalf of a customer that would like its ownership of security tokens to be reflected at its own address for purposes of the Ethereum blockchain as an ancillary recordkeeping mechanism.⁶¹

Contact information for BSTX for the purpose of establishing a wallet address will be published on the BSTX website. Proposed BSTX Rule 17020(a) requires a BSTX Participant to establish a wallet address by contacting BSTX directly or through its carrying firm acting on its behalf. BSTX expects that this process (i.e., contacting the Exchange and establishing a wallet address) would occur contemporaneously with the application by a market participant to become a BSTX Participant. However, under proposed BSTX Rule 17020(a), a BSTX Participant would have up until five business days from the date that the Exchange approves the application of the BSTX Participant to satisfy the obligation to obtain a wallet address. In the event that a BSTX Participant has not obtained a wallet address prior to the Exchange's approval of its application, the BSTX Participant would become subject to the end-of-day security token balance reporting requirements in proposed BSTX Rules 17020(b) and (c). However, because the BSTX Participant would not yet have a wallet address to which the position balance information could be attributed by a Wallet Manager, any security token position balances of such BSTX Participant would be attributed to the omnibus wallet address for the security token (as described below) until the time the BSTX Participant obtains a wallet address. For the avoidance of doubt, having end-of-day position balance information related to a security token attributed to a

⁶¹ A BSTX Participant that is a carrying broker-dealer, and which therefore has a Custodial Account address, could also request Investor wallet addresses on behalf of customers.

particular wallet address would not convey ownership of shareholder equity in the issuer to the person or entity with whom such wallet address is associated. BSTX-listed security tokens will be cleared and settled in the same manner as other NMS stocks through the facilities of a registered clearing agency, and the official records of ownership would be maintained as discussed above in Part II.E. Therefore, any lack of a wallet address would not affect the official records of ownership of the BSTX-listed security token.

Once a BSTX Participant has been assigned a particular wallet address, the only further obligation of that BSTX Participant is to report its end-of-day security token position balances to BSTX, as described below. Non-BSTX Participants that may trade security tokens are not subject to the requirement that they obtain a wallet address prior to trading a security token or to the end-of-day security token balance position reporting requirements. The Exchange will not accept voluntary reports of end-of-day security token balances from non-BSTX Participants, but may consider doing so in the future, subject to any applicable or necessary rule filing requirements with the Commission. The Exchange believes that the proposed requirement in Rule 17020(a) to obtain a wallet address is consistent with the Exchange Act and Section 6(b)(5)⁶² in particular because it would help foster cooperation and coordination with persons engaged in regulating and facilitating transactions in security tokens by setting forth a process through which BSTX Participants may obtain a wallet address to which their end-of-day security token balances may be recorded to the Ethereum blockchain as an ancillary recordkeeping mechanism. The Exchange believes that the proposed requirement is similar to obtaining a market participant identifier (“MPID”) in that it establishes an identifier that can be attributed to a particular BSTX Participant for reporting purposes. The proposed requirement to obtain a

⁶² 15 U.S.C. 78f(b)(5).

wallet address is the same for all BSTX Participants, and is therefore not unfairly discriminatory, and the Exchange does not propose to charge a fee for obtaining a wallet address.

H. Wallet Manager⁶³

As described further below, following the end of a trading day, BSTX Participants (or their carrying firms) will be required to send security token position balance information to BSTX. Based on the information that BSTX receives, BSTX will deliver that information to one or more Wallet Managers who will be responsible for updates to the security token position balances on the Ethereum blockchain by allocating balances among the wallet addresses of BSTX Participants and the omnibus wallet address.

The Exchange would enter into a contractual arrangement with a Wallet Manager as a service provider to the Exchange performing the function described above. The Exchange does not believe that performing the ancillary recordkeeping process would make a Wallet Manager a facility of the Exchange because the Wallet Manager's functions do not meet the definition of "facility" under the Exchange Act. Section 3(a)(2) of the Exchange Act provides that "the term 'facility' when used with respect to an exchange includes its premises, tangible or intangible property whether on the premises or not, any right to the use of such premises or property or any service thereof for the purpose of effecting or reporting a transaction on an exchange (including, among other things, any system of communication to or from the exchange, by ticker or otherwise, maintained by or with the consent of the exchange), and any right of the exchange to

⁶³ A "Wallet Manager" is defined as a party approved by BSTX to operate software compatible with the BSTX Protocol. See proposed Rule 17000(a)(31). A Wallet Manager would be a third-party service provider for the Exchange that will help facilitate establishing wallet addresses for BSTX Participants and facilitate updates to the Ethereum blockchain as an ancillary recordkeeping mechanism regarding changes in ownership resulting from trading. Approved Wallet Managers will be listed on the Exchange's website.

the use of any property or service.”⁶⁴ A Wallet Manager is neither property of the Exchange nor does a Wallet Manager provide services for effecting or reporting a transaction taking place on the Exchange. Rather, a Wallet Manager performs the function of updating end-of-day security token position balance information provided by the Exchange as part of an ancillary recordkeeping mechanism. The Ethereum blockchain would not reflect any particular transaction(s) that occurred in the marketplace but would instead record allocations of end-of-day security token position balances – which may result from a variety of activities in the marketplace for the relevant security tokens such as trading activity, lending activity, and free-of-payment transfers between DTC accounts. The definition of “facility” in Section 3(a) of the Exchange Act is instead focused on “effecting or reporting a transaction” as part of the operations of an exchange, namely the bringing together of orders for securities of multiple buyers and sellers using non-discretionary methods under which such orders interact with each other, and the buyers and sellers entering such orders agree to the terms of a trade.⁶⁵ Thus, systems of communication to the Exchange used to effect trades or to receive market data would likely be considered facilities of the Exchange, but an end-of-day ancillary recordkeeping reporting process that does not provide any real or near-time information regarding transactions in the market should not.⁶⁶ The Commission “long has recognized that there must be some practical limitations on entities encompassed within the broad definition of the term

⁶⁴ 15 U.S.C. 78c(a)(2).

⁶⁵ 17 CFR 240.3b-16.

⁶⁶ The Commission has not defined the term “facility.” See Exchange Act Release No. 26708 (Apr. 11, 1989), 54 FR 15429 (Apr. 18, 1989) (noting that the term “facility” has not changed since it was originally adopted and that no hearing testimony referred to it because “the Committee felt that the definition was ‘self-explanatory’”).

‘exchange.’”⁶⁷ The ancillary recordkeeping process would have no impact on, or perform a function related to, the bringing together of buyers and sellers’ orders, clearance, settlement, market data or routing functions of the exchange (i.e., all of these functions can continue upon any suspension of the ancillary recordkeeping process), and therefore cannot reasonably be considered a “facility” of the exchange. The Exchange intends to enter into a contractual arrangement with at least one Wallet Manager.⁶⁸ The Exchange intends to evaluate each potential Wallet Manager’s capability to receive information from BSTX related to BSTX Participants’ end-of-day security token balances along with its ability to update the Ethereum blockchain upon receipt of such information. Further, the Exchange intends to perform due diligence on potential Wallet Managers, including but not limited to checking the list produced by the U.S. Treasury Department of persons with whom U.S. citizens are prohibited from doing business (“OFAC List”). Finally, the Exchange intends to require each Wallet Manager in its

⁶⁷ Id.

⁶⁸ The Exchange expects that it will initially operate with one Wallet Manager, but there is nothing to preclude the use of another Wallet Manager provided the prospective Wallet Manager is capable of operating software compatible with the BSTX Security Token Protocol. The Exchange expects that tZERO would operate as the initial Wallet Manager. BOX Exchange LLC, the self-regulatory organization of which BSTX is a facility, neither controls, directly or indirectly, nor is under common control with tZERO. The BSTX facility is 50% owned by tZERO and BOX Digital Markets, which is 100% owned by BOX Holdings Group LLC. BOX Exchange LLC does not have direct or indirect ownership interest in BOX Holdings LLC or its subsidiaries. As a result, because BOX Exchange LLC does not exercise control over tZERO or its affiliates, tZERO would not constitute “property” of the Exchange for purposes of determining whether it is a facility. In any case, it is the functions of the particular entity that should matter for purposes of determining whether an entity or function is a facility of an exchange rather than whether an entity is affiliated or not with an exchange. See e.g., Exchange Act Release No. 54538 (Sept. 28, 2006), 71 FR 59184 (Oct. 6, 2006) (order approving PHLX’s new equity trading system and operation of optional outbound router as a facility of PHLX, where PHLX had no ownership interest in the third party operator).

service agreement with the Wallet Manager to agree to comply with all applicable securities laws. The Exchange believes that using the criteria listed above for evaluating potential Wallet Managers may prevent fraudulent and manipulative acts and practices, consistent with Section 6(b)(5) of the Exchange Act.⁶⁹ The Exchange believes that requiring every Wallet Manager to act in a manner consistent with applicable securities laws and not be on the OFAC List would help ensure that persons reputed to have committed illegal acts and who violate securities laws, including any such laws meant to prevent fraud and market manipulation, will not operate as Wallet Managers.

I. Coordination Between BSTX, Registered Clearing Agencies, and Wallet Managers

Upon the occurrence of a transaction on BSTX due to the completion of its order matching process,⁷⁰ BSTX would generate an execution report, and it would deliver drop copies to its own front-end systems to update the BSTX Participants and to NSCC.⁷¹ Where a BSTX transaction creates a settlement obligation to transfer registered ownership of a security token, clearance and settlement would be performed in accordance with the rules, policies and procedures of a registered clearing agency as described in Part II.E. above. The Wallet Manager would be provided with end-of-day position balance information of BSTX Participants necessary to update the Ethereum blockchain through the end of day reporting mechanism discussed below.

⁶⁹ 15 U.S.C. 78f(b)(5).

⁷⁰ Order matching would occur through a price-time priority model, as discussed in greater detail below.

⁷¹ The last sale transaction data would also be publicly disseminated pursuant to the transaction reporting plan, which would occur before delivery of drop copies to these parties.

J. Reporting End-of-Day Security Token Balances to Facilitate Ancillary Recordkeeping

To update the Ethereum blockchain to reflect ownership of security tokens as an ancillary recordkeeping mechanism, the Exchange proposes to require that each BSTX Participant, either directly or through its carrying firm, report each business day to BSTX certain end-of-day security token balances in a manner and form acceptable to BSTX.⁷² A BSTX Participant that is a participant at DTC would be required to report to BSTX the total number of security tokens for each class of security token that is credited to each DTC account of the BSTX Participant.⁷³ For a BSTX Participant that is not a DTC participant, the BSTX Participant would be required to report the total number of security tokens for each class of security token that are credited to the BSTX Participant by its carrying firm.⁷⁴ Pursuant to proposed Rule 17020(d), upon receipt of the end-of-day security token balances from BSTX Participants, the Exchange would provide such information to the Wallet Manager(s) to update the Ethereum blockchain as an ancillary recordkeeping mechanism to reflect updates in security token balances.⁷⁵ Proposed Rule

⁷² See Proposed Rule 17020(b).

⁷³ See Proposed Rule 17020(b)(1). As described above in Part II.E., BSTX would maintain rules that would promote a structure in which security tokens would be held in “street name” with DTC.

⁷⁴ See Proposed Rule 17020(b)(2).

⁷⁵ Notably, because the Ethereum blockchain is updated each day using the end-of-day security token balance reports, and is, in any case, only functioning at this time as an ancillary recordkeeping function, concerns regarding a loss of private keys or disruption to the Ethereum blockchain are fully mitigated. For example, assume a BSTX Participant owns 100 security tokens of XYZ at the end of Day 1 and, as a result of trading on Day 2, ends Day 2 with a balance of 200 security tokens of XYZ. If the BSTX Participant’s wallet address were somehow compromised during the trading day on Day 2 and the 100 security tokens were moved to another address (which could only be moved to another whitelisted address), this would not substantively impact the functioning of the blockchain as an ancillary recordkeeping tool. At the end of trading on Day 2, the BSTX

17020(d) would also provide that unreported security token balances will be determined and allocated to an omnibus wallet address for each security token as described further below. The Exchange would determine the number of security tokens to be allocated to the omnibus wallet address by the Wallet Manager(s) by subtracting the sum of the security token position balances reported for a particular security token by BSTX Participants from the total outstanding number of that particular security token. BSTX expects that each security token would have a dedicated omnibus wallet address that the Wallet Manager(s) would use to allocate the resulting balance to that address.

The Exchange proposes that these end-of-day security token balance reports would be required each business day when DTC is also open for business, but after such time as DTC has completed its end-of-day settlement process.⁷⁶ The Exchange believes that once DTC has completed its end-of-day settlement process, DTC participants would be able to determine the number of security tokens credited to their DTC account(s) and to other market participants that settle through that DTC participant. Thereafter, BSTX Participants, or their carrying firms, would be able to obtain their security token balance information and report it to BSTX by the end of the day. The Exchange understands that DTC typically makes end-of-day security position reports available to DTC participants at approximately 7:30 p.m. Eastern time. Therefore, the Exchange will notify BSTX Participants via Regulatory Circular of the time after 7:30 p.m. Eastern time by which end-of-day security position balance reports will be required to be provided to BSTX pursuant to BSTX Rule 17020(c). The Exchange will also notify BSTX

Participant would report its ownership of 200 security tokens of XYZ to BSTX, which would then update the Ethereum blockchain to reflect this end of day balance.

⁷⁶ See Proposed Rule 17020(c).

Participants via Regulatory Circular of the time by which it will provide security token position balance information to the Wallet Manager(s) so that the Wallet Manager(s) will have sufficient time to carry out their contractual obligation to update the Ethereum blockchain as an ancillary recordkeeping mechanism prior to the commencement of trading on BSTX on the next trading day.

The Exchange acknowledges that, in certain circumstances, a BSTX Participant subject to the requirements of proposed Rule 17020 could fail to report end-of-day security token balances to BSTX in a timely manner, inaccurately report such balances, or fail to obtain a wallet address prior to acquiring a position in a security token. Such failures would impair the ability of the Exchange to report complete end-of-day security token balance information regarding a security token to the Wallet Manager(s) who will be responsible for using that information, in turn, to update the security token balance information that is reflected on the Ethereum blockchain. The Exchange notes that BSTX Participants would be required to comply with applicable Exchange Rules, including the requirement to report their end-of-day security token balances, and may be subject to disciplinary action for failing to comply with applicable rules pursuant to proposed Rule Series 24000 (Discipline and Summary Suspension).

As noted above, to account for instances in which a BSTX Participant fails to report or to accurately report its end-of-day security token balance pursuant to proposed Rule 17020, as well as to account for the positions of security token holders who are not BSTX Participants and therefore not subject to the end-of-day security token balance reporting requirement, the Exchange proposes to use an omnibus wallet address to account for such security tokens in the ancillary records that would be published on the Ethereum blockchain. Specifically, the Exchange would know the total number of security tokens outstanding and would provide

information to the Wallet Manager(s) to allow the Wallet Manager(s) to attribute the unreported security token balance for a given security token to an omnibus wallet address for each security token. For example, assume that on Day 1 there are 1,000 security tokens for company XYZ outstanding, 800 are held at DTC in accounts for the benefit of eight BSTX Participants and 200 are otherwise held at DTC. Assume further that BSTX receives timely and accurate end-of-day XYZ security token balance reports from all eight BSTX Participants in respect of 800 XYZ security tokens. At the end of Day 1 as part of the end-of-day reporting process, the Exchange would provide information to the Wallet Manager(s) allowing the Wallet Manager(s) to allocate the 800 XYZ security tokens among the BSTX Participants consistent with their end-of-day security token balance reports and to allocate the remaining balance of 200 security tokens to the omnibus wallet address. In this same example, assume a BSTX Participant who holds 100 XYZ security tokens failed to report its XYZ security token balance to BSTX. In this case, the Exchange would provide information to the Wallet Manager(s) allowing the Wallet Manager(s) to allocate 300 XYZ security tokens to the omnibus wallet address for XYZ security token. The omnibus wallet address in this example would thus reflect the sum of XYZ security tokens held by non-BSTX Participants who are not subject to the end-of-day security token balance reporting requirement as well as any missing end-of-day security token balance reports among BSTX Participants.⁷⁷ In all cases, the security token balances displayed on the Ethereum blockchain would reflect end-of-day security token balances reported to BSTX pursuant to Rule 17020 and

⁷⁷ The omnibus wallet address for each security token could also have greater or fewer security tokens as a result of a misreport by a BSTX Participant. In the case of an under-report by a BSTX Participant (e.g., owns 100 of XYZ security tokens, but reports only 90), the omnibus address for XYZ would have an additional 10 XYZ security tokens allocated to it. In the case of an over-report (e.g., owns 100 of XYZ security tokens, but reports 110), the omnibus address for XYZ may have 10 additional XYZ security tokens allocated to it.

an omnibus wallet address for any type of security token for which the sum of the reported positions is less than the number of security tokens known by the Exchange to be issued and outstanding. In this way, it is possible that the end-of-day balances published on the Ethereum blockchain may not reflect the precise distribution of a security token among holders of the security token, even among BSTX Participants.⁷⁸ The Ethereum blockchain could also reflect information that is not accurate to the extent that BSTX Participants inaccurately report end-of-day security token balances to BSTX. There could conceivably be situations where the number of reported security tokens exceeds the number of outstanding security tokens of a particular issuance (e.g., if security token XYZ were held entirely by BSTX Participants and one BSTX Participant over-reports). There could also be situations in which the Exchange is unable to communicate end-of-day security token balances to the Wallet Manager(s) or the Wallet Manager(s) is/are unable to update the blockchain. Additionally, it is also possible that there could be a disruption to the website through which security token balances may be observed (i.e., Etherscan.io, discussed below), to the Ethereum blockchain itself that prevents the updating of end-of-day security token balances as an ancillary recordkeeping mechanism, or potentially to the architecture or functioning of a particular security token.⁷⁹

⁷⁸ The Exchange notes, however, that even in such a case, the total number of shares of the security token outstanding should still be reflected on the blockchain due to unreported balances being attributed to the omnibus wallet address. It is also possible the omnibus wallet address could display the entire outstanding balance of a security token to the extent only non-BSTX Participants held the entire outstanding balance of a particular security token.

⁷⁹ This could potentially occur if, for example, the Ethereum Virtual Machine were to suffer a “51% Attack” whereby an individual or group acting together gain 51% or more of the computing power, essentially giving the attackers control over the Ethereum blockchain and the ability to disrupt or modify transactions on the Ethereum blockchain. The Exchange believes that this possibility is remote, but the Exchange will nonetheless monitor for such possibilities either directly or by using a vendor, which may include Wallet Managers that agree to perform this

To account for these types of situations, proposed Rule 17020(e) provides that the Exchange may suspend the requirements in paragraphs 17020(a) through (d) regarding any BSTX Participant and/or regarding one or more security tokens, as applicable, in its discretion and in any such case the Exchange will provide prompt notice thereof and the reason(s) therefore to BSTX Participants.⁸⁰ The Exchange will notify the Commission within two hours of its determination to make any such suspension and the suspension may continue in effect for no more than thirty calendar days from the date the determination is made unless the Exchange has submitted a proposed rule change with the Commission seeking approval of such suspension, in which case the suspension may continue in effect until the Commission approves or disapproves the proposed rule change.⁸¹

In all such cases involving these types of disruptions relating to the end-of-day security token balance reporting process, there would be no impact on the ability to trade, clear, or settle

function and promptly alert the Exchange to any compromise of the Ethereum blockchain or other type of disruption that might impact the end-of-day security token balance reporting process as an ancillary recordkeeping mechanism (e.g., inability to access Etherscan.io).

⁸⁰ The particular details included in such notice to BSTX Participants will vary based on the facts and circumstances giving rise to the suspension, but the Exchange expects that such notice would describe: (i) the impacted security token(s); (ii) the nature of the disruption; (iii) the anticipated length of the suspension; and (iv) any changes to BSTX Participants' obligations to report end-of-day security token balances.

⁸¹ See proposed Rule 17020(e). The Exchange believes that proposed Rule 17020(e) may foster coordination with persons processing information with respect to securities and is not designed to permit unfair discrimination because such provision will allow the Exchange to suspend certain Rule requirements in events where there may be difficulty coordinating or sharing pertinent information with BSTX Participants and/or Wallet Manager(s). Further, Rule 17020(e) is designed to apply to all market participants equally and to provide notice to affected market participants and regulators of BSTX, in order to allow such individuals and entities to coordinate with the Exchange and react to potential issues as deemed necessary.

security token transactions in the ordinary course.⁸² This is because the end-of-day security token balance reporting is solely as an ancillary record-keeping mechanism and because the actual trading, clearance, and settlement of security tokens would occur in the same manner as other NMS stock.

The Exchange would set forth via Regulatory Circular the precise manner in which security tokens should be reported. In general, the report would simply require certain identifying information regarding the BSTX Participant (e.g., name, carrying firm, MPID) and a list of the end-of-day security token position balances of the BSTX Participant.⁸³

As a result of this process, the Ethereum blockchain would in the ordinary course reflect for each security token the end-of-day balance associated with each BSTX Participant's wallet address. Wallet addresses are essentially just a string of numbers and characters, and it would not be made public which BSTX Participant is associated with which wallet address or which address is the omnibus wallet address.⁸⁴ An observer of security token balances associated with

⁸² The Exchange acknowledges, of course, that certain issues such as a widespread power outage that prevents the Exchange from being able to transmit information to the Wallet Manager(s) could also result in a disruption to trading on BSTX and potentially the declaration of a halt in trading of the security token by the Exchange.

⁸³ Pursuant to the BSTX Listing Rules, BSTX will allow listing of three types of security tokens: equity security tokens, preferred security tokens, and warrant security tokens. These three types of security tokens will have similar end-of-day reporting processes; each BSTX Participant will be required to provide end-of-day security token position balance information to BSTX related to each security token issuance based on such BSTX Participant's DTC account balance. The BSTX Listing Rules also discuss paired security tokens, which are security tokens that may be transferred and traded only in combination with one another as a single economic unit. For paired security tokens, BSTX expects that BSTX Participants, when submitting position balance information to BSTX, will specify the end-of-day balances for each constituent security token that comprises a paired security token.

⁸⁴ The Wallet Manager(s) would have information regarding security token balance information associated with a particular BSTX Participant. However, as noted in

a particular address would not be able to determine whether a particular address represented, for example, a carrying firm reporting end-of-day balances on behalf of multiple BSTX Participants, an individual BSTX Participant, or the omnibus wallet address. Neither could an observer determine which underlying customer(s) of a BSTX Participant associated with a particular wallet address held the security tokens or whether the BSTX Participant owned the security tokens proprietarily. In addition, an observer of the security token balances would not be able to tell whether a particular wallet address was long or short the shares.⁸⁵ For these reasons, the Exchange believes that the security token balance information that would be publicly available on the Ethereum blockchain would be sufficiently anonymous to address privacy concerns related to such information. Security token balance information for the Ethereum blockchain is available at Etherscan.io (“Etherscan”). From Etherscan.io, an observer would be able to search for the name of the particular security token and see the holders of tokens and the associated quantity, as well as other information (e.g., transfers made as a result of the Wallet Manager(s) reallocation process).⁸⁶

The Exchange does not believe that the ancillary records of security token balance information published on the Ethereum blockchain would be likely to cause investor confusion

Part II.H, a condition of serving as a Wallet Manager would include, among other things, a representation to comply with the federal securities laws, including trading on the basis of material non-public information.

⁸⁵ This is because the end-of-day ancillary recordkeeping process captures only end-of-day balances as reported by DTC to BSTX Participants or their carrying firms. Thus, if a BSTX Participant borrowed security tokens and the borrowed security tokens were moved to its DTC account (or the DTC account of its carrying firm on its behalf), the borrowed security tokens would appear to be a long position in the security token, when in fact the BSTX Participant was taking a short position.

⁸⁶ This process can be done presently with ERC-20 tokens or other digital assets built on Ethereum.

because there is no similar source of information with which an observer of the blockchain data could be confused. That is, the resting position balances related to security token ownership of BSTX Participants and other market participants are not available through another medium (e.g., such as by DTC making such information available) in a manner that could lead an investor to be confused as to whether the Ethereum blockchain or some other source of security token balance information is accurate. Moreover, security token position balance information as recorded on the Ethereum blockchain will not reflect legal ownership of security tokens and the identities of BSTX Participants corresponding to each wallet address (as well as the omnibus wallet address) would not be made public. The Exchange believes that the proposed end-of-day security token balance reporting requirement is consistent with the Exchange Act, and Section 6(b)(5)⁸⁷ in particular, because it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information with respect to transactions in security tokens and would not unfairly discriminate among BSTX Participants, all of whom are subject to the same reporting requirement. The purpose of the reporting obligation is to allow the Exchange to receive information from BSTX Participants regarding end-of-day balances in security tokens so that the Exchange can provide that information to the Wallet Manager(s) and the Wallet Manager(s) can, in turn, use the information to update the Ethereum blockchain as an ancillary recordkeeping mechanism reflecting changes in security token ownership (i.e., the recording of end-of-day balance information). Without this information, all of the outstanding balances regarding a security token would be attributed by the Wallet Manager(s) to the omnibus wallet address rather than allocated to multiple wallet addresses belonging to corresponding BSTX Participants. Accordingly, to the extent that BSTX Participants have end-of-day balances

⁸⁷ 15 U.S.C. 78f(b)(5).

in security tokens, the allocation of the security token balances to their respective wallet addresses by the Wallet Manager(s) will reflect a relatively more robust use of the functionality of the smart contracts than if the entire outstanding balance of a security token is attributed to the omnibus wallet address. Promoting this more robust use of the functionality of the smart contracts and their ability to allocate and re-allocate security token balances across multiple wallet addresses will enhance the ability of market participants, including the Exchange, to observe and evaluate the capabilities of blockchain technology as an ancillary recordkeeping mechanism. The Exchange notes that under the existing authority of other equity exchanges, the exchange is able to request that exchange members/participants furnish to the exchange records pertaining to transactions executed on or through the exchange in a time and manner required by such exchange.⁸⁸ Accordingly, BSTX believes that the proposed end-of-day security token balance reporting requirement would be consistent with authority that the Commission has already approved regarding furnishment of records by members of exchanges.

The Exchange recognizes that there are limitations in what the Ethereum blockchain will reflect with regard to end-of-day security token balances as an ancillary recordkeeping mechanism given that all non-BSTX Participants' balances will be aggregated and reflected in an omnibus wallet address for each security token.⁸⁹ In addition, the end-of-day security token

⁸⁸ See e.g., BOX Rule 10000(a) and (b), Cboe BZX Rule 4.2, and IEX Rule 4.540. Broker-dealers are also subject to daily or real-time reporting obligations in a variety of other contexts. For example, pursuant to the FINRA Rule 7000 Series. See e.g., FINRA Rule 7230A(b) (noting that "Participants shall transmit trade reports to the System for transactions in Reportable Securities as soon as practicable but no later than 10 seconds after execution . . ."). Trades in municipal securities are generally required within 15 minutes of the time of trade. See MSRB Rule G-14(a)(ii).

⁸⁹ The Exchange does not believe that imposing the end-of-day security token reporting requirement on BSTX Participants is unfairly discriminatory or burdens competition because all market participants are free to choose whether to become

balances may be inaccurate or unavailable such as when a BSTX Participant misreports its balance or under circumstances in which BSTX is unable to send the balances to the Wallet Manager or the Wallet Manager is unable to update the Ethereum blockchain, as discussed above. For these reasons, among others, the Exchange believes that initially using blockchain technology as an ancillary recordkeeping mechanism pursuant to which the security tokens represented on the blockchain would not convey legal ownership is the appropriate way to explore the potential benefits of blockchain technology consistent with the protection of investors and the public interest.⁹⁰ In the event of any disruption to the blockchain, the architecture of the security token, or to the end-of-day security token balance reporting process, there would be no impact on the ability of market participants to trade security tokens or current balances of security tokens actually held by each market participant through the facilities of DTC, which the Exchange believes furthers the protection of investors and the public interest, consistent with Section 6(b)(5) of the Exchange Act.⁹¹ Moreover, the Exchange believes that the public has an interest in exploring the use of new technology, such as blockchain technology, and that such technology may be able to help perfect the mechanism of a free and open market and a national market system, consistent with Section 6(b)(5) of the Exchange Act.⁹² Finally, the

a BSTX Participant or not and there is no limitation imposed by the Exchange on the ability to trade security tokens on other markets. Market participants that voluntarily choose to become BSTX Participants must comply with the rules of the Exchange, but they remain free to become a member of another exchange that supports trading of security tokens or to purchase the security tokens OTC. The Exchange further notes that it believes the end-of-day security token balance reporting process would not impose a substantial burden on BSTX Participants, because it would not require significant resources or time.

⁹⁰ 15 U.S.C. 78f(b)(5).

⁹¹ Id.

⁹² Id.

Exchange believes that use of anonymized wallet addresses to track end-of-day security token balances may prevent fraudulent and manipulative acts and practices, consistent with Section 6(b)(5) of the Exchange Act,⁹³ because obscuring the identities of the wallet address owners may make it difficult to misuse any private information associated with these wallet addresses. The Exchange believes that the proposal is reasonably designed to introduce blockchain technology in a gradual way and in coordination and cooperation with the industry, the Commission, and the existing regulatory framework.

K. Trading Security Tokens on Other National Securities Exchanges

Security tokens would be eligible for trading on other national securities exchanges that extend unlisted trading privileges (“UTP”) to them. As described above in Part II.E, security tokens would be held in “street name” at DTC, have a CUSIP number, and would clear and settle through the facilities of a clearing agency registered with the SEC (i.e., NSCC and DTC respectively). As a result, security tokens would be able to trade on other exchanges and OTC in the same manner as other NMS stock. Accordingly, other exchanges would be able to extend unlisted trading privileges to security tokens in accordance with Commission rules. The end-of-day security token position balance reporting by BSTX Participants and the publication of such balance information on the blockchain does not impact the ability of security tokens to trade on other exchanges or OTC.

The Exchange proposes to include certain rules that contemplate the trading of security tokens that may be listed on other national securities exchanges.⁹⁴ Since there are currently no other national securities exchanges trading security tokens, these rules would be implemented in

⁹³ Id.

⁹⁴ See e.g., proposed Rule 25040(e).

anticipation of other exchanges eventually listing and trading their own security tokens. BSTX recognizes that another exchange trading security tokens, or the equivalent thereof, may require BSTX to adopt certain rules specific to such other exchange in order to extend unlisted trading privileges to the other exchange's security tokens consistent with Rule 12f-5.⁹⁵

L. Benefits of a Security Token

As described above, the proposed BSTX Rules contemplate the use of smart contract functionality to record end-of-day security token position balance information to the Ethereum blockchain as an ancillary recordkeeping mechanism. The Exchange's proposal thereby represents an ancillary pairing of blockchain technology with the existing equities market infrastructure, in a manner consistent with Section 6(b)(5) and other relevant provisions of the Exchange Act, as described herein. The Commission has stated that it is "mindful of the benefits of increasing use of new technologies for investors and the markets, and has encouraged experimentation and innovation . . ."⁹⁶ stating further that "[i]nformation and communications technologies are critical to healthy and efficient primary and secondary markets."⁹⁷ Regarding the judgment of whether the benefits of certain technologies are meritorious, the Commission has explained its view that "[t]he market will ultimately prove the worth of technology -- whether the benefits to the industry and its investors of developing and using new services are greater than the associated costs."⁹⁸ Consistent with these statements, the Exchange believes that promoting use of the functionality of smart contracts and their ability to allocate and re-allocate security

⁹⁵ 17 CFR 240.12f-5.

⁹⁶ Securities and Exchange Commission, *The Impact of Recent Technological Advances on the Securities Markets* (Sep. 1997), available at: <https://www.sec.gov/news/studies/techrp97.htm>.

⁹⁷ Id.

⁹⁸ Id.

token balances across multiple addresses in connection with end-of-day security token position balance information of BSTX Participants will allow market participants to observe and increase their familiarity with the capabilities and potential benefits of blockchain technology in a context that parallels current equity market infrastructure and thereby advance and protect the public's interest in the use and development of new data processing techniques that may create opportunities for more efficient, effective and safe securities markets.⁹⁹ As noted, because the blockchain and security token balances recorded on the Ethereum blockchain do not reflect legal ownership of the actual securities of BSTX-listed issuers, any disruption to the Ethereum

⁹⁹ Report of the Senate Committee on Banking, Housing & Urban Affairs, S. Rep. No. 94-75, at 8 (1975) (expressing Congress' finding that new data processing and communications systems create the opportunity for more efficient and effective markets). While the Exchange believes that its proposal represents an introductory step in pairing the benefits of blockchain technology with the current equity market infrastructure, other market participants and FINRA have recognized additional potential benefits to blockchain technology in various applications related to the securities markets. FINRA has stated “[o]ne of the proposed benefits of [blockchain technology] is the ability to offer a timestamped, sequential, audit trail of transaction records. This may provide regulators and other interested parties (e.g., internal audit, public auditors) with the opportunity to leverage the technology to view the complete history of a transaction where it may not be available today and enhance existing records related to securities transactions.” Financial Industry Regulatory Authority, Distributed Ledger Technology: Implications of Blockchain for the Securities Industry (January 2017), available at:

https://www.finra.org/sites/default/files/FINRA_Blockchain_Report.pdf.

Further, Paxos Trust Company echoed similar themes in connection with its receipt of no-action relief from the Commission staff, and explained in its request letter certain benefits of blockchain technology including “greater data accuracy and transparency, advanced security, and increased levels of availability and operational efficiency[.]” the Exchange believes such benefits may be generally relevant to future potential applications of blockchain technology. See Letter from Jeffrey S. Mooney, Division of Trading and Markets, Securities and Exchange Commission to Charles Cascarilla and Daniel Burstein, Paxos Trust Company, LLC re: Clearing Agency Registration Under Section 17A(b)(1) of the Securities Exchange Act of 1934 (October 28, 2019), available at:

<https://www.sec.gov/divisions/marketreg/mr-noaction/2019/paxos-trust-company-102819-17a.pdf>.

blockchain, the security token architecture, or the end-of-day reporting process would have no impact on the ability of security tokens to trade on BSTX or otherwise, which the Exchange believes furthers the protection of investors and the public interest, consistent with Section 6(b)(5) of the Exchange Act.¹⁰⁰

III. Proposed BSTX Rules

The discussion in this Part III addresses the proposed BSTX Rules that would be adopted as Rule Series 17000 through 28000.

A. General Provisions of BSTX and Definitions (Rule 17000 Series)

The Exchange proposes to adopt as its Rule 17000 Series (General Provisions of BSTX) a set of general provisions relating to the trading of security tokens and other rules governing participation on BSTX. Proposed Rule 17000 sets forth the defined terms used throughout the BSTX Rules. The majority of the proposed definitions are substantially similar to defined terms used in other equities exchange rulebooks, such as with respect to the term “customer.”¹⁰¹ The Exchange proposes to set forth new definitions for certain terms to specifically identify systems, agreements, or persons as they relate to BSTX and as distinct from other Exchange systems, agreements, or persons that may be used in connection with the trading of other options on the Exchange.¹⁰² The Exchange also proposes to define certain unique terms relating to the trading

¹⁰⁰ 15 U.S.C. 78f(b)(5).

¹⁰¹ Proposed Rule 17000(a)(16) defines the term “customer” to not include a broker or dealer, which parallels the same definition in other exchange rulebooks. See e.g., IEX Rule 1.160(j). Similarly, the Exchange proposes to define the term “Regular Trading Hours” as the time between 9:30 a.m. and 4:00 p.m. Eastern Time. See proposed Rule 17000(a)(28) cf. IEX Rule 1.160(gg) (defining “Regular Market Hours” in the same manner).

¹⁰² For example, the Exchange proposes to define the term “BSTX” to mean the facility of the Exchange for executing transaction in security tokens, the term “BSTX Participant” to mean a Participant or Options Participant (as those terms are defined in the Exchange’s Rule 100 Series) that is authorized to trade security

of security tokens, including “security token,”¹⁰³ and “Wallet Manager.”¹⁰⁴ The term “Wallet Manager” is defined to provide context to the wallet address whitelisting and end-of-day security token balance reporting processes used to update the Ethereum blockchain as an ancillary recordkeeping mechanism.¹⁰⁵

In addition to setting forth proposed definitions used throughout the proposed Rules, the Exchange proposes to specify in proposed Rule 17010 (Applicability) that the Rules set forth in the Rule 17000 Series to Rule 28000 Series apply to the trading, listing, and related matters pertaining to the trading of security tokens. Proposed Rule 17010(b) provides that, unless specific Rules relating to security tokens govern or unless the context otherwise requires, the provisions of any Exchange Rule (i.e., including Exchange Rules in the Rule 100 through 16000 Series) shall be applicable to BSTX Participants.¹⁰⁶ This is intended to make clear that BSTX Participants are subject to all of the Exchange’s Rules that may be applicable to them, notwithstanding that their trading activity may be limited solely to trading security tokens. The Exchange believes that the proposed definitions set forth in Rule 17000 are consistent with

tokens, and the term “BSTX System” to mean the automated trading system used by BSTX for the trading of security tokens. See proposed Rule 17000(a)(8), (11), and (14).

¹⁰³ Proposed Rule 17000(a)(30) provides that the term “security token” means a NMS stock, as defined in Rule 600(b)(47) of the Exchange Act, trading on the BSTX System. The proposed definition further specifies that references to a “security” or “securities” in the Rules include security tokens.

¹⁰⁴ Proposed Rule 17000(a)(31) defines the term “Wallet Manager” as a party approved by BSTX to operate software compatible with the BSTX Protocol. See also supra Sections II.G and H. for a discussion of the role of a Wallet Manager.

¹⁰⁵ See supra note 60.

¹⁰⁶ Proposed Rule 17010 further specifies that to the extent the provisions of the Rules relating to the trading of security tokens contained in Rule 17000 Series to Rule 28000 Series are inconsistent with any other provisions of the Exchange Rules, the Rules relating to security token trading shall control.

Section 6(b)(5) of the Exchange Act¹⁰⁷ [sic] because they protect investors and the public interest by setting forth clear definitions that help BSTX Participants understand and apply Exchange Rules. Without clearly defining terms used in the Exchanges Rules and providing clarity as to the Exchange Rules that may apply, market participants could be confused as to the application of certain rules, which could cause harm to investors.

Proposed Rule 17020 sets forth the requirements to obtain a whitelisted wallet address from BSTX, and the end-of-day security token balance reporting, which are discussed in greater detail above in Parts II.G through L.

B. Participation on BSTX (Rule 18000 Series)

The Exchange proposes to adopt as its Rule 18000 Series (Participation on BSTX), three rules setting forth certain requirements relating to participation on BSTX. Proposed Rule 18000 (BSTX Participation) establishes “BSTX Participants” as a new category of Exchange participation for effecting transactions on the BSTX System, provided they: (i) complete the BSTX Participant Application, Participation Agreement, and User Agreement;¹⁰⁸ (ii) be an existing Options Participant or become a Participant of the Exchange pursuant to the Rule 2000 Series; and (iii) provide such other information as required by the Exchange.¹⁰⁹ Proposed Rule 18010 (Requirements for BSTX Participants) sets forth certain requirements for BSTX

¹⁰⁸ The BSTX Participant Application, Participation Agreement, and User Agreement are attached as Exhibits 3A, 3B, and 3C respectively.

¹⁰⁹ Proposed Rule 18000 also sets forth the Exchange’s review process regarding BSTX Participation Agreements and certain limitations on the ability to transfer BSTX Participant status (e.g., in the case of a change of control). In addition proposed Rule 18000(b)(2) provides that a BSTX Participant shall continue to abide by all applicable requirements of the Rule 2000 Series, which would include, for example, IM-2040-5, which specifies continuing education requirements of Exchange Participants and their associated persons.

Participants including requirements that each BSTX Participant comply with Rule 15c3-1 under the Exchange Act, comply with applicable books and records requirements, and be a member of a registered clearing agency or clear security token transactions through another BSTX Participant that is a member/participant of a registered clearing agency.¹¹⁰ Finally, proposed Rule 18020 (Associated Persons) provides that associated persons of a BSTX Participant are bound by the Rules of the Exchange to the same extent as each BSTX Participant.

The Exchange believes that the proposed Rule 18000 Series (Participation on BSTX) is consistent with Section 6(b)(5) of the Exchange Act¹¹¹ because these proposed rules are designed to promote just and equitable principles of trade, and protect investors and the public interest by setting forth the requirements to become a BSTX Participant and specifying that associated persons of a BSTX Participant are bound by Exchange Rules. Under proposed Rule 18000, a BSTX Participant must first become an Exchange Participant pursuant to the Exchange Rule 2000 Series which the Exchange believes would help assure that BSTX Participants meet the appropriate standards for trading on BSTX in furtherance of the protection of investors.¹¹²

C. Business Conduct for BSTX Participants (Rule 19000 Series)

The Exchange proposes to adopt as its Rule 19000 Series (Business Conduct for BSTX Participants), twenty two rules relating to business conduct requirements for BSTX Participants

¹¹⁰ Proposed Rule 18010(b) is similar to the rules of existing exchanges. See e.g., IEX Rule 2.160(c). Proposed Rule 18010(a) is also similar to the rules of existing exchanges. See e.g., IEX Rule 1.160(s) and Cboe BZX Rule 17.2(a).

¹¹¹ 15 U.S.C. 78f(b)(5).

¹¹² The Exchange notes that the approach of requiring members of a facility of an exchange to first become members of the exchange is consistent with the approach used by another national securities exchange. See Cboe BZX Rule 17.1(b)(3) (requiring that a Cboe BZX options member be an existing member or become a member of the Cboe BZX equities exchange pursuant to the Cboe BZX Chapter II Series).

that are substantially similar to business conduct rules of other exchanges.¹¹³ The proposed Rule 19000 Series would specify business conduct requirements with respect to: (i) just and equitable principles of trade;¹¹⁴ (ii) adherence to law;¹¹⁵ (iii) use of fraudulent devices;¹¹⁶ (iv) false statements;¹¹⁷ (v) know your customer;¹¹⁸ (vi) fair dealing with customers;¹¹⁹ (vii) suitability;¹²⁰ (viii) the prompt receipt and delivery of securities;¹²¹ (ix) charges for services performed;¹²² (x)

¹¹³ See Cboe BZX Chapter 5 rules. See also IEX Rule 5.150 with respect to proposed Rule 21040 (Prevention of the Misuse of Material, Non-Public Information).

¹¹⁴ Proposed Rule 19000 (Just and Equitable Principles of Trade) provides that no BSTX Participant, including its associated persons, shall engage in acts or practices inconsistent with just and equitable principles of trade.

¹¹⁵ Proposed Rule 19010 (Adherence to Law) generally requires BSTX Participants to adhere to applicable laws and regulatory requirements.

¹¹⁶ Proposed Rule 19020 (Use of Fraudulent Devices) generally prohibits BSTX Participants from effecting a transaction in any security by means of a manipulative, deceptive or other fraudulent device or contrivance.

¹¹⁷ Proposed Rule 19030 (False Statements) generally prohibits BSTX Participants and their associated persons from making false statements or misrepresentations in communications with the Exchange.

¹¹⁸ Proposed Rule 19040 (Know Your Customer) requires BSTX Participants to comply with FINRA Rule 2090 as if such rule were part of the Exchange Rules.

¹¹⁹ Proposed Rule 19050 (Fair Dealing with Customers) generally requires BSTX Participants to deal fairly with customers and specifies certain activities that would violate the duty of fair dealing (e.g., churning or overtrading in relation to the objectives and financial situation of a customer).

¹²⁰ Proposed Rule 19060 (Suitability) provides that BSTX Participants and their associated persons shall comply with FINRA Rule 2111 as if such rule were part of the Exchange Rules.

¹²¹ Proposed Rule 19070 (Prompt Receipt and Delivery of Securities) would generally prohibit a BSTX Participant from accepting a customer's purchase order for a security until it can determine that the customer agrees to receive the securities against payment.

¹²² Proposed Rule 19080 (Charges for Services Performed) generally requires that charges imposed on customers by broker-dealers shall be reasonable and not unfairly discriminatory.

use of information obtained in a fiduciary capacity;¹²³ (xi) publication of transactions and quotations;¹²⁴ (xii) offers at stated prices;¹²⁵ (xiii) payments involving publications that influence the market price of a security;¹²⁶ (xiv) customer confirmations;¹²⁷ (xv) disclosure of a control relationship with an issuer of security tokens;¹²⁸ (xvi) discretionary accounts;¹²⁹ (xvii) improper use of customers' securities or funds and a prohibition against guarantees and sharing in accounts;¹³⁰ (xviii) the extent to which sharing in accounts is permissible;¹³¹ (xix)

¹²³ Proposed Rule 19090 (Use of Information Obtained in a Fiduciary Capacity) generally restricts the use of information as to the ownership of securities when acting in certain capacities (e.g., as a trustee).

¹²⁴ Proposed Rule 19100 (Publication of Transactions and Quotations) generally prohibits a BSTX Participant from disseminating a transaction or quotation information unless the BSTX Participant believes it to be bona fide.

¹²⁵ Proposed Rule 19110 (Offers at Stated Prices) generally prohibits a BSTX Participant from offering to transact in a security at a stated price unless it is in fact prepared to do so.

¹²⁶ Proposed Rule 19120 (Payments Involving Publications that Influence the Market Price of a Security) generally prohibits direct or indirect payments with the aim of disseminating information that is intended to effect the price of a security.

¹²⁷ Proposed Rule 19130 (Customer Confirmations) requires that BSTX Participants comply with Rule 10b-10 of the Exchange Act. 17 CFR 240.10b-10.

¹²⁸ Proposed Rule 19140 (Disclosure of Control Relationship with Issuer) generally requires BSTX Participants to disclose any control relationship with an issuer of a security before effecting a transaction in that security for the customer.

¹²⁹ Proposed Rule 19150 (Discretionary Accounts) generally provides certain restrictions on BSTX Participants handling of discretionary accounts, such as by effecting excessive transactions or obtained authorization to exercise discretionary powers.

¹³⁰ Proposed Rule 19160 (Improper Use of Customers' Securities or Funds and Prohibition against Guarantees and Sharing in Accounts) generally prohibits BSTX Participants from making improper use of customers securities or funds and prohibits guarantees to customers against losses.

¹³¹ Proposed Rule 19170 (Sharing in Accounts; Extent Permissible) generally prohibits BSTX Participants and their associated persons from sharing directly or indirectly in the profit or losses of the account of a customer unless certain exceptions apply such as where an associated person receives prior written authorization from the BSTX Participant with which he or she is associated.

communications with customers and the public;¹³² (xx) gratuities;¹³³ (xxi) telemarketing;¹³⁴ and (xxii) mandatory systems testing.¹³⁵ The Exchange notes that the proposed financial responsibility rules are virtually identical to those of other national securities exchanges other than changes to defined terms and certain other provisions that would not apply to the trading of security tokens on the BSTX System.¹³⁶

The Exchange believes that the proposed Rule 19000 Series (Business Conduct) is consistent with Section 6(b)(5) of the Exchange Act¹³⁷ because these proposed rules are designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and protect investors and the public interest by setting forth appropriate standards of conduct applicable to BSTX Participants in carrying out their business activities. For example, proposed Rule 19000 (Just and Equitable Principles of Trade) and 19010 (Adherence to Law) would prohibit BSTX Participants from engaging in acts or practices inconsistent with just and equitable principles of trade or that would violate applicable laws and regulations. Similarly,

¹³² Proposed Rule 19180 (Communications with Customers and the Public) generally provides that BSTX Participants and their associated persons shall comply with FINRA Rule 2210 as if such rule were part of the Exchange Rules.

¹³³ Proposed Rule 19200 (Gratuities) requires BSTX Participants to comply with the requirements set forth in BOX Exchange Rule 3060 (Gratuities).

¹³⁴ Proposed Rule 19210 (Telemarketing) requires that BSTX Participants and their associated persons comply with FINRA Rule 3230 as if such rule were part of the Exchange's Rules.

¹³⁵ Proposed Rule 19220 (Mandatory Systems Testing) requires that BSTX Participants comply with Exchange Rule 3180 (Mandatory Systems Testing).

¹³⁶ For example, the Exchange is not proposing to adopt a rule contained in other exchanges' business conduct rules relating to disclosures that broker-dealers give to their customers regarding the risks of effecting securities transactions during times other than during regular trading hours (e.g., higher volatility, possibly lower liquidity) because executions may only occur during regular trading hours on the BSTX System. See e.g., IEX Rule 3.290, Cboe BZX Rule 3.21.

¹³⁷ 15 U.S.C. 78f(b)(5).

proposed Rule 19050 (Fair Dealing with Customers) would require that BSTX Participants deal fairly with their customers and proposed Rule 19030 (False Statements) would generally prohibit BSTX Participants, or their associated persons from making false statements or misrepresentations to the Exchange. The Exchange believes that requiring that BSTX Participants comply with the proposed business conduct rules in the Rule 19000 Series would further the protection of investors and the public interest by promoting high standards of commercial honor and integrity. In addition, each of the rules in the proposed Rule 19000 Series (Business Conduct) is substantially similar to supervisory rules of other exchanges.¹³⁸

D. Financial and Operational Rules for BSTX Participants (Rule 20000 Series)

The Exchange proposes to adopt as its Rule 20000 Series (Financial and Operational Rules), ten rules relating to financial and operational requirements for BSTX Participants that are substantially similar to financial and operational rules of other exchanges.¹³⁹ The proposed Rule 20000 Series would specify financial and operational requirements with respect to: (i) maintenance and furnishing of books and records;¹⁴⁰ (ii) financial reports;¹⁴¹ (iii) net capital

¹³⁸ See supra n.113.

¹³⁹ See Cboe BZX Chapter 6 rules and IEX Chapter 5 rules.

¹⁴⁰ Proposed Rule 20000 (Maintenance, Retention and Furnishing of Books, Records and Other Information) requires that BSTX Participants comply with current Exchange Rule 1000 (Maintenance, Retention and Furnishing of Books, Records and Other Information) and that BSTX Participants shall submit to the Exchange order, market and transaction data as the Exchange may specify by Information Circular.

¹⁴¹ Proposed Rule 20010 (Financial Reports) provides that BSTX Participants shall comply with the requirements of current Exchange Rule 10020 (Financial Reports).

compliance;¹⁴² (iv) early warning notifications pursuant to Rule 17a-11 under the Exchange Act;¹⁴³ (v) authority of the Chief Regulatory Officer to impose certain restrictions;¹⁴⁴ (vi) margin;¹⁴⁵ (vii) day-trading margin;¹⁴⁶ (viii) customer account information;¹⁴⁷ (ix) maintaining records of customer complaints;¹⁴⁸ and (x) disclosure of financial condition.¹⁴⁹

The Exchange believes that the proposed Rule 20000 (Financial and Operational Rules) Series is consistent with Section 6(b)(5) of the Exchange Act¹⁵⁰ because these proposed rules are designed to prevent fraudulent and manipulative acts and practices, promote just and equitable

¹⁴² Proposed Rule 20020 (Capital Compliance) provides that each BSTX Participant subject to Rule 15c3-1 under the Exchange Act (17 CFR 240.15c3-1) shall comply with such rule and other financial and operational rules contained in the proposed Rule 20000 series.

¹⁴³ 17 CFR 240.17a-11. Proposed Rule 20030 (“Early Warning” Notification) provides that BSTX Participants subject to the reporting or notifications requirements of Rule 17a-11 under the Exchange Act (17 CFR 240.17a-11) or similar “early warning” requirements imposed by other regulators shall provide the Exchange with certain reports and financial statements.

¹⁴⁴ Proposed Rule 20040 (Power of CRO to Impose Restrictions) generally provides that the Exchange’s Chief Regulatory Officer may impose restrictions and conditions on a BSTX Participant subject to the early warning notification requirements under certain circumstances.

¹⁴⁵ Proposed Rule 20050 (Margin) sets forth the required margin amounts for certain securities held in a customer’s margin account.

¹⁴⁶ Proposed Rule 20060 (Day Trading Margin) sets forth additional requirements with respect to customers that engage in day trading.

¹⁴⁷ Proposed Rule 20070 (Customer Account Information) requires that BSTX Participants comply with FINRA Rule 4512 as if such rule were part of the Exchange Rules and further clarifies certain cross-references within FINRA Rule 4512.

¹⁴⁸ Proposed Rule 20080 (Record of Written Customer Complaints) requires that BSTX Participants comply with FINRA Rule 4513 as if such rule were part of the Exchange Rules.

¹⁴⁹ Proposed Rule 20090 (Disclosure of Financial Condition) generally requires that BSTX Participants make available certain information regarding the BSTX Participant’s financial condition upon request of a customer.

¹⁵⁰ 15 U.S.C. 78f(b)(5).

principles of trade, and protect investors and the public interest by subjecting BSTX Participants to certain recordkeeping, disclosure, and related requirements designed to ensure that BSTX Participants conduct themselves in a financially responsible manner. For example, proposed Rule 20000 would require BSTX Participants to comply with existing Exchange Rule 1000, which sets forth certain recordkeeping responsibilities and the obligation to furnish these to the Exchange upon request so that the Exchange can appropriately monitor the financial condition of a BSTX Participant and its compliance with applicable regulatory requirements. Similarly, proposed Rule 20050 would set forth the margin requirements that BSTX Participants must retain with respect to customers trading in a margin account to ensure that BSTX Participants are not extending credit to customers in a manner that might put the financial condition of the BSTX Participant in jeopardy. Each of the proposed rules in the Rule 20000 Series (Financial and Operational Rules) is substantially similar to existing rules of other exchanges or incorporates an existing rule of the Exchange or another self-regulatory organization (“SRO”) by reference.

E. Supervision (Rule 21000 Series)

The Exchange proposes to adopt as its Rule 21000 Series (Supervision), six rules relating to certain supervisory requirements for BSTX Participants that are substantially similar to supervisory rules of other exchanges.¹⁵¹ The Proposed Rule 21000 Series would specify supervisory requirements with respect to: (i) enforcing written procedures to appropriately supervise the BSTX Participant’s conduct and compliance with applicable regulatory

¹⁵¹ See Cboe BZX Chapter 5 rules. See also IEX Rule 5.150 with respect to proposed Rule 21040 (Prevention of the Misuse of Material, Non-Public Information).

requirements;¹⁵² (ii) designation of an individual to carry out written supervisory procedures;¹⁵³ (iii) maintenance and keeping of records carrying out the BSTX Participant’s written supervisory procedures;¹⁵⁴ (iv) review of activities of each of a BSTX Participant’s offices, including periodic examination of customer accounts to detect and prevent irregularities or abuses;¹⁵⁵ (v) the prevention of the misuse of material non-public information;¹⁵⁶ and (vi) implementation of an anti-money laundering (“AML”) compliance program.¹⁵⁷ These rules are designed to ensure that BSTX Participants are able to appropriately supervise their business activities, review and maintain records with respect to such supervision, and enforce specific procedures relating insider-trading and AML.

The Exchange believes that the proposed Rule 21000 (Supervision) Series is consistent with Section 6(b)(5) of the Exchange Act¹⁵⁸ because these proposed rules are designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade,

¹⁵² Proposed Rule 21000 (Written Procedures).

¹⁵³ Proposed Rule 21010 (Responsibility of BSTX Participants) would also require that a copy of a BSTX’s written supervisory procedures be kept in each office and makes clear that final responsibility for proper supervision rests with the BSTX Participant.

¹⁵⁴ Proposed Rule 21020 (Records).

¹⁵⁵ Proposed Rule 21030 (Review of Activities).

¹⁵⁶ Proposed Rule 21040 (Prevention of the Misuse of Material, Non-Public Information) generally requires BSTX Participants to enforce written procedures designed to prevent misuse of material non-public information and sets forth examples of conduct that would constitute a misuse of material, non-public information.

¹⁵⁷ Proposed Rule 21050 (Anti-Money Laundering Compliance Program). The Exchange already has rules with respect to Exchange Participants enforcing an AML compliance program set forth in Exchange Rule 10070 (Anti-Money Laundering Compliance Program), so proposed Rule 21050 specifies that BSTX Participants shall comply with the requirements of that pre-existing rule.

¹⁵⁸ 15 U.S.C. 78f(b)(5).

and protect investors and the public interest by ensuring that BSTX Participants have appropriate supervisory controls in place to carry out their business activities in compliance with applicable regulatory requirements. For example, proposed Rule 21000 (Written Procedures) would require BSTX Participants to enforce written procedures which enable them to supervise the activities of their associated persons and proposed Rule 21010 (Responsibility of BSTX Participants) would require a BSTX Participant to designate a person in each office to carry out written supervisory procedures. Requiring appropriate supervision of a BSTX Participant's business activities and associated persons would promote compliance with the federal securities laws and other applicable regulatory requirements in furtherance of the protection of investors and the public interest.¹⁵⁹ In addition, each of the rules in the proposed Rule 21000 Series (Supervision) is substantially similar to supervisory rules of other exchanges.¹⁶⁰

F. Miscellaneous Provisions (Rule 22000 Series)

The Exchange proposes to adopt as its Rule 22000 Series (Miscellaneous Provisions), six rules relating to a variety of miscellaneous requirements applicable to BSTX Participants that are substantially similar to rules of other exchanges.¹⁶¹ These miscellaneous provisions relate to: (i)

¹⁵⁹ Id.

¹⁶⁰ See supra n.151.

¹⁶¹ See Cboe BZX Chapter 13 rules. See also IEX Rule 6.180 with respect to proposed Rule 22050 (Transactions Involving BOX Employees).

comparison and settlement requirements;¹⁶² (ii) failures to deliver and failures to receive;¹⁶³ (iii) forwarding of proxy and other issuer-related materials;¹⁶⁴ (iv) commissions;¹⁶⁵ (v) regulatory services agreements;¹⁶⁶ and (vi) transactions involving Exchange employees.¹⁶⁷ These rules are designed to capture additional regulatory requirements applicable to BSTX Participants, such as

¹⁶² Proposed Rule 22000 (Comparison and Settlement Requirements) provides that a BSTX Participant that is a member of a registered clearing agency shall implement comparison and settlement procedures as may be required under the rules of such entity. The proposed rule would further provide that, notwithstanding this general provision, the Board may extend or postpone the time of delivery of a BSTX transaction whenever the Board determines that it is called for by the public interest, just and equitable principles of trade or to address unusual conditions. In such a case, delivery will occur as directed by the Board.

¹⁶³ Proposed Rule 22010 (Failure to Deliver and Failure to Receive) provides that borrowing and deliveries must be effected in accordance with Rule 203 of Regulation SHO (17 CFR 242.203) and incorporates Rules 200 – 203 of Regulation SHO by reference into the rule (17 CFR §§ 242.200 – 203).

¹⁶⁴ Proposed Rule 22020 (Forwarding of Proxy and Other Information; Proxy Voting) generally provides that BSTX Participants shall forward proxy materials when requested by an issuer and sets forth certain conditions and limitations for BSTX Participants to give a proxy to vote stock that is registered in its name.

¹⁶⁵ Proposed Rule 22030 (Commissions) provides that the Exchange Rules or practices shall not be construed to allow a BSTX Participant or its associated persons to agree or arrange for the charging of fixed rates commissions for transactions on the Exchange.

¹⁶⁶ Proposed Rule 22040 (Regulatory Service Agreement) provides that the Exchange may enter into regulatory services agreements with other SROs to assist in carrying out regulatory functions, but the Exchange shall retain ultimate legal responsibility for, and control of, its SRO responsibilities.

¹⁶⁷ Proposed Rule 22040 (Transactions Involving Exchange Employees) sets forth conditions and limitations on a BSTX Participant providing loans or supporting the account of an Exchange employee (e.g., promptly obtaining and implementing an instruction from the employee to provide duplicate account statement to the Exchange) in order to mitigate any potential conflicts of interest that might arise from such a relationship.

setting forth their obligation to deliver proxy materials at the request of an issuer and to incorporate by reference Rule 200 – 203 of Regulation SHO.¹⁶⁸

The Exchange believes that the proposed Rule 22000 (Miscellaneous Provisions) Series is consistent with Section 6(b)(5) of the Exchange Act¹⁶⁹ because these proposed rules are designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and protect investors and the public interest by ensuring that BSTX Participants comply with additional regulatory requirements, such as Rule 203 of Regulation SHO¹⁷⁰ as provided in proposed Rule 22010 (Failure to Deliver and Failure to Receive), in connection with their participation on BSTX. For example, proposed Rule 22030 (Commissions) prohibits BSTX Participants from charging fixed rates of commissions for transactions on the Exchange consistent with Section 6(e)(1) of the Exchange Act.¹⁷¹ Similarly, proposed Rule 22050 (Transactions involving Exchange Employees) sets forth certain requirements and prohibitions relating to a BSTX Participant providing certain financial services to an Exchange employee, which the Exchange believes helps prevent potentially fraudulent and manipulative acts and practices and furthers the protection of investors and the public interest.

G. Trading Practice Rules (Rule 23000 Series)

The Exchange proposes to adopt as its Rule 23000 Series (Trading Practice Rules), 14 rules relating to trading practice requirements for BSTX Participants that are substantially similar to trading practice rules of other exchanges.¹⁷² The proposed Rule 23000 series would specify

¹⁶⁸ 17 CFR §§ 242.200 – 203.

¹⁶⁹ 15 U.S.C. 78f(b)(5).

¹⁷⁰ 17 CFR 242.203.

¹⁷¹ 15 U.S.C. 78f(e)(1).

¹⁷² See Cboe BZX Chapter 12 rules.

trading practice requirements related to: (i) market manipulation; (ii) fictitious transactions; (iii) excessive sales by a BSTX Participant; (iv) manipulative transactions; (v) dissemination of false information; (vi) prohibition against trading ahead of customer orders; (vii) joint activity; (viii) influencing data feeds; (ix) trade shredding; (x) best execution; (xi) publication of transactions and changes; (xii) trading ahead of research reports; (xiii) front running of block transactions; and (xiv) a prohibition against disruptive quoting and trading activity. The purpose of the trading practice rules is to set forth standards and rules relating to the trading conduct of BSTX Participants, primarily with respect to prohibiting forms of market manipulation and specifying certain obligations broker-dealers have to their customers, such as the duty of best execution. For example, proposed Rule 23000 (Market Manipulation) sets forth a general prohibition against a BSTX Participant purchasing a security at successively higher prices or sales of a security at successively lower prices, or to otherwise engage in activity for the purpose of creating or inducing a false, misleading or artificial appearance of activity in such security.¹⁷³ Proposed Rule 23010 (Fictitious Transactions) similarly prohibits BSTX Participants from fictitious transaction activity, such as executing a transaction which involves no beneficial change in ownership, and proposed Rule 23020 (Excessive Sales by a BSTX Participant) prohibits a BSTX Participant from executing purchases or sales in any security trading on the Exchange for any account in which it has an interest, which are excessive in view of the BSTX Participant's financial resources or in view of the market for such security.¹⁷⁴ Proposed Rule

¹⁷³ Proposed Rule 23030 (Manipulative Transactions) specifies further prohibitions relating to potential manipulation by prohibiting BSTX Participants from, among other things, participating or having any direct or indirect interest in the profits of a manipulative operation or knowingly managing or financing a manipulative operation.

¹⁷⁴ Other proposed rules relating to potential manipulation include: (i) Rule 23040 (Dissemination of False Information), which generally prohibits, consistent with

23060 (Joint Activity) prohibits a BSTX Participant from directly or indirectly holding any interest or participation in any joint account for buying or selling a security traded on the Exchange unless reported to the Exchange with certain information provided and proposed Rule 23090 (Best Execution) reaffirms BSTX Participants best execution obligations to their customers.¹⁷⁵

Proposed Rule 23050 (Prohibition against Trading Ahead of Customer Orders) is substantially similar to FINRA 5320 and rules adopted by other exchanges,¹⁷⁶ and generally prohibits BSTX Participants from trading ahead of customer orders unless certain enumerated exceptions are available and requires BSTX Participants to have a written methodology in place governing execution priority to ensure compliance with the Rule. The Exchange proposes to adopt each of the exceptions to the prohibition against trading ahead of customer orders as

Exchange Rule 3080, BSTX Participants from spreading information that is false or misleading; (ii) Rule 23070 (Influencing Data Feeds), which generally prohibits transactions to influence data feeds; (iii) Rule 23080 (Trade Shredding), which generally prohibits conduct that has the intent or effect of splitting any order into multiple smaller orders for the primary purpose of maximizing remuneration to the BSTX Participant; (iv) Rule 23110 (Trading Ahead of Research Reports), which generally prohibits BSTX Participants from trading based on non-public advance knowledge of a research report and requires BSTX Participants to enforce policies and procedures to limit information flow from research personnel to trading personnel that might trade on such information; (v) Rule 23120 (Front Running Block Transactions), which incorporates FINRA Rule 5270 as though it were part of the Exchange's Rules; and (vi) Rule 23130 (Disruptive Quoting and Trading Activity Prohibited), which incorporates Exchange Rule 3220 by reference.

¹⁷⁵ In addition, proposed Rule 23100 (Publication of Transactions and Changes) provides that the Exchange will disseminate transaction information to appropriate data feeds, BSTX participants must provide information necessary to facilitate the dissemination of such information, and that an Exchange official shall be responsible for approving corrections to any reports transmitted over data feeds.

¹⁷⁶ See e.g., Cboe BZX Rule 12.6.

provided in FINRA Rule 5320 other than the exception related to trading outside of normal market hours, since trading on the Exchange would be limited to regular trading hours.

The Exchange proposes to adopt the order handling procedures requirement in proposed Rule 23050(i) consistent with the rules of other exchanges.¹⁷⁷ Specifically, proposed Rule 23050(i) would provide that a BSTX Participant must make every effort to execute a marketable customer order that it receives fully and promptly and must cross customer orders when they are marketable against each other consistent with the proposed Rule.

The Exchange proposes to adopt a modified version of the exception set forth in FINRA Rule 5320.06 relating to minimum price improvement standards as proposed in Rule 23050(h). Under proposed Rule 23050(h), BSTX Participants would be permitted to execute an order on a proprietary basis when holding an unexecuted limit order in that same security without being required to execute the held limit order provided that they give price improvement of \$0.01 to the unexecuted held limit order. While FINRA Rule 5320.06 sets forth alternate, lower price improvement standards for securities priced below \$1, the Exchange proposes to adopt a uniform price improvement requirement of \$0.01 for securities traded on the BSTX System consistent with the Exchange's proposed uniform minimum price variant of \$0.01 set forth in proposed Rule 25030.

In addition, the Exchange proposes to adopt an exception for bona fide error transactions as proposed in Rule 25030(g) which would allow a BSTX Participant to trade ahead of a customer order if the trade is to correct a bona fide error, as defined in the rule. This proposed exception is nearly identical to similar exceptions of other exchanges¹⁷⁸ except that other

¹⁷⁷ See e.g., Cboe BZX Rule 12.6.07.

¹⁷⁸ See e.g., Cboe BZX Rule 12.5.05.

exchange rules also provide an exception whereby firms may submit a proprietary order ahead of a customer order to offset a customer order that is in an amount other than a round lot (i.e., 100 shares). The Exchange is not adopting an exception for odd-lot orders under these circumstances because the minimum unit of trading for security tokens pursuant to proposed Rule 25020 is one security token. The Exchange believes that there may be a notable amount of trading in amounts of less than 100 security tokens (i.e., trading in odd-lot amounts), and the Exchange accordingly does not believe that it is appropriate to allow BSTX Participants to trade ahead of customer orders just to offset an odd-lot customer order.

The Exchange believes that the proposed Rule 23000 Series relating to trading practice rules is consistent with Section 6(b)(5) of the Exchange Act¹⁷⁹ because these proposed rules are designed to prevent fraudulent and manipulative acts and practices that could harm investors and to promote just and equitable principles of trade. The proposed rules in the Rule 23000 Series are substantially similar to the rules of other exchanges and generally include a variety of prohibitions against types of trading activity or other conduct that could potentially be manipulative, such as prohibitions against market manipulation, fictitious transactions, and the dissemination of false information. The Exchange has proposed to exclude certain provisions from, or make certain modifications to, comparable rules of other SROs, as detailed above, in order to account for certain unique aspects related to the proposed trading of security tokens. The Exchange believes that it is consistent with applicable requirements under the Exchange Act to exclude these provisions and exceptions because they set forth requirements that would not apply to BSTX Participants trading in security tokens and are not necessary for the Exchange to

¹⁷⁹ 15 U.S.C. 78f(b)(5).

carry out its functions of facilitating security token transactions and regulating BSTX Participants.

H. Disciplinary Rules (Rule 24000 Series)

With respect to disciplinary matters, the Exchange proposes to adopt Rule 24000 (Discipline and Summary Suspension), which provides that the provisions of the Exchange Rule 11000 Series (Summary Suspension), 12000 Series (Discipline), 13000 Series (Review of Certain Exchange Actions), and 14000 Series (Arbitration) of the Exchange Rules shall be applicable to BSTX Participants and trading on the BSTX System. The Exchange already has Rules pertaining to discipline and suspension of Exchange Participants that it proposes to extend to BSTX Participants and trading on the BSTX System. The Exchange also proposes to adopt as Rule 24010 a minor rule violation plan with respect to transactions on BSTX.¹⁸⁰

Proposed Rule 24000 incorporates by reference existing rules that have already been approved by the Commission.

I. Trading Rules and the BSTX System (Rule 25000 Series)

1. Rule 25000 – Access to and Conduct on the BSTX Marketplace

The Exchange proposes to adopt Rule 25000 (Access to and Conduct on the BSTX Marketplace) to set forth rules relating to access to the BSTX System and certain conduct requirements applicable to BSTX Participants. Specifically, proposed Rule 25000 provides that only BSTX Participants, including their associated persons, that are approved for trading on the BSTX System shall effect any transaction on the BSTX System. Proposed Rule 25000(b) generally requires that a BSTX Participant maintain a list of authorized traders that may obtain

¹⁸⁰ The proposed additions to the Exchange's minor rule violation plan pursuant to proposed Rule 25010 are discussed below in Part IV.

access to the BSTX System on behalf of the BSTX Participant, have procedures in place reasonably designed to ensure that all authorized traders comply with Exchange Rules and to prevent unauthorized access to the BSTX System, and to provide the list of authorized traders to the Exchange upon request. Proposed Rule 25000(c) and (d) restate provisions that are already set forth in Exchange Rule 7000, generally providing that BSTX Participants shall not engage in conduct that is inconsistent with the maintenance of a fair and orderly market or the ordinary and efficient conduct of business, as well as conduct that is likely to impair public confidence in the operations of the Exchange. Examples of such prohibited conduct include failure to abide by a determination of the Exchange, refusal to provide information requested by the Exchange, and failure to adequately supervise employees. Proposed Rule 25000(f) provides the Exchange with authority to suspend or terminate access to the BSTX System under certain circumstances.

The Exchange believes that proposed Rule 25000 is consistent with Section 6(b)(5) of the Exchange Act¹⁸¹ because it is designed to protect investors and the public interest and promote just and equitable principles of trade by ensuring that BSTX Participants would not allow for unauthorized access to the BSTX System and would not engage in conduct detrimental to the maintenance of fair and orderly markets.

2. Rule 25010 – Days/Hours

Proposed Rule 25010 sets forth the days and hours during which BSTX would be open for business and during which transactions may be effected on the BSTX System. Under the proposed rule, transactions may be executed on the BSTX System between 9:30 a.m. and 4:00 p.m. Eastern Time. The proposed rule also specifies certain holidays BSTX would be not be open (e.g., New Year's Day) and provides that the Chief Executive Officer, President, or Chief

¹⁸¹ 15 U.S.C. 78f(b)(5).

Regulatory Officer of the Exchange, or such person's designee who is a senior officer of the Exchange, shall have the power to halt or suspend trading in any security tokens, close some or all of BSTX's facilities, and determine the duration of any such halt, suspension, or closing, when such person deems the action necessary for the maintenance of fair and orderly markets, the protection of investors, or otherwise in the public interest.

The Exchange believes that proposed Rule 25010 is designed to protect investors and the public interest, consistent with Section 6(b)(5) of the Exchange Act,¹⁸² by setting forth the days and hours that trades may be effected on the BSTX System and by providing officers of the Exchange with the authority to halt or suspend trading when such officers believe that such action is necessary or appropriate to maintain fair and orderly markets or to protect investors or in the public interest.

3. Rule 25020 – Units of Trading

Proposed Rule 25020 sets forth the minimum unit of trading on the BSTX System, which shall be one security token. The Exchange believes that proposed Rule 25020 is consistent with Section 6(b)(5) of the Exchange Act¹⁸³ because it fosters cooperation and coordination of persons engaged in facilitating transactions in securities by specifying the minimum unit of trading of security tokens on the BSTX System. In addition, other exchanges similarly provide that the minimum unit of trading is one share for their market and/or for certain securities.¹⁸⁴

¹⁸² 15 U.S.C. 78f(b)(5).

¹⁸³ 15 U.S.C. 78f(b)(5).

¹⁸⁴ See e.g., IEX Rule 11.180.

4. Rule 25030 – Minimum Price Variant

Proposed Rule 25030 provides the minimum price variant for security tokens shall be \$0.01. The Exchange believes that proposed Rule 25030 is consistent with Section 6(b)(5) of the Exchange Act because it fosters cooperation and coordination of persons engaged in facilitating transactions in securities by specifying the minimum price variant for security tokens and promotes compliance with Rule 612 of Regulation NMS.¹⁸⁵ Under Rule 612 of Regulation NMS, the Exchange is, among other things, prohibited from displaying, ranking or accepting from any person a bid or offer or order in an NMS stock in an increment smaller than \$0.01 if that bid or offer or order is priced equal to or greater than \$1.00 per share. Where a bid or offer or order is priced less than or equal to \$1.00 per share, the minimum acceptable increment is \$0.0001. Proposed Rule 25030 sets a uniform minimum price variant for all security tokens of \$0.01 irrespective of whether the security token is trading below \$1.00.

5. Rule 25040 – Opening the Marketplace

Proposed Rule 25040 sets forth the opening process for the BSTX System for BSTX-listed security tokens and non-BSTX-listed security tokens. For BSTX-listed security tokens, the Exchange proposes to allow for order entry to commence at 8:30 a.m. ET during the Pre-Opening Phase. Proposed Rule 25040(a) provides that orders will not execute during the Pre-Opening Phase, which lasts until regular trading hours begin at 9:30 a.m. ET.¹⁸⁶ Similar to how the Exchange’s opening process works for options trading, BSTX would disseminate a theoretical opening price (“TOP”) to BSTX Participants, which is the price at which the opening

¹⁸⁵ 17 CFR 242.611.

¹⁸⁶ As a result, orders marked IOC submitted during the Pre-Opening Phase will be rejected by the BSTX System. See proposed Rule 25040(a)(7).

match would occur at a given moment in time.¹⁸⁷ Under the proposed rule, the Exchange will also broadcast other information during the Pre-Opening Phase. Specifically, in addition to the TOP, the Exchange would disseminate pursuant to proposed Rule 25040(a)(3): (i) “Paired Tokens,” which is the quantity of security tokens that would execute at the TOP; (ii) the “Imbalance Quantity,” which is the number of security tokens that may not be matched with other orders at the TOP at the time of dissemination; and (iii) the “Imbalance Side,” which is the buy/sell direction of any imbalance at the time of dissemination (collectively, with the TOP, “Broadcast Information”).¹⁸⁸ Broadcast Information will be recalculated and disseminated every time a new order is received or cancelled and where such event causes the TOP or Paired Tokens to change. With respect to priority during the opening match for all security tokens, consistent with proposed Rule 25080 (Execution and Price/Time Priority), among multiple orders at the same price, execution priority during the opening match is determined based on the time the order was received by the BSTX System.

Consistent with the manner in which the Exchange opens options trading, the BSTX System would determine a single price at which a BSTX-listed security token will be opened by calculating the optimum number of security tokens that could be matched at a price, taking into consideration all the orders on the BSTX Book.¹⁸⁹ Proposed Rule 25040(a)(5) provides that the opening match price is the price which results in the matching of the highest number of security tokens. If two or more prices would satisfy this maximum quantity criteria, the price leaving the

¹⁸⁷ The TOP can only be calculated where the BSTX Book is crossed during the Pre-Opening Phase. See proposed Rule 25040(a)(2).

¹⁸⁸ Pursuant to proposed Rule 25040(a)(3), any orders which are at a better price (i.e., bid higher or offer lower) than the TOP will be shown only as a total quantity on the BSTX Book at a price equal to the TOP.

¹⁸⁹ See proposed Rule 25040(a)(4)(ii).

fewest resting security tokens in the BSTX Book will be selected at the opening price and where two or more prices would satisfy the maximum quantity criteria and leave the fewest security tokens in the BSTX Book, the price closest to the previous day's closing price will be selected.¹⁹⁰ Unexecuted trading interest during the opening match will move to the BSTX Book and will preserve price time priority.¹⁹¹ When the BSTX System cannot determine an opening price of a BSTX-listed security token at the start of regular trading hours, BSTX would nevertheless open the security token for trading and move all trading interest received during the Pre-Opening Phase to the BSTX Book.¹⁹²

For initial public offerings of security tokens ("ISTOs"), the process will be generally the same as regular market openings. However, in advance of an ISTO auction ("ISTO Auction"), the Exchange shall announce a "Quote-Only Period" that shall be between fifteen (15) and thirty (30) minutes plus a short random period prior to the ISTO Auction.¹⁹³ The Quote-Only Period may be extended in certain cases.¹⁹⁴ As with regular market openings the Exchange would disseminate Broadcast Information at the commencement of the Quote Only Period, and Broadcast Information would be re-calculated and disseminated every time a new order is

¹⁹⁰ With respect to an initial public offering of a security token where there is no previous day's closing price, the opening price will be the price assigned to the security token by the underwriter for the offering, referred to as the "ISTO Reference Price." See Proposed Rule 25040(a)(5)(ii)(3).

¹⁹¹ See proposed Rule 25040(a)(6).

¹⁹² Id.

¹⁹³ See proposed Rule 25040(b)(1).

¹⁹⁴ Such cases are when: (i) there is no TOP; (ii) the underwriter requests an extension; (iii) the TOP moves the greater of 10% or fifty (50) cents in the fifteen (15) seconds prior to the initial cross; or (iv) in the event of a technical or systems issue at the Exchange that may impair the ability of BSTX Participants to participate in the ISTO or of the Exchange to complete the ISTO. See proposed Rule 25040(b)(2).

received or cancelled and where such event causes the TOP price or Paired Tokens to change.¹⁹⁵

In the event of any extension to the Quote-Only Period or a trading pause, the Exchange will notify market participants regarding the circumstances and length of the extension.¹⁹⁶ Orders will be matched and executed at the conclusion of the Quote-Only Period, rather than at 9:30 a.m. Eastern Time.¹⁹⁷ Following the initial cross at the end of the Quote-Only Period wherein orders will execute based on price/time priority consistent with proposed Rule 25080, the Exchange will transition to normal trading pursuant to proposed Rule 25040(a)(6).¹⁹⁸

The Exchange also proposes a process for reopening trading following a Limit Up-Limit Down Halt or trading pause (“Halt Auctions”). For Halt Auctions, the Exchange proposes that in advance of reopening, the Exchange shall announce a Quote-Only Period that shall be five (5) minutes prior to the Halt Auction.¹⁹⁹ This Quote-Only Period may be extended in certain circumstances.²⁰⁰ The Exchange proposes to disseminate the same Broadcast Information as it

¹⁹⁵ See proposed Rule 25040(b)(3).

¹⁹⁶ See proposed Rule 25040(b)(4). The Exchange also proposes that if a trading pause is triggered by the Exchange or if the Exchange is unable to reopen trading at the end of the trading pause due to a systems or technology issue, the Exchange will immediately notify the single plan processor responsible for consolidation of information for the security pursuant to Rule 603 of Regulation NMS under the Securities Exchange Act of 1934. Id.

¹⁹⁷ See proposed Rule 25040(b)(5).

¹⁹⁸ As with the regular opening process, orders marked IOC submitted during the Pre-Opening Phase of an ISTO Auction would be rejected. See proposed Rule 25040(b)(6).

¹⁹⁹ See proposed Rule 25040(c)(1). Orders marked IOC submitted during the Quote-Only Period would be rejected.

²⁰⁰ See proposed Rule 25040(c)(2). The Quote-Only Period shall be extended for an additional five (5) minutes should a Halt Auction be unable to be performed due to the absence of a TOP (“Initial Extension Period”). After the Initial Extension Period, the Exchange proposes that the Quote-Only Period shall be extended for additional five (5) minute periods should a Halt Auction be unable to be performed due to absence of a TOP (“Additional Extension Period”) until a Halt

does for an ISTO Auction and would similarly provide notification of any extension to the quote-only period as with an ISTO Auction.²⁰¹ The transition to normal trading would also occur in the same manner as ISTO Auctions, as described above.²⁰²

The Exchange also proposes to adopt certain contingency procedures in proposed Rule 25040(d) that would provide that when a disruption occurs that prevents the execution of an ISTO Auction the Exchange will publicly announce the Quote-Only Period for the ISTO Auction, and the Exchange will then cancel all orders on the BSTX Book and disseminate a new scheduled time for the Quote-Only Period and opening match.²⁰³ Similarly, when a disruption occurs that prevents the execution of a Halt Auction, the Exchange will publicly announce that no Halt Auction will occur, and all orders in the halted security token on the BSTX Book will be canceled after which the Exchange will open the security token for trading without an auction.²⁰⁴

The opening process with respect to non-BSTX-listed security tokens is set forth in proposed Rule 25040(e). Pursuant to that Rule, BSTX Participants who wish to participate in the opening process may submit orders and quotes for inclusion in the BSTX Book, but such orders and quotes cannot execute until the termination of the Pre-Opening Phase (“Opening Process”). Orders that are canceled before the Opening Process will not participate in the Opening Process.

Auction occurs. Under the proposed Rule, the Exchange shall attempt to conduct a Halt Auction during the course of each Additional Extension Period. Id.

²⁰¹ See proposed Rule 25040(c)(3)-(5).

²⁰² Id.

²⁰³ See proposed Rule 25040(d)(1).

²⁰⁴ See proposed Rule 25040(d)(2). The Exchange notes that these contingency procedures are substantially similar to those of another exchange (see e.g., IEX Rule 11.350(c)(4)) and are designed to ensure that the Exchange has appropriate mechanisms in place to address possible disruptions that may arise in an ISTO Auction or Halt Auction, consistent with the protection of investors and the public interest pursuant to Section 6(b)(5) of the Exchange Act. 15 U.S.C. 78f(b)(5).

The Exchange will attempt to perform the Opening Process and will match buy and sell orders that are executable at the midpoint of the NBBO.²⁰⁵ Generally, the price of the Opening Process will be at the midpoint of the first NBBO subsequent to the first two-sided quotation published by the listing exchange after 9:30:00 a.m. Eastern Time. Pursuant to proposed Rule 25040(e)(4), if the conditions to establish the price of the Opening Process set forth above do not occur by 9:45:00 a.m. Eastern Time, orders will be handled in time sequence, beginning with the order with the oldest time stamp, and will be placed on the BSTX Book cancelled, or executed in accordance with the terms of the order. A similar process will occur for re-opening a non-BSTX-listed security token subject to a halt.²⁰⁶ The proposed opening process for security tokens listed on another exchange serves as a placeholder in anticipation of other exchanges eventually listing and trading security tokens, or the equivalent thereof, given that there are no other exchanges currently trading security tokens. The proposed process for opening security tokens listed on another exchange is similar to existing exchange rules governing the opening of trading of a security listed on another exchange.²⁰⁷

Consistent with Section 6(b)(5) of the Exchange Act,²⁰⁸ the Exchange believes that the proposed process for opening trading in BSTX-listed security tokens and security tokens listed on other exchanges will promote just and equitable principles of trade and will help perfect the mechanism of a free and open market by establishing a uniform process to determine the opening price of security tokens.²⁰⁹ Proposed Rule 25040 provides a mechanism by which BSTX

²⁰⁵ See proposed Rule 25040(e)(2).

²⁰⁶ See proposed Rule 25040(e)(5).

²⁰⁷ See e.g., Cboe BZX Rule 11.24.

²⁰⁸ 15 U.S.C. 78f(b)(5).

²⁰⁹ The Exchange has not proposed to operate a closing auction at this time. As a result, the closing price of a security token on BSTX would be the last regular

Participants may submit orders in advance of the start of regular trading hours, perform an opening cross, and commence regular hours trading in security tokens listed on BSTX or otherwise. Where an opening cross is not possible in a BSTX-listed security token, the Exchange will proceed by opening regular hours trading in the security token anyway, which is consistent with the manner in which other exchanges open trading in securities.²¹⁰ With respect to initial public offerings of security tokens and openings after a Limit Up-Limit Down halt or trading pause, BSTX proposes to use a process with features similar to its normal opening process. There are a variety of different ways in which an exchange can open trading in securities, including with respect to an initial public offering of a security token, and the Exchange believes that proposed Rule 25040 provides a simple and clear method for opening transactions that is consistent with the protection of investors and the public interest.²¹¹

way transaction occurring on BSTX, which the Exchange believes is a simple and fair way to establish the closing price of a security token that does not permit unfair discrimination among customers, issuers, or broker-dealers consistent with Section 6(b)(5) of the Exchange Act. Id. This proposed process is consistent with the overall proposed simplified market structure for BSTX, which does not include a variety of order types offered by other exchanges such as market-on-close and limit-on-close orders. The Exchange believes that a simplified market structure, including the proposed manner in which a closing price would be determined, promotes the public interest and the protection of investors consistent with Section 6(b)(5) of the Exchange Act through reduced complexity. Id.

²¹⁰ See e.g., BOX Rule 7070.

²¹¹ The Exchange notes that its proposed opening, ISTO Auction, and Halt Auction processes are substantially similar to those of another exchange. See Cboe BZX Rule 11.23. The key differences between the Exchange's proposed processes and those of the Cboe BZX exchange are that the Exchange has substantially fewer order types, which make its opening process less complex, and that the Exchange does not propose to use order auction collars to limit the price at which a security token opens. The Exchange does not believe that auction collars are necessary at this time because there are a variety of other mechanisms in place to prevent erroneous orders and the execution of an opening cross at an erroneous price (e.g., market access controls pursuant to Rule 15c3-5 and the ability of an underwriter to request an extension to the Quote-Only Period in an ISTO Auction).

Additionally, proposed Rule 25040 applies to all BSTX Participants in the same manner and is therefore not designed to permit unfair discrimination among BSTX Participants.

6. Rule 25050 – Trading Halts

BSTX proposes to adopt rules relating to trading halts²¹² that are substantially similar to other exchange rules adopted in connection with the NMS Plan to Address Extraordinary Market Volatility (“LULD Plan”), with certain exceptions that reflect Exchange functionality. BSTX intends to join the LULD Plan prior to the commencement of trading security tokens. Below is an explanation of BSTX’s approach to certain categories of orders during a trading halt:

- Short Sales – BSTX cancels all orders on the book during a halt and rejects any new orders, so rules relating to the repricing of short sale orders during a trading halt that certain other exchanges have adopted have been omitted.
- Pegged Orders – BSTX would not support pegged orders, at least initially, so rules relating to pegged orders during a trading halt have been omitted.
- Routable Orders – Pursuant to proposed Rule 25130, the BSTX System will reject any order or quotation that would lock or cross a protected quotation of another exchange (rather than routing such order or quotation), and therefore rules relating to handling of routable orders during a trading halt have been omitted.
- Limit Orders – Because BSTX would cancel resting order interest and reject incoming orders during a trading halt, specific rules relating to the repricing of limit-priced interest that certain other exchanges have adopted have been omitted.²¹³

²¹² The Exchange notes that rules on opening trading for non-BSTX-listed security token are set forth in proposed Rule 25040(e).

²¹³ See e.g., Cboe BZX 11.18(e)(5)(B).

- Auction Orders, Market Orders, and FOK Orders – BSTX would not support these order types, at least initially, so rules relating to these order types during a trading halt have been omitted.²¹⁴

Pursuant to proposed Rule 25050(d), the Exchange would cancel all resting orders in a non-BSTX listed security token subject to a trading halt, reject any incoming orders in that security token, and will only resume accepting orders following a broadcast message to BSTX Participants indicating a forthcoming re-opening of trading.²¹⁵

BSTX believes that it is in the public interest and furthers the protection of investors, consistent with Section 6(b)(5) of the Exchange Act²¹⁶ to provide for a mechanism to halt trading in security tokens during periods of extraordinary market volatility consistent with the LULD Plan. However, the Exchange has excluded rules relating to order types and other aspects of the LULD Plan that would not be supported by the Exchange, such as market orders and auction orders. The Exchange has also reserved the right in proposed Rule 25050(f) to halt or suspend trading in other circumstances where the Exchange deems it necessary to do so for the protection of investors and in the furtherance of the public interest.

The Exchange believes that canceling resting order interest during a trading halt and rejecting incoming orders received during the trading halt is consistent with Section 6(b)(5) of the Exchange Act²¹⁷ because it is not designed to permit unfair discrimination among BSTX Participants. The orders and trading interest of all BSTX Participants would be canceled in the

²¹⁴ IOC orders will be handled pursuant to proposed Rule 25050(g)(5).

²¹⁵ Trading would resume pursuant to proposed Rule 25040(e)(5). See proposed Rule 25050(g)(7).

²¹⁶ 15 U.S.C. 78f(b)(5).

²¹⁷ Id.

event of a trading halt and each BSTX Participant would be required to resubmit any orders they had resting on the order book.

7. Rule 25060 – Order Entry

Proposed Rule 25060 sets forth the manner in which BSTX Participants may enter orders to the BSTX System. The BSTX System would initially only support limit orders.²¹⁸ Orders that do not designate a limit price would be rejected.²¹⁹ The BSTX System would also only support two time-in-force (“TIF”) designations initially: (i) DAY; and (ii) immediate or cancel (“IOC”). DAY orders will queue during the Pre-Opening Phase, may trade during regular market hours, and, if unexecuted at the close of the trading day (4:00 p.m. ET), are canceled by the BSTX System.²²⁰ All orders are given a default TIF of DAY. BSTX Participants may also designate orders as IOC, which designation overrides the default TIF of DAY. IOC orders are not accepted by the BSTX System during the Pre-Opening Phase. During regular trading hours, IOC orders will execute in whole or in part immediately upon receipt by the BSTX System. The BSTX System will not support modification of resting orders. To change the price or quantity of an order resting on the BSTX Book, a BSTX Participant must cancel the resting order and submit a new order, which will result in a new time stamp for purposes of BSTX Book priority. In addition, all orders on BSTX will be displayed, and the BSTX System will not support hidden orders or undisplayed liquidity, as set forth in proposed Rule 25100.

²¹⁸ The BSTX System will also accept incoming Intermarket Sweep Orders (“ISO”) pursuant to proposed Rule 25060(c)(2). ISOs must be limit orders, are ineligible for routing, may be submitted with a limit price during Regular Trading Hours, and must have a time-in-force of IOC. Proposed Rule 25060(c)(2) is substantially similar to rules of other national securities exchanges. See e.g., Cboe BZX Rule 11.9(d).

²¹⁹ Proposed Rule 25060(c)(1).

²²⁰ Proposed Rule 25060(d)(1).

Consistent with Section 6(b)(5) of the Exchange Act,²²¹ the Exchange believes that the proposed order entry rules will promote just and equitable principles of trade and help perfect the mechanism of a free and open market by establishing the types of orders and modifiers that all BSTX Participants may use in entering orders to the BSTX System. Because these order types and TIFs are available to all BSTX Participants, the proposed rule does not unfairly discriminate among market participants, consistent with Section 6(b)(5) of the Exchange Act. The proposed rule sets forth a very simple exchange model whereby there is only one order type—limit orders—and two TIFs. Upon the initial launch of BSTX, there will be no hidden orders, price sliding, pegged orders, or other order type features that add complexity. The Exchange believes that creating a simplified exchange model is designed to protect investors and is in the public interest because it reduces complexity, thereby helping market participants better understand how orders would operate on the BSTX System.

8. Rule 25070 – Audit Trail

Proposed Rule 25070 (Audit Trail) is designed to ensure that BSTX Participants provide the Exchange with information to be able to identify the source of a particular order and other information necessary to carry out the Exchange’s oversight functions. The proposed rule is substantially similar to existing BOX Rule 7120 but eliminates certain information unique to orders for options contracts (e.g., exercise price) because security tokens are equity securities. The proposed rule also provides that BSTX Participants that employ an electronic order routing or order management system that complies with Exchange requirements will be deemed to comply with the Rule if the required information is recorded in an electronic format. The proposed rule also specifies that order information must be kept for no less than three years and

²²¹ 15 U.S.C. 78f(b)(5).

that where specific customer or account number information is not provided to the Exchange, BSTX Participants must maintain such information on their books and records.

The Exchange believes that proposed Rule 25070 is designed to protect investors and the public interest, consistent with Section 6(b)(5) of the Exchange Act,²²² because it will provide the Exchange with information necessary to carry out its oversight role. Without being able to identify the source and terms of a particular order, the Exchange's ability to adequately surveil its market, with or through another SRO, for trading inconsistent with applicable regulatory requirements would be impeded. In order to promote compliance with Rule 201 of Regulation SHO, proposed Rule 25080(b)(3) provides that when a short sale price test restriction is in effect, the execution price of the short sale order must be higher than (i.e., above) the best bid, unless the sell order is marked "short exempt" pursuant to Regulation SHO.

9. Rule 25080 – Execution and Price Time Priority

Proposed Rule 25080 governs the execution of orders on the BSTX System, providing a price-time priority model. The proposed rule provides that orders of BSTX Participants shall be ranked and maintained in the BSTX Book according to price-time priority, such that within each price level, all orders shall be organized by the time of entry. The proposed rule further provides that sell orders may not execute a price below the best bid in the marketplace and buy orders cannot execute at a price above the best offer in the marketplace. Further, the proposed rule ensures compliance with Regulation SHO, Regulation NMS, and the LULD Plan, in a manner consistent with the rulebooks of other national securities exchanges.²²³

²²² 15 U.S.C. 78f(b)(5).

²²³ See e.g., Cboe BZX Rule 11.13(a)(2)-(3) governing regular trading hours.

The Exchange believes that proposed Rule 25080 is consistent with Section 6(b)(5) of the Exchange Act²²⁴ because it is designed to promote just and equitable principles of trade and foster cooperation and coordination with persons facilitating transactions in securities by setting forth the order execution priority scheme for security token transactions. Numerous other exchanges similarly operate a price-time priority structure for effecting transactions. The proposed rule also does not permit unfair discrimination among BSTX Participants because all BSTX Participants are subject to the same price-time priority structure. In addition, the Exchange believes that specifying in proposed Rule 25080(b)(3) that execution of short sale orders when a short sale price test restriction is in effect must occur at a price above the best bid unless the order is market “short exempt,” is consistent with the Exchange Act because it is intended promote compliance with Regulation SHO in furtherance of the protection of investors and the public interest.

10. Rule 25090 – BSTX Risk Controls

Proposed Rule 25090 sets forth certain risk controls applicable to orders submitted to the BSTX System. The proposed risk controls are designed to prevent the submission and execution of potentially erroneous orders. Under the proposed rule, the BSTX System will reject orders that exceed a maximum order size, as designated by each BSTX Participant. The Exchange, however may set default values for this control. The proposed rule also provides a means by which all of a BSTX Participant’s orders will be canceled in the event that the BSTX Participant loses its connection to the BSTX System. Proposed Rule 25090(c) provides a risk control that prevents incoming limit orders from being accepted by the BSTX System if the order’s price is more than a designated percentage away from the National Best Bid or Offer in the marketplace.

²²⁴ 15 U.S.C. 78f(b)(5).

Proposed Rule 25090(d) provides a maximum order rate control whereby the BSTX System will reject an incoming order if the rate of orders received by the BSTX System exceeds a designated threshold. With respect to both of these risk controls (price protection for limit orders and maximum order rate), BSTX Participants may designate the appropriate thresholds, but the Exchange may also provide default values and mandatory minimum levels.

The Exchange believes the proposed risk controls in Rule 25090 are consistent with Section 6(b)(5) of the Exchange Act²²⁵ because they are designed to help prevent the execution of potentially erroneous orders, which furthers the protection of investors and the public interest. Among other things, erroneous orders can be disruptive to the operation of an exchange marketplace, can lead to temporary price dislocations, and can hinder price formation. The Exchange believes that offering configurable risk controls to BSTX Participants, along with default values where a BSTX Participant has not designated its desired controls, will protect investors by reducing the number of erroneous executions on the BSTX System and will remove impediments to and perfect the mechanism of a free and open market system. The proposed risk controls are also similar to existing risk controls provided by the Exchange to Options Participants.

11. Rule 25100 – Trade Execution, Reporting, and Dissemination of Quotations

Proposed Rule 25100 provides that the Exchange shall collect and disseminate last sale information for transactions executed on the BSTX system. The proposed rule further provides that the aggregate of the best-ranked non-marketable Limit Order(s), pursuant to Rule 25080, to buy and the best-ranked non-marketable Limit Order(s) to sell in the BSTX Book shall be

²²⁵ 15 U.S.C. 78f(b)(5).

collected and made available to quotation vendors for dissemination. Proposed Rule 25100 further provides that the BSTX System will operate as an “automated market center” within the meaning of Regulation NMS and will display “automated quotations” at all times except in the event of a system malfunction.²²⁶ In addition, the proposed Rule specifies that the Exchange shall identify all trades executed pursuant to an exception or an exemption of Regulation NMS. The Exchange will disseminate last sale and quotation information pursuant to Rule 602 of Regulation NMS and will maintain connectivity to the securities information processors for dissemination of quotation information.²²⁷ BSTX Participants may obtain access to this information through the securities information processors.

Proposed Rule 25100(d) provides that executions that occur as a result of orders matched against the BSTX Book, pursuant to Rule 25080, shall clear and settle pursuant to the rules, policies, and procedures of a registered clearing agency and shall settle on a T+1 basis (i.e., trade date plus one additional business day) where permitted under the rules, policies, and procedures of the relevant registered clearing agency. However, pursuant to proposed Rule 25100(d), the BSTX Participants that are party to the trade may agree to a shorter or longer settlement cycle as may be permitted by the relevant registered clearing agency and where they have so agreed shall communicate that agreement to the Exchange in a manner consistent with the Exchange’s

²²⁶ 17 CFR 242.600(b)(4) and (5). The general purpose of an exchange being deemed an “automated trading center” displaying “automated quotations” relates to whether or not an exchange’s quotations may be considered protected under Regulation NMS. See Exchange Act Release No. 51808, 70 FR 37495, 37520 (June 29, 2005). Other trading centers may not effect transactions that would trade through a protected quotation of another trading center. The Exchange believes that it is useful to specify that it will operate as an automated trading center at this time to make clear to market participants that it is not operating a manual market with respect to security tokens.

²²⁷ 17 CFR 242.602.

procedures. Rule 25100(e) obliges BSTX Participants, or a clearing member/participant clearing on behalf of a BSTX Participant to honor trades effected on the BSTX System on the scheduled settlement date, and the Exchange shall not be liable for the failure of BSTX Participants to satisfy these obligations.²²⁸

The Exchange believes that proposed Rule 25100 is consistent with Section 6(b)(5) of the Exchange Act²²⁹ because it will foster cooperation and coordination with persons processing information with respect to, and facilitating transactions in securities by requiring the Exchange to collect and disseminate quotation and last sale transaction information to market participants. BSTX Participants will need last sale and quotation information to effectively trade on the BSTX System, and proposed Rule 25100 sets forth the requirement for the Exchange to provide this information as well as the information to be provided. The proposed rule is similar to rules of other exchanges relating to the dissemination of last sale and quotation information. The Exchange believes that requiring BSTX Participants (or firms clearing trades on behalf of other BSTX Participants) to honor their trade obligations on the settlement date is consistent with the Exchange Act because it will foster cooperation with persons engaged in clearing and settling transactions in security tokens, consistent with Section 6(b)(5) of the Exchange Act.²³⁰

12. Rule 25110 – Clearly Erroneous

Proposed Rule 25110 sets forth the manner in which BSTX will resolve clearly erroneous executions that might occur on the BSTX System and is substantially similar to comparable clearly erroneous rules on other exchanges. Under proposed Rule 25100, transactions that

²²⁸ These proposed provisions are substantially similar to those of exchanges. See e.g., Nasdaq Rule 4627 and IEX Rule 10.250.

²²⁹ 15 U.S.C. 78f(b)(5).

²³⁰ Id.

involve an obvious error such as price or quantity, may be canceled after review and a determination by an officer of BSTX or such other employee designee of BSTX (“Official”).²³¹ BSTX Participants that believe they submitted an order erroneously to the Exchange may request a review of the transaction, and must do so within thirty (30) minutes of execution and provide certain information, including the factual basis for believing that the trade is clearly erroneous, to the Official.²³² Under proposed Rule 25100(c), an Official may determine that a transaction is clearly erroneous if the price of the transaction to buy (sell) that is the subject of the complaint is greater than (less than) the “Reference Price”²³³ by an amount that equals or exceeds specified “Numerical Guidelines.”²³⁴ The Official may consider additional factors in determining whether a transaction is clearly erroneous, such as whether trading in the security had recently halted or overall market conditions.²³⁵ Similar to other exchanges’ clearly erroneous rules, the Exchange may determine that trades are clearly erroneous in certain circumstances such as during a system

²³¹ A transaction made in clearly erroneous error and canceled by both parties or determined by the Exchange to be clearly erroneous will be removed from the Consolidated Tape. Proposed Rule 25110(a).

²³² Proposed Rule 25110(b). The Official may also consider certain “outlier” transactions on a case by case basis where the request for review is submitted after 30 minutes but no longer than sixty (60) minutes after the transaction. Proposed Rule 2511(d).

²³³ The Reference Price will be equal to the consolidated last sale immediately prior to the execution(s) under review except for in circumstances, such as, for example, relevant news impacting a security or securities, periods of extreme market volatility, sustained illiquidity, or widespread system issues, where use of a different Reference Price is necessary for the maintenance of a fair and orderly market and the protection of investors and the public interest. Proposed Rule 25110(c)(1).

²³⁴ The proposed Numerical Guidelines are 10% where the Reference Price ranges from \$0.00 to \$25.00, 5% where the Reference Price is greater than \$25.00 up to and including \$50.00, and 3% where the Reference Price ranges is greater than \$50. Proposed Rule 25110(c)(1).

²³⁵ Proposed Rule 25110(c)(1).

disruption or malfunction, on a BSTX Officer's (or senior employee designee) own motion, during a trading halt, or with respect to a series of transactions over multiple days.²³⁶ Under proposed Rule 25110(e)(2), BSTX Participants affected by a determination by an Official may appeal this decision to the Chief Regulatory Officer of BSTX, provided such appeal is made within thirty (30) minutes after the party making the appeal is given notice of the initial determination being appealed.²³⁷ The Chief Regulatory Officer's determination shall constitute final action by the Exchange on the matter at issue pursuant to proposed Rule 25110(e)(2)(ii).

The Exchange believes that proposed Rule 25110 is consistent with Section 6(b)(5) of the Exchange Act,²³⁸ because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system by setting forth the process by which clearly erroneous trades on the BSTX System may be identified and remedied. Proposed Rule 25110 would apply equally to all BSTX Participants and is therefore not designed to permit unfair discrimination among BSTX Participants, consistent with Section 6(b)(5) of the Exchange Act.²³⁹ The proposed rule is substantially similar to the clearly erroneous rules of other exchanges.²⁴⁰ For example, proposed Rule 25110

²³⁶ See proposed Rule 25110(f) – (j). These provisions are virtually identical to similar provisions of other exchanges' clearly erroneous rules other than by making certain administrative edits (e.g., replacing the term "security" with "security token").

²³⁷ Determinations by an Official pursuant to proposed Rule 25110(f) relating to system disruptions or malfunctions may not be appealed if the Official made a determination that the nullification of transactions was necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest. Proposed Rule 25110(d)(2).

²³⁸ 15 U.S.C. 78f(b)(5).

²³⁹ Id.

²⁴⁰ See e.g., Cboe BZX Rule 11.17. Similar to other exchanges' comparable rules, proposed Rule 25110 provides BSTX with the ability to determine clearly erroneous trades that result from a system disruption or malfunction, a BSTX

does not include provisions related to clearly erroneous transactions for routed orders because orders for security tokens will not route to other exchanges.²⁴¹ Security tokens would also only trade during regular trading hours (i.e., 9:30 a.m. ET to 4:00 p.m. ET), so provisions from comparable exchange rules relating to clearly erroneous executions occurring outside of regular trading hours have been excluded. Proposed Rule 25110 also excludes provisions from comparable clearly erroneous rules of certain other exchanges relating to clearly erroneous executions in: (i) Leverage ETF/ETNs; and (ii) unlisted trading privileges securities that are subject to an initial public offering.²⁴²

The Exchange believes that its proposed process for BSTX Participants to appeal clearly erroneous execution determinations made by an Exchange Official pursuant to proposed Rule 25110 to the Chief Regulatory Officer of BSTX is consistent with Section 6(b)(5) of the Exchange Act²⁴³ because it promotes just and equitable principles of trade and fosters cooperation and coordination with persons regulating, settling, and facilitating transactions in

Official acting on his or her own motion, trading halts, multi-day trading events, multi-stock events involving five or more (but less than twenty) securities whose executions occurred within a period of five minutes or less, multi-stock events involving twenty or more securities whose executions occurred within a period of five minutes or less, and securities subject to the LULD Plan.

²⁴¹ Other exchange clearly erroneous rules reference removing trades from the Consolidated Tape. Because security token transactions will be reported pursuant to a separate transaction reporting plan, proposed Rule 25110 eliminates references to the “Consolidated Tape” and provides that clearly erroneous security token transactions will be removed from “all relevant data feeds disseminating last sale information for security token transactions.” See proposed Rule 25110(a).

²⁴² The Exchange notes that not all equities exchanges have a provision with respect to trade nullification for UTP securities that are the subject of an initial public offering. See IEX Rule 11.270. With respect to leveraged ETFs/ETNs, the Exchange does not expect to support trading of such products at this time, so the Exchange does not believe it is necessary to include provisions related to them.

²⁴³ 15 U.S.C. 78f(b)(5).

securities by providing a clear and expedient process to appeal determinations made by an Official. BSTX Participants benefit from having a quick resolution to potentially clearly erroneous executions and giving the Chief Regulatory Officer discretion to decide any appeals of an Official's determination provides an efficient means to resolve potential appeals that applies equally to all BSTX Participants and therefore does not permit unfair discrimination among BSTX Participants, consistent with Section 6(b)(5) of the Exchange Act. The Exchange notes that, with respect to options trading on the Exchange, the Exchange's Chief Regulatory Officer similarly has sole authority to overturn or modify obvious error determinations made by an Exchange Official and that such determination constitutes final Exchange action on the matter at issue.²⁴⁴ In addition, proposed Rule 25110(e)(2)(iii) provides that any determination made by an Official or the Chief Regulatory Officer of BSTX under proposed Rule 25110 shall be rendered without prejudice as to the rights of the parties to the transaction to submit their dispute to arbitration. Accordingly, there is an additional safeguard in place for BSTX Participants to seek further review of the Exchange's clearly erroneous determination.

To the extent security tokens become tradeable on other national securities exchanges or other changes arise that may necessitate changes to proposed Rule 25110 to conform more closely with the clearly erroneous execution rules of other exchanges, the Exchange intends to implement changes as necessary through a proposed rule change filed with the Commission pursuant to Section 19 of the Exchange Act²⁴⁵ at such future date.

²⁴⁴ See BOX Rule 7170(n).

²⁴⁵ 15 U.S.C. 78s.

13. Rule 25120 – Short Sales

Proposed Rule 25120 sets forth certain requirements with respect to short sale orders submitted to the BSTX System that is virtually identical to similar rules on other exchanges.²⁴⁶ Specifically, proposed Rule 25120 requires BSTX Participants to appropriately mark orders as long, short, or short exempt and provides that the BSTX System will not execute or display a short sale order not marked short exempt with respect to a “covered security”²⁴⁷ at a price that is less than or equal to the current national best bid if the price of that security decreases by 10% or more, as determined by the listing market for the covered security, from the covered security’s closing price on the listing market as of the end of Regular Trading Hours on the prior day (the “Trigger Price”). The proposed rule further specifies the duration of the “Short Sale Price Test” and that the BSTX System shall determine whether a transaction in a covered security has occurred at a Trigger Price and shall immediately notify the responsible single plan processor.²⁴⁸

The Exchange believes that proposed Rule 25120 is consistent with Section 6(b)(5) of the Exchange Act,²⁴⁹ because it would promote just and equitable principles of trade and further the protection of investors and the public interest by enforcing rules consistent with Regulation SHO. Pursuant to Regulation SHO, broker-dealers are required to appropriately mark orders as

²⁴⁶ See e.g., IEX Rule 11.290.

²⁴⁷ Proposed Rule 25120(b) provides that the terms “covered security,” “listing market,” and “national best bid” shall have the same meaning as in Rule 201 of Regulation SHO. 17 CFR 242.201(a).

²⁴⁸ Proposed Rule 25120(d). The proposed rule further provides in paragraph (d)(1) that if a covered security did not trade on BSTX on the prior trading day, BSTX’s determination of the Trigger Price shall be based on the last sale price on the BSTX System for that security token on the most recent day on which the security token traded.

²⁴⁹ 15 U.S.C. 78f(b)(5).

long, short, or short exempt,²⁵⁰ and trading centers are required to establish, maintain, and enforce written policies and procedures reasonably designed to, among other things, prevent the execution or display of a short sale order of a covered security at a price that is less than or equal to the current national best bid if the price of that covered security decreases by 10% or more from its closing price on the primary listing market on the prior day.²⁵¹ Proposed Rule 25120 is designed to promote compliance with Regulation SHO, is nearly identical to similar rules of other exchanges, and would apply equally to all BSTX Participants.

14. Rule 25130 – Locking or Crossing Quotations in NMS Stocks

Proposed Rule 25130 sets forth provisions related to locking or crossing quotations. The proposed rule is substantially similar to the rules of other national securities exchanges.²⁵² Proposed Rule 25130 is designed to promote compliance with Regulation NMS and prohibits BSTX participants from engaging in a pattern or practice of displaying quotations that lock or cross a protected quotation unless an exception applies. The Exchange notes that there may be no other national securities exchanges trading security tokens upon the launch of BSTX that may be displaying protected quotations. Notwithstanding that there may be no other away markets displaying a protected quotation when trading on BSTX commences, the Exchange proposes in Rule 25130(d) that the BSTX System will reject any order or quotation that would lock or cross a protected quotation of another exchange at the time of entry.

The Exchange believes proposed Rule 25130 is consistent with Section 6(b)(5) of the Exchange Act²⁵³ because it is designed to promote just and equitable principles of trade and

²⁵⁰ 17 CFR 242.200(g).

²⁵¹ 17 CFR 242.201(b)(1).

²⁵² See IEX Rule 25130.

²⁵³ 15 U.S.C. 78f(b)(5).

foster cooperation and coordination with persons facilitating transactions in securities by ensuring that the Exchange prevents display of quotations that lock or cross any protected quotation in an NMS stock, in compliance with applicable provisions of Regulation NMS.

15. Rule 25140 – Clearance and Settlement: Anonymity

Proposed Rule 25140 provides that each BSTX Participant must either (1) be a member of a registered clearing agency that uses a CNS system, or (2) clear transactions executed on the Exchange through another Participant that is a member of such a registered clearing agency. The Exchange would maintain connectivity and access to the UTC of NSCC for transmission of executed transactions. The proposed Rule requires a Participant that clears through another participant to obtain a written agreement, in a form acceptable to the Exchange, that sets out the terms of such arrangement. The proposed Rule also provides that BSTX transaction reports shall not reveal contra party identities and that transactions would be settled and cleared anonymously. In certain circumstances, such as for regulatory purposes, the Exchange may reveal the identity of a Participant or its clearing firm such as to comply with a court order.

The Exchange believes that proposed Rule 25140 is consistent with Section 6(b)(5) of the Exchange Act²⁵⁴ because it would foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. Proposed Rule 25140 is similar to rules of other exchanges relating to clearance and settlement.²⁵⁵

²⁵⁴ 15 U.S.C. 78f(b)(5).

²⁵⁵ See e.g. IEX Rule 11.250.

J. Market Making on BSTX (Rule 25200 Series)

The BSTX Market Making Rules (Rules 25200 – 25240) provide for registration and describe the obligations of Market Makers on the Exchange. The proposed Market Making Rules also provide for registration and obligations of Designated Market Makers (“DMMs”) in a given security token, allocation of a DMM to a particular security token, and parameters for business combinations of DMMs.

Proposed Rule 25200 sets forth the basic registration requirement for a BSTX Market Maker by noting that a Market Maker must enter a registration request to BSTX and that such registration shall become effective on the next trading day after the registration is entered, or, in the Exchange’s discretion, the registration may become effective the day that it is entered (and the Exchange will provide notice to the Market Maker in such cases). The proposed Rule further provides that a BSTX Market Maker’s registration shall be terminated by the Exchange if the Market Maker fails to enter quotations within five business days after the registration becomes effective.²⁵⁶

Proposed Rule 25210 sets forth the obligations of Market Makers, including DMMs. Under the proposed Rule, a BSTX Participant that is a Market Maker, including a DMM, is generally required to post two-sided quotes during the regular market session for each security token in which it is registered as a Market Maker.²⁵⁷ The Exchange proposes that such quotes must be entered within a certain percentage, called the “Designated Percentage,” of the National Best Bid (Offer) price in such security token (or last sale price, in the event there is no National

²⁵⁶ Proposed Rule 25200 is substantially similar to IEX Rule 11.150.

²⁵⁷ See proposed Rule 25210(a)(1).

Best Bid (Offer)) on the Exchange.²⁵⁸ The Exchange proposes that the Designated Percentage would be 30%.²⁵⁹ The Exchange notes that the proposed Designated Percentage is substantially similar to the corresponding Designated Percentage for NYSE American market makers with respect to Tier 2 NMS stocks (as defined under the LULD plan).²⁶⁰ The Exchange believes that the proposed Designated Percentage for quotation obligations of Market Makers would be sufficient to ensure that there is adequate liquidity sufficiently close to the National Best Bid or Offer (“NBBO”) in security tokens and to ensure fair and orderly markets. The Exchange notes that pursuant to proposed Rule 25210(a)(1)(iii), there is nothing to preclude a Market Maker from entering trading interest at price levels that are closer to the NBBO, so Market Makers have the ability to quote must closer to the NBBO than required by the Designated Percentage requirement if they so choose.

The Exchange proposes in Rule 25210(a)(4) that, in the event that price movements cause a Market Maker or DMM’s quotations to fall outside of the National Best Bid (Offer) (or last sale price in the event there is no National Best Bid (Offer)) by a given percentage, with such percentage called the “Defined Limit,” in a security token for which they are a Market Maker, the Market Maker or DMM must enter a new bid or offer at not more than the Designated Percentage away from the National Best Bid (Offer) in that security token. The Exchange proposes that the Defined Limit shall be 31.5%.²⁶¹ Under the proposed Rules, a Market Maker’s

²⁵⁸ See proposed Rule 25210(a)(1)(ii)(A).

²⁵⁹ See proposed Rule 25210(a)(1)(ii)(B).

²⁶⁰ See NYSE American Rule 7.23E(a)(1)(B)(iii) (providing that, other than during certain time periods around the market open and close, the Designated Percentage for Tier 2 NMS stocks priced below \$1.00 is 30% and for Tier 2 NMS stocks priced above \$1.00 is 28%).

²⁶¹ See proposed Rule 25210(a)(1)(ii)(3).

quotations must be firm and automatically executable for their size, and, to the extent the Exchange finds that a Market Maker has a substantial or continued failure to meet its quotation obligations, such Market Maker may face disciplinary action from the Exchange.²⁶² Under the proposed Market Maker and DMM Rules, Market Makers and DMMs' two-sided quotation obligations must be maintained for a quantity of a "normal unit of trading" which is defined as one security token.²⁶³ The Exchange believes that security tokens may initially trade in smaller increments relative to other listed equities and that reducing the two-sided quoting increment from one round lot (i.e., 100 shares) to one security token will be sufficient to meet liquidity demands and would make it easier for Market Makers and DMMs to meet their quotation obligations, which in turn incentivize more Market Maker participation.

The Exchange notes that proposed Rule 25210 is substantially similar to NYSE American Rule 7.23E, with the exceptions of: (i) the modified normal unit of trading, Designated Percentage, and Defined Limit (as discussed above); (ii) specifying that the minimum quotation increment shall be \$0.01; and (iii) specifying that Market Maker quotations must be firm for their displayed size and automatically executable. The Exchange believes that the additional specifications with respect to the minimum quotation increment and firm quotation requirement will add additional clarity to the expectations of Market Makers on the Exchange.

Proposed Rule 25220 sets forth the registration requirements for a DMM. Under proposed Rule 25220, a DMM must be a registered Market Maker and be approved as a DMM in

²⁶² See proposed Rule 25210(b) and (c). Pursuant to proposed Rule 25310(d), a BSTX Market Maker, other than a DMM, may apply for a temporary withdrawal from its Market Maker status provided it meets certain conditions such as demonstrating legal or regulatory requirements that necessitate its temporary withdrawal.

²⁶³ See proposed Rule 25210(a)(1).

order to receive an allocation of security tokens pursuant to proposed Rule 25230, which is described below.²⁶⁴ For security tokens in which a Participant serves as a DMM, it must meet the same obligations as if it were a Market Maker and must also maintain a bid or offer at the National Best Bid and Offer at least 25% of the day measured across all security tokens in which such Participant serves as DMM.²⁶⁵ The proposed Rule provides, among other things, that there will be no more than one DMM per security token and that a DMM must maintain information barriers between the trading unit operating as a DMM and the trading unit operating as a BSTX Market Maker in the same security token (to the extent applicable).²⁶⁶ The Rule further provides a process by which a DMM may temporarily withdraw from its DMM status, which is similar to the same process for a BSTX Market Maker²⁶⁷ and similar to the same process for DMMs on other exchanges.²⁶⁸ The Exchange notes that proposed Rule 25220 is substantially similar to NYSE American Rule 7.24E with the exception that the Exchange proposes to add a provision stating that the Exchange is not required to assign a DMM if the security token has an adequate number of BSTX Market Makers assigned to such security token. The purpose of this requirement is to acknowledge the possibility that a security token need not necessarily have a DMM provided that each security token has been assigned at least three active Market Makers at initial listing and two Market Makers for continued listing, consistent with proposed Rule 26106 (Market Maker Requirement), which is discussed further below.

²⁶⁴ See proposed 25220(b). DMMs would be approved by the Exchange pursuant to an application process an [sic]

²⁶⁵ See proposed Rule 25220(c).

²⁶⁶ See proposed Rule 25220(b).

²⁶⁷ See proposed Rule 25210(d).

²⁶⁸ See e.g., NYSE American Rule 7.24E(b)(4).

In proposed Rule 25230, the Exchange proposes to set forth the process by which a DMMs are allocated and reallocated responsibility for a particular security token. Proposed Rule 25230(a) sets forth the basic eligibility criteria for a when a security token may be allocated to a DMM, providing that this may occur when the security token is initially listed on BSTX, when it is reassigned pursuant to Rule 25230, or when it is currently listed without a DMM assigned to the security token.²⁶⁹ Proposed Rule 2530(a) also specifies that a DMM's eligibility to participate in the allocation process is determined at the time the interview is scheduled by the Exchange and specifies that a DMM must meet with the quotation requirements set forth in proposed Rule 25220(c) (DMM obligations). The proposed Rule further specifies how the Exchange will handle several situations in which the DMM does not meet its obligations, such as, for example, by issuing an initial warning advising of poor performance if the DMM fails to meet its obligations for a one-month period.²⁷⁰

Proposed Rule 25230(b) sets forth the manner in which a DMM may be selected and allocated a security token. Under proposed Rule 25230(b), an issuer may select its DMM directly, delegate the authority to the Exchange to select its DMM, or may opt to proceed with listing without a DMM, in which case a minimum of three non-DMM Market Makers at initial listing and two non-DMM Market Makers for continued listing must be assigned to its security token consistent with proposed Rule 26106. Proposed Rule 25230(b) further sets forth

²⁶⁹ As previously noted, pursuant to proposed Rule 26106, a security token may, in lieu of having a DMM assigned to it, have a minimum of three non-DMM Market Makers at initial listing and two non-DMM Market Makers for continued listing to be eligible for listing on the Exchange. Consequently, a security token might not have a DMM when it initially begins trading on BSTX, but may acquire a DMM later.

²⁷⁰ See proposed Rule 25230(a)(4). The proposed handling of these scenarios where a DMM does not meet its obligations is substantially similar to parallel requirements in NYSE American Rule 7.25E(a)(4).

provisions relating to the interview between the issuer and DMMs, the Exchange selection by delegation, and a requirement that a DMM serve as a DMM for a security token for at least one year unless compelling circumstances exist for which the Exchange may consider a shorter time period. Each of these provisions is substantially similar to corresponding provisions in NYSE American Rule 7.25E(b)(1)-(3), with the exception that the Exchange may shorten the one year DMM commitment period in compelling circumstances.²⁷¹ Proposed Rule 25230(b) further sets forth specific provisions related to a variety of different issuances and types of securities, including spin-offs or related companies, warrants, rights, relistings, equity security token listing after preferred security token, listed company mergers, target security tokens, and closed-end management investment companies.²⁷² Each of these provisions is substantially similar to corresponding provisions in NYSE American Rule 7.25E(b)(4)-(11).

Proposed Rule 25230(c) sets forth the reallocation process for a DMM in a manner that is substantially similarly to corresponding provisions in NYSE American Rule 7.25E(c). Generally, under the proposed Rule, an issuer may request a reallocation to a new DMM and Exchange staff will review this request, along with any DMM response letter, and eventually make a determination.²⁷³ Proposed Rule 25230(d), (e), and (f), set forth provisions governing an

²⁷¹ The Exchange believes that providing the Exchange with flexibility to shorten the one year commitment period is appropriate to accommodate unforeseen events or circumstances that might arise with respect to a DMM, such as a force majeure event, preventing a DMM from being able to carry out its functions.

²⁷² See proposed Rule 25230(b)(4)-(11).

²⁷³ In addition, proposed Rule 25230(c)(2) sets forth provisions that allow for the Exchange's CEO to immediately initiate a reallocation proceeding upon written notice to the DMM and the issuer when the DMM's performance in a particular market situation was, in the judgment of the Exchange, so egregiously deficient as to call into question the Exchange's integrity or impair the Exchange's reputation for maintaining an efficient, fair, and orderly market.

allocation freeze, allocation sunset, and criteria for applicants that are not currently DMMs to be eligible to be allocated a security token as a DMM respectively. Each of these provisions are likewise substantially similar to corresponding provisions in NYSE American Rule 7.25E(d)-(f).

Finally, proposed Rule 25240 sets forth the DMM combination review policy. The proposed Rule, among other things, defines a proposed combination among DMMs, requires that DMMs provide a written submission to the Office of the Corporate Secretary of the Exchange and specifies, among other things, the items to be disclosed in the written submission, the criteria that the Exchange will use to evaluate a proposed combination, and the timing for a decision by the Exchange, subject to the Exchange's right to extend such time period. The Exchange notes that proposed Rule 25240 is substantially similar to NYSE American Rule 7.26E.

The Exchange believes that the proposed Market Making Rules set forth in the Rule 25200 Series are consistent with Section 6(b)(5) of the Exchange Act²⁷⁴ because they are designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange notes that the proposed Rules are substantially similar to the market making rules of other exchanges, as detailed above,²⁷⁵ and that all BSTX Participants are eligible to become a Market Maker or DMM provided they comply with the proposed requirements.²⁷⁶ The proposed Market Maker Rules set forth the quotation and related expectations of BSTX Market Makers which the

²⁷⁴ 15 U.S.C. 78f(b)(5).

²⁷⁵ See NYSE American Rule 7, Section 2.

²⁷⁶ In this regard, the Exchange believes the proposed Market Making Rules are not designed to permit unfair discrimination between BSTX Participants, consistent with Section 6(b)(5) of the Exchange Act. 15 U.S.C. 78f(b)(5).

Exchange believes will help ensure that there is sufficient liquidity in security tokens. Although the corresponding NYSE American rules upon which the proposed Rules are based provide for multiple tiers and classes of stocks that were each associated with a different Designated Percentage and Defined Limit, the Exchange has collapsed all such classes in to one category and provided a single Designated Percentage of 30% and Defined Limit of 31.5% for all security token trading on BSTX. The Exchange believes that simplifying the Rules in this manner can reduce the potential for confusion and allows for easier compliance and will still adequately serve the liquidity needs of investors of security token investors, which the Exchange believes promotes the removal of impediments to and perfection of the mechanism of a free and open market and a national market system, consistent with Section 6(b)(5) of the Exchange Act.²⁷⁷

The Exchange has also proposed that the minimum quotation size of Market Makers will be one security token. As noted above, the Exchange believes that security tokens may initially trade in smaller increments relative to other listed equities and that reducing the two-sided quoting increment from one round lot (i.e., 100 shares) to one security token would be sufficient to meet liquidity demands and would make it easier for Market Makers and DMMs to meet their quotation obligations, which in turn incentivize more Market Maker participation. The Exchange believes that adopting quotation requirements and parameters that are appropriate for the nature and types of securities that will trade on the Exchange will promote the protection of investors and the public interest by assuring that the Exchange Rules are appropriately tailored to its market.

²⁷⁷ 15 U.S.C. 78f(b)(5).

K. BSTX Listing Rules (Rule 26000 and 27000 Series)

The BSTX Listing Rules, which include the Rule 26000 and 27000 Series, have been adapted from, and are substantially similar to, Parts 1 – 12 of the NYSE American LLC Company Guide.²⁷⁸ Except as described below, each proposed Rule in the BSTX 26000 and 27000 series is substantially similar to a Section of the NYSE American Company Guide.²⁷⁹ Below is further detail.

- The BSTX Listing Rules (26100 series) are based on the NYSE American Original Listing Requirements (Sections 101-146).²⁸⁰
- The BSTX Original Listing Procedures (26200 series) are based on the NYSE American Original Listing Procedures (Sections 201 – 222).
- The BSTX Additional Listings Rules (26300 series) are based on the NYSE American Additional Listings Sections (Sections 301- 350).
- The BSTX Disclosure Policies (26400 series) are based on the NYSE American Disclosure Policies (Sections 401-404).

²⁷⁸ All references to various “Sections” in the discussion of these Listing Rules refer to the various Sections of the NYSE American Company Guide.

²⁷⁹ The Exchange notes that while the numbering of BSTX’s Listing Rules generally corresponds to a Section of the NYSE American LLC Company Guide, BSTX did not integrate certain Sections of the NYSE American Company Guide that the Exchange deemed inapplicable to its operations, such as with respect to types of securities which the Exchange is not proposing to make eligible for listing (e.g., foreign issuers, other than those from Canada). Further, the Exchange formulated a small amount of new rules to reflect requirements relating to the use of blockchain technology as an ancillary recordkeeping mechanism, as described more fully herein. The Exchange also proposes to modify cross-references in the proposed Listing Rules to accord with its Rules.

²⁸⁰ Pursuant to proposed Rule 26135, all securities initially listing on BSTX, except securities which are book-entry only, must be eligible for a Direct Registration Program operated by a clearing agency registered under Section 17A of the Exchange Act. 15 U.S.C. 78q-1.

- The BSTX Dividends and Splits Rules (26500 series) are based on the NYSE American Dividends and Stock Splits Sections (Sections 501-522).
- The BSTX Accounting; Annual and Quarterly Reports Rules (26600 series) are based on the NYSE American Accounting; Annual and Quarterly Reports Sections (Sections 603-624).
- The BSTX Shareholders' Meetings, Approval and Voting of Proxies Rules (26700 series) are based on the NYSE American Shareholders' Meetings, Approval and Voting of Proxies Sections (Sections 701-726).²⁸¹
- The BSTX Corporate Governance Rules (26800 series) are based on the NYSE American Corporate Governance Sections (Sections 801-809).
- The BSTX Additional Matters Rules (26900 series) are based on the NYSE American Additional Matters Sections (Sections 920-994).
- The BSTX Suspension and Delisting Rules (27000 series) are based on the NYSE American Suspension and Delisting Sections (Sections 1001-1011).
- The BSTX Guide to Filing Requirements (27100 series) are based on the NYSE American Guide to Filing Requirements (Section 1101).
- The BSTX Procedures for Review of Exchange Listing Determinations (27200 series) are based on the NYSE American Procedures for Review of Exchange Listing Determinations (Sections 1201-1211).

²⁸¹ The Exchange notes that the proposed fees for certain items in the proposed Listing Rules (e.g., proxy follow-up mailings) are the same as those charged by NYSE American. See e.g., proposed IM-26722-8 cf. NYSE American Section 722.80.

Notwithstanding that the proposed BSTX Listing Rules are substantially similar to those of other exchanges, BSTX proposes certain additions or modifications to these rules specific to its market. For example, BSTX proposes to add definitions that apply to the proposed BSTX Listing Rules. The definitions set forth in proposed Rule 26000 are designed to facilitate understanding of the BSTX Listing Rules by market participants. Increased clarity may serve to remove impediments to and perfect the mechanism of a free and open market and a national market system and may also foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, consistent with Section 6(b)(5) of the Exchange Act.²⁸²

With respect to initial listing standards, which begin at proposed Rule 26101, the Exchange proposes to adopt listing standards that are substantially similar to the NYSE American listing rules.²⁸³ The Exchange believes that adopting listing rules similar to those in place on other national securities exchanges will facilitate more uniform standards across

²⁸² 15 U.S.C. 78f(b)(5).

²⁸³ See NYSE American Section 101. The Exchange understands that the Commission has extended relief to NYSE American with respect to certain quantitative listing standards that do not meet the thresholds of SEC Rule 3a51-1. 17 CFR 240.3a51-1. Initial listings of securities that do not meet such thresholds and are not subject to the relief provided to NYSE American would qualify as “penny stocks” and would be subject to additional regulation. BSTX notes that it is not seeking relief related to SEC Rule 3a51-1 and therefore has clarified proposed Rule 26101(a)(2) to ensure that issuers have at least one year of operating history. BSTX will also require new listings pursuant to proposed Rule 26102 to have a public distribution of 1 million security tokens, 400 public security token holders, and a minimum market price of \$4 per security token. These provisions meet the requirements in SEC Rule 3a51-1 and are consistent with the rules of other national securities exchanges. See e.g., Nasdaq Rule 5510. The quantitative thresholds specified in Rule 26102 are also reflected in the Sample Underwriter’s Letter that is Exhibit 3M to this proposal. In addition, the Exchange notes that proposed Rule 26140, which governs the additional listing requirements of a company that is affiliated with the Exchange, is based on similar provisions in NYSE American Rule 497 and IEX 14.205.

exchanges, which helps foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, consistent with Section 6(b)(5) of the Exchange Act.²⁸⁴ Market participants that are already familiar with NYSE American's listing standards will already be familiar with most of the substance of the proposed listing rules. The Exchange also believes that adopting proposed listing standards that closely resemble those of NYSE American may also foster competition among listing exchanges for companies seeking to publicly list their securities. The Exchange is proposing an addition (relative to the NYSE American listing rules) to the initial listing standards for preferred security tokens.²⁸⁵ Specifically, the Exchange proposes an additional standard for preferred security tokens to list on the Exchange based on NASDAQ Rule 5510.²⁸⁶ The Exchange believes a proposed rule providing an additional initial listing standard for preferred security tokens consistent with a similar provision of NASDAQ would expand the possible universe of issuances that would be eligible to list on the Exchange to include preferred security tokens. The Exchange believes that such a rule would help remove impediments to and perfect the mechanism of a free and open market and a national market system, consistent with Section 6(b)(5) of the Exchange Act by giving issuers an additional means by which it could list a different type of security (i.e., a preferred security token) and investors the opportunity to trade in such preferred security tokens.²⁸⁷ Further, consistent with the public interest, rules that

²⁸⁴ 15 U.S.C. 78f(b)(5).

²⁸⁵ See proposed Rule 26103.

²⁸⁶ See proposed Rule 26103(b)(2). Preferred Security Token Distribution Standard 2 requires that a preferred security token listing satisfy the following conditions: minimum bid price of at least \$4 per security token; at least 10 Round Lot holders; at least 200,000 Publicly Held Security Tokens; and Market Value of Publicly Held Security Tokens of at least \$3.5 million.

²⁸⁷ 15 U.S.C. 78f(b)(5).

provide more opportunity for listings may promote competition among listing exchanges and capital formation for issuers.

In certain instances, BSTX proposes to add additional provisions not currently provided for in the NYSE American LLC Company Guide that are specific to security tokens. For example, pursuant to proposed Rule 26230(a) (Security Token Architecture Responsibility and Audit), prior to approving a security token for trading on BSTX, the Exchange would conduct an audit of the security token's architecture to ensure compliance with the BSTX Protocol as outlined in Rule 26138.²⁸⁸ The purpose of this requirement is to ensure that the design and structure of a prospective BSTX-listed company's security token is compatible with the BSTX Protocol for purposes of facilitating updates to the blockchain as an ancillary recordkeeping mechanism. The Exchange may use third party service providers that have demonstrated sufficient technical expertise in blockchain technology and an understanding of the BSTX Protocol to conduct this audit on behalf of the Exchange. To the extent an issuer looking to list its shares on BSTX as security tokens failed the audit by BSTX of its security token architecture, the issuer would not meet the requirements of BSTX's listing rules and would therefore not be permitted to list its shares on BSTX until it successfully passed the security token audit.²⁸⁹

Further, the Exchange proposes that Rule 26230(b) would provide that a listed company (i.e., issuer) remains responsible for ensuring that its security token remains compatible with the

²⁸⁸ Proposed Rule 26230 further provides that an applicant that is denied pursuant to this section may appeal the decision via the process outlined in the Rule 27200 Series.

²⁸⁹ The Exchange expects that some issuers may choose to use an outside vendor to help build their security token in a manner that complies with the BSTX Security Token Protocol. The BSTX Security Token Protocol is open-source, so there is no need to use any particular vendor over another. The Exchange understands that there are numerous technology companies that offer these services, and issuers would be free to select one of their choosing.

BSTX Protocol and accurately reflects the number of shares outstanding. The Exchange recognizes that, in certain circumstances, it may be necessary for a listed company to modify certain aspects of the smart contract corresponding to a security token. For example, in the case of a stock split, a listed company may need to increase the total supply of security tokens as programmed into its security token smart contract. Proposed Rule 26230(b) would provide that notice of any such modification of the smart contract corresponding to a security token (e.g., to increase the total supply) must be provided to the Exchange at least five calendar days in advance of implementation to allow the Exchange to audit the proposed modification.²⁹⁰ While the Exchange believes that five calendar days will provide sufficient time for it to ensure that a security token is appropriately updated in advance of any implementation, the Exchange recognizes that there could conceivably be circumstances in which a change takes longer than expected to implement. Accordingly, the Exchange proposes that Rule 26230(b) would also provide that, to the extent additional time is needed to appropriately implement the modification, the Exchange may exercise its authority to suspend the ancillary recordkeeping process pursuant to Rule 17020(e). The Exchange notes that the primary circumstances under which a modification to a smart contract corresponding to a security token may be necessary is where there is a change to the total supply of the security token, which could occur in the case of a stock split, a reverse stock split, a buy-back, or a dividend in kind. The Exchange notes that any delay in the implementation of a change to a smart contract that corresponds to a security token shall in no way impact the record date or ex-dividend date for any dividend, distribution, or other

²⁹⁰ The Exchange expects that it will work with issuers to help ensure that there security tokens comply with the BSTX Protocol. However, as with all Exchange Rules, failure to comply could result in potential suspension and delisting in accordance with the Rule 27000 Series.

action. The Exchange believes that proposed Rule 26230 would foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, consistent with Section 6(b)(5) of the Exchange Act,²⁹¹ because it facilitates the ancillary recordkeeping mechanism for BSTX-listed security tokens which is a first step toward the potential integration of blockchain technology to securities transactions. Without ensuring that BSTX-listed companies' security tokens are compatible with the BSTX Protocol, the use of blockchain technology as an ancillary recordkeeping mechanism could be impaired.

With respect to the definitions in proposed Rule 26000, these are designed to facilitate understanding of the BSTX Listing Rules by market participants. The Exchange believes that allowing market participants to better understand and interpret the BSTX Listing Rules removes impediments to and perfects the mechanism of a free and open market and a national market system, and may also foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, consistent with Section 6(b)(5) of the Exchange Act.²⁹²

The Exchange also proposes certain enhancements to the notice requirements for listed companies to communicate to BSTX related to record dates and defaults.²⁹³ The Exchange believes that these additional disclosure and communication obligations can help BSTX in monitoring for listed company compliance with applicable rules and regulations; such additional

²⁹¹ Id.

²⁹² Id.

²⁹³ See Proposed Rule 26502, which requires, among other things, a listing company to give the Exchange at least ten days' notice in advance of a record date established for any other purpose, including meetings of shareholders.

disclosure obligations are designed 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, consistent with Section 6(b)(5) of the Exchange Act.²⁹⁴

The Exchange’s proposed Rules provide additional flexibility for listed companies in choosing how liquidity would be provided in their listings by allowing listed companies to meet either the DMM Requirement or Active Market Maker Requirement for initial listing and continued trading.²⁹⁵ Pursuant to proposed Rule 26205, a company may choose to be assigned a DMM by the Exchange or to select its own DMM.²⁹⁶ Alternatively, a company may elect, or the

²⁹⁴

Id.

²⁹⁵

See proposed Rule 26205. BSTX-listed security tokens must meet the criteria specified in proposed Rule 26106, which provides that unless otherwise provided, all security tokens listed pursuant to the BSTX Listing Standards must meet one of the following requirements: (1) the DMM Requirement whereby a DMM must be assigned to a given security token; or (2) the Active Market Maker Requirement which states that (i) for initial inclusion the security token must have at least three registered and active Market Makers, and (ii) for continued listing, a security token must have at least two registered and active Market Makers, one of which may be a Market Maker entering a stabilizing bid.

²⁹⁶

Exchange personnel responsible for managing the listing and onboarding process will be responsible for determining to which DMM a security token will be assigned. As provided in proposed Rule 26205, the Exchange makes every effort to see that each security token is allocated in the best interests of the company and its shareholders, as well as that of the public and the Exchange. Similarly, the Exchange anticipates that these same personnel will be responsible for answering questions relating to the Exchange’s listing rules pursuant to proposed Rule 26994 (New Policies). The Exchange notes that certain provisions in the NYSE American Listing Manual contemplate a “Listing Qualifications Analyst” that would perform a number of these functions. The Exchange is not proposing to adopt provisions that specifically contemplate a “Listing Qualifications Analyst,”

Exchange may determine, that, in lieu of a DMM, a minimum of three (3) market makers would be assigned to the security token at initial listing; such requirement may be reduced to two (2) market makers following the initial listing, consistent with proposed Rule 26106. The Exchange believes that such additional flexibility would promote the removal of impediments to and perfection of the mechanism of a free and open market and a national market system, consistent with Section 6(b)(5) of the Exchange Act.²⁹⁷ The Commission has previously approved exchange rules providing for three market makers to be assigned to a particular security upon initial listing and only two for continued listing.²⁹⁸ In accordance with these previously approved rules, the Exchange believes proposed Rule 26205 would ensure fair and orderly markets and would facilitate the provision of sufficient liquidity for security tokens.

The Exchange also proposes a number of other non-substantive changes from the baseline NYSE American listing rules, such as to eliminate references to the concept of a “specialist,” since BSTX will not have a specialist,²⁹⁹ or references to certificated equities, since security tokens will be uncertificated equities.³⁰⁰ As another example, NYSE American Section

but expects to have personnel that will perform the same basic functions, such as advising issuers and prospective issuers with respect to the BSTX Listing Rules.

²⁹⁷ Id.

²⁹⁸ See e.g., IEX Rule 14.206.

²⁹⁹ See e.g., NYSE American Section 513(f), noting that open orders to buy and open orders to sell on the books of a specialist on an ex rights date are reduced by the cash value of the rights. Proposed Rule 26340(f) deletes this provision because BSTX will not have specialists. Similarly, because BSTX will not have specialists, the Exchange is not proposing to adopt a parallel rule to NYSE American Section 516, which specifies that certain types of orders are to be reduced by a specialist when a security is quoted ex-dividend, ex-distribution or ex-rights are set forth in NYSE American Rule 132.

³⁰⁰ See e.g., NYSE American Section 117 including a clause relating to paired securities for which “the stock certificates of which are printed back-to-back on a single certificate”). Similarly, the Exchange has proposed to replace certain references to the “Office of General Counsel” contained in certain NYSE

623 requires that three copies of certain press releases be sent to the exchange, while the Exchange proposes only that a single copy of such press release be shared with the Exchange.³⁰¹ In addition, the Exchange proposes to adopt Rule 26720 in a manner that is substantially similar to NYSE American Section 720, but proposes to modify the internal citations to ensure consistency with its proposed Rulebook.³⁰² In its proposed Rules, the Exchange has not included certain form letters related to proxy rules that are included in the NYSE American rules;³⁰³

American Listing Rule (see e.g., Section 1205) with references to the Exchange’s “Legal Department” to accommodate differences in BSTX’s organizational structure. See proposed Rule 27204. As another example, proposed Rule 27205 refers to the Exchange’s “Hearing Committee” as defined in Section 6.08 of the Exchange’s By-Laws to similarly accommodate organizational differences between the Exchange and NYSE American.

³⁰¹ See proposed Rule 26623.

³⁰² Specifically, proposed Rule 26720 would provide that participants must comply with Rules 26720 through 26725 and BSTX’s Rule 22020 (Forwarding of Proxy and Other Issuer-Related Materials; Proxy Voting). NYSE American Section 726, upon which proposed Rule 26720 is based, includes cross-references to NYSE American’s corresponding rules to proposed Rules 26720 through 26725, and also includes cross-references to NYSE American Rules 578 through 585, for which the Exchange is not proposing corresponding rules. These NYSE American rules for which the Exchange is not proposing to adopt a parallel rule relate to certain requirements specific to proxy voting (e.g., requiring that a member state the actual number of shares for which a proxy is given – NYSE American Rule 578) or, in some cases, relate to certificated securities (e.g., NYSE American Rule 579), which would be inapplicable to the Exchange since it proposes to only list uncertificated securities. The Exchange believes that it does not need to propose to adopt parallel rules corresponding to NYSE American Rules 578-585 at this time and notes that other listing exchanges do not appear have corresponding versions of these NYSE American Rules. See e.g., Cboe BZX Rules. The Exchange believes that proposed Rule 26720 and the Exchange’s other proposed Rules governing proxies, including those referenced in proposed Rule 26720, are sufficient to govern BSTX Participants’ obligations with respect to proxies.

³⁰³ The forms found in NYSE American Section 722.20 and 722.40 will be included in the BSTX Listing Supplement.

instead, these forms will be included in the BSTX Listing Supplement.³⁰⁴ The Exchange is not proposing to adopt provisions relating to future priced securities at this time.³⁰⁵ In addition, the Exchange is not proposing to allow for listing of foreign companies, other than Canadian companies,³⁰⁶ or to allow for issuers to transfer their existing securities to BSTX.³⁰⁷ Similarly,

³⁰⁴ The BSTX Listing Supplement would contain samples of letters containing the information and instructions required pursuant to the proxy rules to be given to clients in the circumstances indicated in the appropriate heading. These are intended to serve as examples and not as prescribed forms. Participants would be permitted to adapt the form of these letters for their own purposes provided all of the required information and instructions are clearly enumerated in letters to clients. Pursuant to proposed Rule 26212, the BSTX Listing Supplement would also include a sample application for original listing, which the Exchange has included as Exhibit 3G. In addition, proposed Rule 26350 states that the BSTX Listing Supplement will include a sample cancellation notice; the Exchange expects such notice to be substantially in the same form as NYSE American's sample notice in NYSE American Section 350. Other examples of items that would appear in the BSTX Listing Supplement include certain certifications to be completed by the CEO of listed companies pursuant to proposed Rule 26810(a) and (c), and forms of letters to be sent to clients requesting voting instructions and other letters relating to proxy votes pursuant to proposed IM-26722-2 and IM-26722-4. The Exchange expects that these proposed materials in the BSTX Listing Supplement will be substantially similar to the corresponding versions of such samples used by NYSE American. The purpose of putting these sample letters and other information into the BSTX Listing Supplement rather than directly in the rules is to improve the readability of the Rules.

³⁰⁵ See e.g., NYSE American Section 101, Commentary .02. The Exchange is also not proposing to adopt a parallel provision to NYSE American Section 950 (Explanation of Difference between Listed and Unlisted Trading Privileges) because the Exchange believes that such provision is not necessary and contains extraneous historical details that are not particularly relevant to the trading of security tokens. The Exchange notes that numerous other listing exchanges do not have a similar provision to NYSE American Section 950. See e.g., IEX Listing Rules.

³⁰⁶ See proposed Rule 26109. Because the Exchange does not propose to allow foreign issuers of security tokens, it does not propose to adopt a parallel provision to NYSE American Section 110 and other similar provisions relating to foreign issuers – e.g., NYSE American Section 801(f).

³⁰⁷ Consequently, the Exchange does not propose to adopt a parallel provision to NYSE American Section 113 at this time.

the Exchange is not proposing at this time to support security token debt securities, so the Exchange has not proposed to adopt certain provisions from the NYSE American Listing Manual related to bonds/debt securities³⁰⁸ or the trading of units.³⁰⁹ The Exchange believes that the departures from the NYSE American rules upon which the proposed Rules are based, as described above, are non-substantive (e.g., by not including provisions relating to instruments that will not trade on the Exchange), would apply to all issuers in the same manner and are therefore not designed to permit unfair discrimination, consistent with Section 6(b)(5) of the Exchange Act.³¹⁰

The Exchange proposes in Rule 26507 to prohibit the issuance of fractional security tokens and to provide that cash must be paid in lieu of any distribution or part of a distribution that might result in fractional interests in security tokens.³¹¹ The Exchange believes that disallowing fractional shares reduces complexity. By extension, the requirement to provide cash in lieu of fractional shares simplifies the process related to share transfer and tracking of share ownership. The Exchange believes that this simplification promotes just and equitable principles of trade, fosters cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, removes impediments to and perfect the mechanism of a free and open market and a national

³⁰⁸ See e.g., NYSE American Sections 1003(b)(iv) and (e).

³⁰⁹ See e.g., NYSE American Sections 106(f), 401(i), and 1003(g).

³¹⁰ 15 U.S.C. 78f(b)(5).

³¹¹ The Exchange also proposes certain conforming changes in Rule 26503 (Form of Notice) to reiterate that fractional interests in security tokens are not permitted by the Exchange.

market system, and, in general, protects investors and the public interest, consistent with Section 6(b)(5) of the Exchange Act.³¹²

Proposed BSTX Rule 26130 (Original Listing Applications) would require listing applicants to furnish a legal opinion that the applicant's security token is a security under applicable United States securities laws. Such a requirement provides assurance to the Exchange that security token trading relates to appropriate asset classes. The Exchange believes that this Rule promotes just and equitable principles of trade and, in general, protects investors and the public interest, consistent with Section 6(b)(5) of the Exchange Act.³¹³

The Exchange proposes to adopt corporate governance listing standards as its Rule 26800 series that are substantially similar to the corporate governance listing standards set forth in Part 8 of the NYSE American Listing Manual. However, it includes certain clarifications, most notably that certain proposed provisions are not intended to restrict the number of terms that a director may serve³¹⁴ and that, if a limited partnership is managed by a general partner rather than a board of directors, the audit committee requirements applicable to the listed entity should be satisfied by the general partner.³¹⁵ The Exchange also notes that, unlike the current NYSE American rules upon which the proposed Rules are based, the proposed Rules on corporate governance do not include provisions on asset-asset backed securities and foreign issues (other than those from Canada), since the Exchange does not proposed to allow for such foreign issuers to list on BSTX at this time.

³¹² 15 U.S.C. 78f(b)(5).

³¹³ Id.

³¹⁴ See proposed Rule 26802(d).

³¹⁵ See proposed Rule 26801(b).

The Exchange proposes to adopt additional listing rules as its Rule 26900 series that are substantially similar to the corporate governance listing standards set forth in Part 9 of the NYSE American Listing Manual. The only significant difference from the baseline NYSE American rules is that the proposed BSTX Rules do not include provisions related to certificated securities, since security tokens listed on BSTX will be uncertificated.

The Exchange proposes to adopt suspension and delisting rules as its Rule 27000 series that are substantially similar to the corporate governance listing standards set forth in Parts 10, 11, and 12 of the NYSE American Listing Manual. The proposed rules do not include concepts from the baseline NYSE American rules regarding foreign, fixed income securities, or other non-equity securities because the Exchange is not proposing to allow for listing of such securities at this time.³¹⁶

The Exchange believes that the proposals in the Rule 26800 to Rule 27000 Series, which are based on the rules of NYSE American with the differences explained above, are designed to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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. Further, the differences in the proposals compared to the analogous NYSE American provisions appropriately reflect the differences between the two exchanges. The Exchange believes that ensuring that its systems are appropriately described in the BSTX Rules facilitates market participants' review of such Rules, which serves to remove impediments to and perfect the

³¹⁶ As with all sections of the proposed rules, references to “securities” have been changed to “security tokens” where appropriate and, in the Rule 27000 series, certain references have been conformed from the baseline NYSE American provisions to account for the differences in governance structure and naming conventions of BSTX.

mechanism of a free and open market and a national market system by ensuring that market participants can easily navigate, understand and comply with the Exchange's rulebook. Therefore, the Exchange believes its proposals are consistent with Section 6(b)(5) of the Exchange Act.³¹⁷

L. Fees (Rule 28000 Series)

The Exchange proposes to set forth as its Rule 28000 Series (Fees) the Exchange's authority to prescribe reasonable dues, fees, assessments or other charges as it may deem appropriate.³¹⁸ As provided in proposed Rule 28000 (Authority to Prescribe Dues, Fees, Assessments and Other Charges), these fees may include membership dues, transaction fees, communication and technology fees, regulatory fees, and other fees, which will be equitably allocated among BSTX Participants, issuers, and other persons using the Exchange's facilities.³¹⁹ Proposed Rule 28010 (Regulatory Revenues) generally provides that any revenues received by the Exchange from fees derived from its regulatory function or regulatory fines will not be used for non-regulatory purposes or distributed to the stockholder, but rather, shall be applied to fund

³¹⁷ 15 U.S.C. 78f(b)(5).

³¹⁸ As described above, recording information to the Ethereum blockchain requires payment of gas by the individual or entity who desires to post such a record. The payment of gas will be performed by the Wallet Manager as a service provider to the Exchange carrying out the function of updating the Ethereum blockchain as an ancillary recordkeeping mechanism. The Exchange does not plan to charge a fee to cover the costs associated with gas and updating the Ethereum blockchain. The Exchange also notes that gas costs are typically negligible and anticipates actual monthly gas expenditures to be of a de minimis amount.

³¹⁹ Proposed Rule 28000 further provides authority for the Exchange to charge BSTX Participants a regulatory transaction fee pursuant to Section 31 of the Exchange Act (15 U.S.C. 78ee) and that the Exchange will set forth fees pursuant to publicly available schedule of fees.

the legal and regulatory operations of the Exchange (including surveillance and enforcement activities).

The Exchange believes that the proposed Rule 28000 Series (Fees) is consistent with Sections 6(b)(5) of the Exchange Act because these proposed rules are designed to protect investors and the public interest by setting forth the Exchange’s authority to assess fees on BSTX Participants, which would be used to operate the BSTX System and surveil BSTX for compliance with applicable laws and rules. The Exchange believes that the proposed Rule 28000 Series (Fees) is also consistent with Sections 6(b)(3) of the Exchange Act³²⁰ because the proposed Rules specify that all fees assessed by the Exchange shall be equitably allocated among BSTX Participants, issuers and other persons using the Exchange’s facilities. The Exchange notes that the proposed Rule 28000 Series is substantially similar to the existing rules of another exchange.³²¹ The Exchange intends to submit a proposed rule change to the Commission setting forth the proposed fees relating to trading on BSTX in advance of the launch of BSTX.

IV. Minor Rule Violation Plan

The Exchange’s disciplinary rules, including Exchange Rules applicable to “minor rule violations,” are set forth in the Rule 12000 Series of the Exchange’s current Rules. Such disciplinary rules would apply to BSTX Participants and their associated persons pursuant to proposed Rule 24000. The Exchange’s Minor Rule Violation Plan (“MRVP”) specifies those uncontested minor rule violations with sanctions not exceeding \$2,500 that would not be subject to the provisions of Rule 19d-1(c)(1) under the Exchange Act³²² requiring that an SRO promptly

³²⁰ 15 U.S.C. 78f(b)(5).

³²¹ See Cboe BZX Rules 15.1 and 15.2.

³²² 17 CFR 240.19d-1(c)(1).

file notice with the Commission of any final disciplinary action taken with respect to any person or organization.³²³ The Exchange's MRVP includes the policies and procedures set forth in Exchange Rule 12140 (Imposition of Fines for Minor Violations).

The Exchange proposes to amend its MRVP and Rule 12140 to include proposed Rule 24010 (Penalty for Minor Rule Violations). The Rules included in proposed Rule 24010 as appropriate for disposition under the Exchange's MRVP are: (a) Rule 20000 (Maintenance, Retention and Furnishing of Records); (b) Rule 25070 (Audit Trail); (c) Rule 25210(a)(1) (Two-Sided Quotation Obligations of BSTX Market Makers); and Rule 25120 (Short Sales). The rules included in proposed Rule 12140 are the same as the rules included in the MRVPs of other exchanges.³²⁴ Upon implementation of this proposal, the Exchange will include the enumerated trading rule violations in the Exchange's standard quarterly report of actions taken on minor rule violations under the MRVP. The quarterly report includes: the Exchange's internal file number for the case, the name of the individual and/or organization, the nature of the violation, the specific rule provision violated, the sanction imposed, the number of times the rule violation has occurred, and the date of disposition. The Exchange's MRVP, as proposed to be amended, is consistent with Sections 6(b)(1), 6(b)(5) and 6(b)(6) of the Exchange Act,³²⁵ which require, in

³²³ The Commission adopted amendments to paragraph (c) of Rule 19d-1 to allow SROs to submit for Commission approval plans for the abbreviated reporting of minor disciplinary infractions. See Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984). Any disciplinary action taken by an SRO against any person for violation of a rule of the SRO which has been designated as a minor rule violation pursuant to such a plan filed with and declared effective by the Commission will not be considered "final" for purposes of Section 19(d)(1) of the Exchange Act if the sanction imposed consists of a fine not exceeding \$2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies.

³²⁴ See e.g., IEX Rule 9.218 and Cboe BZX Rule 8.15.01.

³²⁵ 15 U.S.C. 78f(b)(1), 78f(b)(5) and 78f(b)(6).

part, that an exchange have the capacity to enforce compliance with, and provide appropriate discipline for, violations of the rules of the Commission and of the exchange. In addition, because amended Rule 12140 will offer procedural rights to a person sanctioned for a violation listed in proposed Rule 24010, the Exchange will provide a fair procedure for the disciplining of members and associated persons, consistent with Section 6(b)(7) of the Exchange Act.³²⁶

This proposal to include the rules listed in Rule 24010 in the Exchange's MRVP is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Exchange Act, as required by Rule 19d-1(c)(2) under the Exchange Act,³²⁷ because it should strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities as an SRO in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation. In requesting the proposed change to the MRVP, the Exchange in no way minimizes the importance of compliance with Exchange Rules and all other rules subject to the imposition of fines under the MRVP. However, the MRVP provides a reasonable means of addressing rule violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Exchange will continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under the MRVP or whether a violation requires a formal disciplinary action.

³²⁶ 15 U.S.C. 78f(b)(7).

³²⁷ 17 CFR 240.19d-1(c)(2).

V. Amendments to Existing BOX Rules

Due to the new BSTX trading facility and the introduction of trading in security tokens, a type of equity security, on the Exchange, the Exchange proposes to amend those Exchange Rules that would apply to BSTX Participants, but that currently only contemplate trading in options. Therefore, the Exchange is seeking to amend the following Exchange Rules, each of which is set forth in Exhibit 5B:

- Rule 100(a) (Definitions) “Options Participant” or “Participant”: The Exchange proposes to change the definition of “Options Participant or Participant” to “Participant” to reflect Options Participants and BSTX Participants and to amend the definition as follows: “The term ‘Participant’ means a firm, or organization that is registered with the Exchange pursuant to the Rule 2000 Series for purposes of participating in trading on a facility of the Exchange and includes an ‘Options Participant’ and ‘BSTX Participant.’”
- Rule 100(a) (Definitions) “Options Participant”: The Exchange proposes to add a definition of “Options Participant” that would be defined as follows: “The term ‘Options Participant’ is a Participant registered with the Exchange for purposes of participating in options trading on the Exchange.”³²⁸
- Rule 2020(g)(2) (Participant Eligibility and Registration): The Exchange proposes to delete subsection (g)(2) and replace it with the following: “(2) persons associated with a Participant whose functions are related solely and exclusively to transactions in municipal securities; (3) persons associated with a Participant whose functions are

³²⁸ In addition, as a result of these new defined terms, the Exchange proposes to renumber definitions set forth in Rule 100(a) to keep the definitions in alphabetical order.

related solely and exclusively to transactions in commodities; (4) persons associated with a Participant whose functions are related solely and exclusively to transactions in securities futures, provided that any such person is appropriately registered with a registered futures association; and (5) persons associated with a Participant who are restricted from accessing the Exchange and that do not engage in the securities business of the Participant relating to activity that occurs on the Exchange.”³²⁹

- Rule 2060 (Revocation of Participant Status or Association with a Participant): The Exchange proposes to amend Rule 2060 to refer to “securities transactions” rather than “options securities transactions.”
- Rule 3180(a) (Mandatory Systems Testing): The Exchange proposes to amend subsection (a)(1) of Rule 3180 to also include BSTX Participants, in addition to the categories of Market Makers and OFPs.
- Rule 7130(a)(2)(v) Execution and Price/Time Priority: The Exchange proposes to update the cross reference to Rule 100(a)(58) to refer to Rule 100(a)(59), which defines the term “Request for Quote” or “RFQ” under the Rules after the proposed renumbering.
- Rule 7150(a)(2) (Price Improvement Period): The Exchange proposes to amend Rule 7150(a)(2) to update the cross reference to the definition of a Professional in Rule 100(a)(51) to instead refer to Rule 100(a)(52), which is where that term would be defined in the Rules after the proposed renumbering.

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In addition to revising Rule 2020(g)(2) to broaden it to include securities activities beyond just options trading, the Exchange proposes to add greater specificity to define persons that are exempt from registration, consistent with the approach adopted by other exchanges. See e.g., IEX Rule 2.160(m).

- Rule 7230 (Limitation of Liability): The Exchange proposes to amend the references in Rule 7230 to “Options Participants” to simply “Participants.”
- Rule 7245(a)(4) (Complex Order Price Improve Period): The Exchange proposes to update the cross reference to Rule 100(a)(51) to refer to Rule 100(a)(52), which defines the term “Professional” after the proposed renumbering.
- IM-8050-3: The Exchange proposes to update the cross reference to Rule 100(a)(55) to refer to Rule 100(a)(56), which defines the term “quote” or “quotation” after the proposed renumbering.³³⁰
- Rule 11010(a) “Investigation Following Suspension”: The Exchange proposes to amend subsection (a) of Rule 11010 to remove the reference to “in BOX options contracts” and to modify the word “position” with the word “security” as follows: “. . . the amount owing to each and a complete list of each open long and short security position maintained by the Participant and each of his or its Customers.”
- Rule 11030 (Failure to Obtain Reinstatement): The Exchange proposes to amend Rule 11030 to replace the reference to “Options Participant” to simply “Participant.”
- Rule 12030(a)(1) (Letters of Consent): The Exchange proposes to amend subsection (a)(1) of Rule 12030 to replace the reference to “Options Participant” to simply “Participant.”
- Rule 12140 (Imposition of Fines for Minor Rule Violations): The Exchange proposes to amend Rule 12140 to replace references to “Options Participant” to simply

³³⁰ Current Exchange Rule 100(a)(55) defines the term “Quarterly Options Series,” but the intended reference in IM-8050-3 was the definition of “quote” or “quotation.” The term “quote” or “quotation” is currently defined in Rule 100(a)(56), but is proposed to be renumbered as Rule 100(a)(57).

“Participant.” In addition, the Exchange proposes to add paragraph (f) to Rule 12140, to incorporate the aforementioned modifications to the Exchange’s MRVP. New paragraph (f) of Rule 12140 would provide: “(f) Transactions on BSTX. Rules and penalties relating to trading on BSTX that are set forth in Rule 24010 (Penalty for Minor Rule Violations).”

The Exchange believes that the proposed amendments to the definitions set forth in Rule 100 are consistent with Section 6(b)(5) of the Exchange Act³³¹ because they protect investors and the public interest by setting forth clear definitions that help BOX and BSTX Participants understand and apply Exchange Rules. Without defining terms used in the Exchange Rules clearly, market participants could be confused as to the application of certain rules, which could cause harm to investors.

The Exchange believes that the proposed amendments to the other Exchange Rules detailed above are consistent with Section 6(b)(5) of the Exchange Act³³² because the proposed rule change is designed to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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. The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system by ensuring that market participants can easily navigate, understand and comply with the Exchange’s rulebook. The Exchange believes that the proposed rule change enables the Exchange to continue to enforce the Exchange’s rules. The Exchange notes that none of the proposed

³³¹ 15 U.S.C. 78f(b)(5).

³³² Id.

changes to the current Exchange rulebook would materially alter the application of any of those Rules, other than by extending them to apply to BSTX Participants and trading on the BSTX System. As such, the proposed amendments would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national exchange system. Further, the Exchange believes that, by ensuring the rulebook accurately reflects the intention of the Exchange's rules, the proposed rule change reduces potential investor or market participant confusion.

VI. Forms to Be Used in Connection with BSTX

In connection with the operation of BSTX, the Exchange proposes to use a series of new forms to facilitate becoming a BSTX Participant and for issuers to list their security tokens. These forms have been attached hereto as Exhibits 3A – 3N. Each are described below.

A. BSTX Participant Application

Pursuant to proposed Rule 18000(b), in order to become a BSTX Participant, an applicant must complete a BSTX Participant Application, which is attached as Exhibit 3A. The proposed BSTX Participant Application requires the applicant to provide certain basic information such as identifying the applicant's name and contact information, Designated Examining Authority, organizational structure, and Central Registration Depository ("CRD") number. The BSTX Participant Application also requires applicants to provide additional information including certain beneficial ownership information, the applicant's current Form BD, an organization chart, a description of how the applicant receives orders from customers, how it will send orders to BSTX, and a copy of written supervisory procedures and information barrier procedures.

In addition, the BSTX Participant Application allows applicants to indicate whether they are applying to be a BSTX Market Maker or a Designated Market Maker. Applicants wishing to become a BSTX Market Maker or Designated Market Maker must provide certain additional information including a list of each of the applicant's trading representatives (including a copy of each representative's Form U4), a copy of the applicant's written supervisory procedures relating to market making, a description of the source and amount of the applicant's capital, and information regarding the applicant's other business activities and information barrier procedures.

B. BSTX Participant Agreement

Pursuant to Exchange Rule 18000(b), to transact business on BSTX, prospective BSTX Participants must complete a BSTX Participant Agreement. The BSTX Participant Agreement is attached as Exhibit 3B. The BSTX Participant Agreement provides that a BSTX Participant must agree with the Exchange as follows:

1. Participant agrees to abide by the Rules of the Exchange and applicable bylaws, as amended from time to time, and all circulars, notices, interpretations, directives and/or decisions adopted by the Exchange.
2. Participant acknowledges that BSTX Participant and its associated persons are subject to the oversight and jurisdiction of the Exchange.
3. Participant authorizes the Exchange to make available to any governmental agency or SRO any information it may have concerning the BSTX Participant or its associated persons, and releases the Exchange from any and all liability in furnishing such information.

4. Participant acknowledges its obligation to update any and all information contained in any part of the BSTX Participant's application, including termination of membership with another SRO.

These provisions of the BSTX Participant Agreement and others therein are generally designed to reflect the Exchange's SRO obligations to regulate BSTX Participants. Accordingly, these provisions contractually bind a BSTX Participant to comply with Exchange rules, acknowledge the Exchange's oversight and jurisdiction, authorize the Exchange to disclose information regarding the Participant to any governmental agency or SRO and acknowledge the obligation to update any and all Application contained in the Participant's application.

C. BSTX User Agreement

In order to become a BSTX Participant, prospective participants must also execute a BSTX User Agreement pursuant to proposed Rule 18000(b). The BSTX User Agreement, attached as Exhibit 3C, includes provisions related to the term of the agreement, compliance with exchange rules, right and obligations under the agreement, changes to BSTX, proprietary rights under the agreement, use of information received under the relationship, disclaimer of warranty, limitation of liability, indemnification, termination and assignment. The information is necessary to outline the rights and obligations of the prospective Participant and the Exchange under the terms of the agreement. Both the BSTX Participant Agreement and BSTX User Agreement will be available on the Exchange's website (boxoptions.com).

D. BSTX Security Token Market Designated Market Maker Selection Form

In accordance with proposed Rule 25230(b)(1), BSTX will maintain the BSTX Security Token Designated Market Maker Selection Form, which is attached as Exhibit 3D. The issuer may select its DMM from among a pool of DMMs eligible to participate in the process. Within two business days of the issuer selecting its DMM, it will use the BSTX Security Token Market Designated Market Maker Selection form to notify BSTX of the selection. The form must be signed by a duly authorized officer as specified in proposed Rule 25230(b)(1).

E. Clearing Authorization Forms

In accordance with proposed Rule 18010, BSTX Participants that are not members/participants of a registered clearing agency must clear their transactions through a BSTX Participant that is a member of a registered clearing agency. A BSTX Participant clearing through another BSTX Participant would do so using, as applicable, either the BSTX Clearing Authorization (non-Market Maker) form (attached as Exhibit 3E) or the BSTX Participant Clearing Authorization (Market Maker) form (attached as Exhibit 3F). Each form would be maintained by BSTX and each form specifies that the BSTX Participant clearing on behalf of the other BSTX Participant accepts financial responsibility for all transactions on BSTX that are made by the BSTX Participant designated on the form.

F. BSTX Listing Applications

The Exchange proposes to specify the required forms of listing application, listing agreement and other documentation that listing applicants and listed companies must execute or complete (as applicable) as a prerequisite for initial and ongoing listing on the Exchange, as applicable (collectively, "listing documentation"). As proposed, the listing forms are substantially similar to those currently in use by NYSE American LLC, with certain differences

to account for the trading of security tokens. All listing documentation will be available on the Exchange's website (boxoptions.com). Each of the listing documents form a duly authorized representative of the company must sign an affirmation that the information provided is true and correct as of the date the form was signed. In the event that in the future the Exchange makes any substantive changes (including changes to the rights, duties, or obligations of a listed company or listing applicant or the Exchange, or that would otherwise require a rule filing) to such documents, it will submit a rule filing in accordance with Rule 19b-4.³³³

Pursuant to Rule 26130 and 26300 of the Exchange Rules, a company must file and execute the BSTX Original Listing Application (attached as Exhibit 3G) or the BSTX Additional Listing Application (attached as Exhibit 3H) to apply for the listing of security tokens on BSTX.³³⁴ The BSTX Original Listing Application provides information necessary, and in accordance with Section 12(b) of the Exchange Act,³³⁵ for Exchange regulatory staff to conduct a due diligence review of a company to determine if it qualifies for listing on the Exchange. The BSTX Additional Listing Application requires certain further information for an additional listing of security tokens. Relevant factors regarding the company and securities to be listed would determine the type of information required. The following describes each category and use of application information:

1. Corporate information regarding the issuer of the security to be listed, including company name, address, contact information, Central Index Key Code (CIK), SEC File Number,

³³³ The Exchange will not submit a rule filing if the changes made to a document are solely typographical or stylistic in nature.

³³⁴ Pursuant to proposed Exchange Rule 26130, an applicant seeking the initial listing of its security token must also provide a legal opinion that the applicant's security token is a security under applicable United States securities laws.

³³⁵ 15 U.S.C. 78l(b).

state and country of incorporation, date of incorporation, whether the company is a foreign private issuer, website address, SIC Code, CUSIP number of the security being listed and the date of fiscal year end. This information is required of all applicants and is necessary in order for the Exchange's regulatory staff to collect basic company information for recordkeeping and due diligence purposes, including review of information contained in the company's SEC filings.

2. For original listing applications only, corporate contact information including the company's Chief Executive Officer, Chief Financial Officer, Corporate Secretary, General Counsel and Investor Relations Officer. This information is required of all initial applicants and is necessary in order for the Exchange's regulatory staff to collect current company contact information for purposes of obtaining any additional due diligence information to complete a listing qualification review of the applicant.
3. For original listing applications only, offering and security information regarding an offering, including the type of offering, a description of the issue, par value, number of security tokens outstanding or offered, total security tokens unissued, but reserved for issuance, date authorized, purpose of security tokens to be issued, number of security tokens authorized, and information relating to payment of dividends. This information is required of all applicants listing security tokens on the Exchange, and is necessary in order for the Exchange's regulatory staff to collect basic information about the offering.
4. For original listing applications only, information regarding the company's transfer agent. Transfer agent information is required for all applicants. This information is necessary in order for the Exchange's regulatory staff to collect current contact information for such

company transfer agent for purposes of obtaining any additional due diligence information to complete a listing qualification review of the applicant.

5. For original listing applications only, contact information for the outside counsel with respect to the listing application, if any. This information is necessary in order for the Exchange's regulatory staff to collect applicable contact information for purposes of obtaining any additional due diligence information to complete a listing qualification review of the applicant and assess compliance with Exchange Rule 26130.
6. For original listing applications only, a description of any security preferences. This information is necessary to determine whether the Applicant issuer has any existing class of common stock or equity securities entitling the holders to differential voting rights, dividend payments, or other preferences.
7. For original listing applications only, type of security token listing, including the type of transaction (initial public offering of a security token, merger, spin-off, follow on offering, reorganization, exchange offer or conversion) and other details related to the transaction, including the name and contact information for the investment banker/financial advisor contacts. This information is necessary in order for the Exchange's regulatory staff to collect information for such company for purposes of obtaining any additional due diligence information to complete a listing qualification review of the applicant.
8. For original listing applications only, exchange requirements for listing consideration. This section notes that to be considered for listing, the Applicant Issuer must meet the Exchange's minimum listing requirements, that the Exchange has broad discretion regarding the listing of any security token and may deny listing or apply additional or

more stringent criteria based on any event, condition or circumstance that makes the listing of an Applicant Issuer's security token inadvisable or unwarranted in the opinion of the Exchange. The section also notes that even if an Applicant Issuer meets the Exchange's listing standards for listing on the BSTX Security Token Market, it does not necessarily mean that its application will be approved. This information is necessary in order for the Exchange's regulatory staff to assess whether an Applicant Issuer is qualified for listing.

9. For original listing applications only, regulatory review information, including a certification that no officer, board member or non-institutional shareholder with greater than 10% ownership of the company has been convicted of a felony or misdemeanor relating to financial issues during the past ten years or a detailed description of any such matters. This section also notes that the Exchange will review background materials available to it regarding the aforementioned individuals as part of the eligibility review process. This regulatory review information is necessary in order for the Exchange's regulatory staff to assess whether there are regulatory matters related to the company that render it unqualified for listing.
10. For original listing applications only, supporting documentation required prior to listing approval includes a listing agreement, corporate governance affirmation, security token design affirmation, listing application checklist and underwriter's letter. This documentation is necessary in order to support the Exchange's regulatory staff listing qualification review (corporate governance affirmation, listing application checklist and underwriter's letter) and to effectuate the listed company's agreement to the terms of listing (listing agreement).

11. For additional listing applications only, transaction details, including the purpose of the issuance, total security tokens, date of board authorization, date of shareholder authorization and anticipated date of issuance. This information is required of all applicants listing additional security tokens on the Exchange, and is necessary in order for the Exchange's regulatory staff to collect basic information about the offering.
12. For additional listing applications only, insider participation and future potential issuances, including whether any director, officer or principal shareholder of the company has a direct or indirect interest in the transaction, and if the transaction potentially requires the company to issue any security tokens in the future above the amount they are currently applying for. This information is required of all applicants listing additional security tokens on the Exchange, and is necessary in order for the Exchange's regulatory staff to collect basic information about the offering.
13. For additional listing applications only, information for a technical original listing, including reverse security token splits and changes in states of incorporation. This information is required of all applicants listing additional security tokens on the Exchange, and is necessary in order for the Exchange's regulatory staff to collect basic information about the offering.
14. For additional listing applications only, information for a forward security token split or security token dividend, including forward security token split ratios and information related to security token dividends. This information is required of all applicants listing additional security tokens on the Exchange, and is necessary in order to determine the rights associated with the security tokens.

15. For additional listing applications only, relevant company documents. This information is required of all applicants listing additional security tokens on the Exchange, and is necessary to assess to support the Exchange’s regulatory staff listing qualification review.
16. For additional listing applications only, reconciliation for technical original listing, including security tokens issued and outstanding after the technical original event, listed reserves previously approved for listing, and unlisted reserves not yet approved by the Exchange. This information is required of all applicants listing additional security tokens on the Exchange, and is necessary to assess to support the Exchange’s regulatory staff listing qualification review and to obtain all of the information relevant to the offering.

G. Checklist for Original Listing Application

In order to assist issuers seeking to list its security tokens on BSTX, the Exchange has provided a checklist for issuers to seeking to file an original listing application with BSTX. The BSTX Listing Application Checklist, attached as Exhibit 3I, provides that issuers must provide BSTX with a listing application, listing agreement, corporate governance affirmation, BSTX security token design affirmation, underwriter’s letter (for an initial public offering of a security token only) and relevant SEC filings (e.g., 8-A, 10, 40-F, 20-F). Each of the above referenced forms are fully described herein. The checklist is necessary to assist issuers and the Exchange regulatory staff in assessing the completion of the relevant documents.

H. BSTX Security Token Market Listing Agreement

Pursuant to proposed Exchange Rule 26132, to apply for listing on the Exchange, a company must execute the BSTX Security Token Market Listing Agreement (the “Listing Agreement”), which is attached as Exhibit 3J. Pursuant to the proposed Listing Agreement, a company agrees with the Exchange as follows:

1. Company certifies that it will comply with all Exchange rules, policies, and procedures that apply to listed companies as they are now in effect and as they may be amended from time to time, regardless of whether the Company's organization documents would allow for a different result.
2. Company shall notify the Exchange at least 20 days in advance of any change in the form or nature of any listed security tokens or in the rights, benefits, and privileges of the holders of such security tokens.
3. Company understands that the Exchange may remove its security tokens from listing on the BSTX Security Token Market, pursuant to applicable procedures, if it fails to meet one or more requirements of Paragraphs 1 and 2 of this agreement.
4. In order to publicize the Company's listing on the BSTX Security Token Market, the Company authorizes the Exchange to use the Company's corporate logos, website address, trade names, and trade/service marks in order to convey quotation information, transactional reporting information, and other information regarding the Company in connection with the Exchange. In order to ensure the accuracy of the information, the Company agrees to provide the Exchange with the Company's current corporate logos, website address, trade names, and trade/service marks and with any subsequent changes to those logos, trade names and marks. The Listing Agreement further requires that the Company specify a telephone number to which questions regarding logo usage should be directed.
5. Company indemnifies the Exchange and holds it harmless from any third-party rights and/or claims arising out of use by the Exchange or, any affiliate or facility of the

Exchange (“Corporations”) of the Company's corporate logos, website address, trade names, trade/service marks, and/or the trading symbol used by the Company.

6. Company warrants and represents that the trading symbol to be used by the Company does not violate any trade/service mark, trade name, or other intellectual property right of any third party. The Company’s trading symbol is provided to the Company for the limited purpose of identifying the Company's security in authorized quotation and trading systems. The Exchange reserves the right to change the Company's trading symbol at the Exchange's discretion at any time.
7. Company agrees to furnish to the Exchange on demand such information concerning the Company as the Exchange may reasonably request.
8. Company agrees to pay when due all fees associated with its listing of security tokens on the BSTX Security Token Market, in accordance with the Exchange’s rules.
9. Company agrees to file all required periodic financial reports with the SEC, including annual reports and, where applicable, quarterly or semi-annual reports, by the due dates established by the SEC.

The various provisions of the Listing Agreement are designed to accomplish several objectives. First, clauses 1-3 and 6-8 reflect the Exchange’s SRO obligations to assure that only listed companies that are compliant with applicable Exchange rules may remain listed. Thus, these provisions contractually bind a listed company to comply with Exchange rules, provide notification of any corporate action or other event that will cause the company to cease to be in compliance with Exchange listing requirements, evidence the company’s understanding that it may be removed from listing (subject to applicable procedures) if it fails to be in compliance or notify the Exchange of any event of noncompliance, furnish the Exchange with requested

information on demand, pay all fees due and file all required periodic reports with the SEC. Clauses four and five contain standard legal representations and agreements from the listed company to the Exchange regarding use of its logo, trade names, trade/service markets, and trading symbols as well as potential legal claims against the Exchange in connection thereto.

I. BSTX Security Token Market Company Corporate Governance

Affirmation

In accordance with the proposed Rule 26800 Series, companies listed on BSTX would be required to comply with certain corporate governance standards, relating to, for example, audit committees, director nominations, executive compensation, board composition, and executive sessions. In certain circumstances the corporate governance standards that apply vary depending on the nature of the company. In addition, there are phase-in periods and exemptions available to certain types of companies. The proposed BSTX Security Token Market Corporate Governance Affirmation, attached as Exhibit 3K, enables a company to confirm to the Exchange that it is in compliance with the applicable standards, and specify any applicable phase-ins or exemptions. Companies are required to submit a BSTX Security Token Market Corporate Governance Affirmation upon initial listing on the Exchange and thereafter when an event occurs that makes an existing form inaccurate. This BSTX Security Token Market Corporate Governance Affirmation assists the Exchange regulatory staff in monitoring listed company compliance with the corporate governance requirements.

J. Security Token Design Affirmation for the BSTX Security Token Market

In accordance with proposed Rule 26138, in order for a security token to be admitted to dealings on BSTX, such security token must follow the BSTX Security Token Protocol. The BSTX Security Token Protocol will be provided via Regulatory Circular and posted on the

Exchange's website. The Exchange has included an overview of the BSTX Security Token Protocol as Exhibit 3N. The Security Token Design Affirmation, attached as Exhibit 3L, enables a company to affirm to the Exchange that it is in compliance with the applicable standards. Companies are required to submit a Security Token Design Affirmation upon initial listing on the Exchange. This Security Token Design Affirmation assists the Exchange's staff in verifying that an issuer's security tokens meet the requirements of the BXTS security token protocol.

K. Sample Underwriter's Letter

In accordance with proposed Rule 26101, an initial public offering of a security token must meet certain listing requirements. The Exchange seeks to require the issuer's underwriter to execute a letter setting forth the details of the offering, including the name of the offering and why the offering meets the criteria of the BSTX rules. This information, set forth in the proposed Sample Underwriter's Letter and attached as Exhibit 3M, is necessary to assist the Exchange's regulatory staff in assessing the offering's compliance with BSTX listing standards for an initial public offering of a security token.

L. BSTX Security Token Protocol Summary Overview

BSTX Rule 26138 requires that a BSTX listed company's security tokens must comply with the BSTX Security Token Protocol to trade on BSTX. Exhibit 3N provides fundamental information related to the Ethereum blockchain and background information on the functions, configurations, and events of the Asset Smart Contract of the BSTX Security Token Protocol. Exhibit 3N also provides information on the Registry and Compliance features of the BSTX Security Token Protocol.

VII. Regulation

In connection with the operation of BSTX, the Exchange will leverage many of the structures it established to operate a national securities exchange in compliance with Section 6 of the Exchange Act.³³⁶ Specifically, the Exchange will extend its Regulatory Services Agreement with FINRA to cover BSTX Participants and trading on the BSTX System. This Regulatory Services Agreement will govern many aspects of the regulation and discipline of BSTX Participants, just as it does for options regulation. The Exchange will perform security token listing regulation, authorize BSTX Participants to trade on the BSTX System, and conduct surveillance of security token trading on the BSTX System.

Section 17(d) of the Exchange Act³³⁷ and the related Exchange Act rules permit SROs to allocate certain regulatory responsibilities to avoid duplicative oversight and regulation. Under Exchange Act Rule 17d-1,³³⁸ the SEC designates one SRO to be the Designated Examining Authority, or DEA, for each broker-dealer that is a member of more than one SRO. The DEA is responsible for the financial aspects of that broker-dealer's regulatory oversight. Because Exchange Participants, including BSTX Participants, also must be members of at least one other SRO, the Exchange would generally not be designated as the DEA for any of its members.³³⁹

Rule 17d-2 under the Exchange Act³⁴⁰ permits SROs to file with the Commission plans under which the SROs allocate among each other the responsibility to receive regulatory reports

³³⁶ 15 U.S.C. 78f.

³³⁷ 15 U.S.C. 78q(d).

³³⁸ 17 CFR 240.17d-1.

³³⁹ See Exchange Rule 2020(a) (requiring that a Participant be a member of another registered national securities exchange or association).

³⁴⁰ 17 CFR 240.17d-2.

from, and examine and enforce compliance with specified provisions of the Exchange Act and rules thereunder and SRO rules by, firms that are members of more than one SRO (“common members”). If such a plan is declared effective by the Commission, an SRO that is a party to the plan is relieved of regulatory responsibility as to any common member for whom responsibility is allocated under the plan to another SRO. The Exchange plans to join the Plan for the Allocation of Regulatory Responsibilities Regarding Regulation NMS.³⁴¹ The Exchange may choose to join certain Rule 17d-2 agreements such as the agreement allocating responsibility for insider trading rules.³⁴²

For those regulatory responsibilities that fall outside the scope of any Rule 17d-2 agreements that the Exchange may join, subject to Commission approval, the Exchange will retain full regulatory responsibility under the Exchange Act. However, as noted, the Exchange will extend its existing Regulatory Services Agreement with FINRA to provide that FINRA personnel will operate as agents for the Exchange in performing certain regulatory functions with respect to BSTX. As is the case with the Exchange’s options trading platform, the Exchange will supervise FINRA and continue to bear ultimate regulatory responsibility for BSTX. Consistent with the Exchange’s existing regulatory structure, the Exchange’s Chief Regulatory Officer shall have general supervision of the regulatory operations of BSTX, including responsibility for overseeing the surveillance, examination, and enforcement functions and for administering all regulatory services agreements applicable to BSTX. Similarly, the Exchange’s existing Regulatory Oversight Committee will be responsible for overseeing the adequacy and

³⁴¹ Exchange Act Release No. 85046 (February 4, 2019), 84 FR 2643 (February 7, 2019).

³⁴² Exchange Act Release No. 84392 (October 10, 2018), 83 FR 52243 (October 16, 2018).

effectiveness of Exchange’s regulatory and self-regulatory organization responsibilities, including those applicable to BSTX. Finally, as it does with options, the Exchange will perform automated surveillance of trading on BSTX for the purpose of maintaining a fair and orderly market at all times and monitor BSTX to identify unusual trading patterns and determine whether particular trading activity requires further regulatory investigation by FINRA.

In addition, the Exchange will oversee the process for determining and implementing trade halts, identifying and responding to unusual market conditions, and administering the Exchange’s process for identifying and remediating “clearly erroneous trades” pursuant to proposed Rule 25110. The Exchange shall also oversee the onboarding and application process for BSTX Participants as well as compliance by issuers of security tokens with the applicable initial and continuing listing requirements, including compliance with the BSTX Protocol.³⁴³

VIII. NMS Plans

The Exchange intends to join the Order Execution Quality Disclosure Plan, the Plan to Address Extraordinary Market Volatility, the Plan Governing the Process of Selecting a Plan Processor, and the applicable plans for consolidation and dissemination of market data. The Exchange is already a participant in the NMS plan related to the Consolidated Audit Trail. Consistent with Section 6(b)(5) of the Exchange Act,³⁴⁴ the Exchange believes that joining the same set of NMS plans that all other national securities exchanges that trade equities must join fosters cooperation and coordination with other national securities exchanges and other market participants engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities.

³⁴³ See proposed Exchange Rules 26230 (Security Token Architecture Audit) and 26138 (BSTX Security Token Protocol).

³⁴⁴ 15 U.S.C. 78f(b)(5).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of the Exchange Act,³⁴⁵ in general and with Section 6(b)(5) of the Exchange Act,³⁴⁶ in particular, in that it is designed 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; and it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by this title matters not related to the purposes of this title or the administration of the Exchange.

The Exchange believes that BSTX will benefit individual investors, other market participants, and the equities market generally. The Exchange proposes to establish BSTX as a facility of the Exchange that would trade equities in a similar manner to how equities presently trade on other exchanges. However, BSTX would also require reporting of end-of-day security token balances to the Exchange in order to facilitate the use of blockchain technology as an ancillary recordkeeping mechanism. The Exchange believes that using blockchain technology as an ancillary recordkeeping mechanism that operates in parallel with the traditional trading, recordkeeping, and clearance and settlement structures that market participants are familiar with is an important first step toward exploring the potential uses and benefits of blockchain technology in securities transactions. The entry of an innovative competitor such as BSTX seeking to implement a measured introduction of blockchain technology in connection with the

³⁴⁵ 15 U.S.C. 78a et seq.

³⁴⁶ 15 U.S.C. 78f(b)(5).

trading of equity securities may promote competition by encouraging other market participants to find ways of using blockchain technology in connection with securities transactions. The proposed regulation of BSTX and BSTX Participants, as well as the execution of security tokens using a price-time priority model and the clearance and settlement of security tokens will all operate in a manner substantially similar to existing equities exchanges. In this way, the Exchange believes that BSTX provides a robust regulatory structure that protects investors and the public interest while introducing the use of blockchain technology as an ancillary recordkeeping mechanism in connection with listed equity securities.

In order to implement the use of blockchain technology as an ancillary recordkeeping mechanism, the Exchange proposes two requirements pursuant to proposed Rule 17020 to: (i) obtain a wallet address through BSTX to which end-of-day security token balances may be recorded to the Ethereum blockchain as an ancillary recordkeeping mechanism; and (ii) requiring BSTX Participants to report their end-of-day security token balances to BSTX to facilitate updates to the Ethereum blockchain as an ancillary recordkeeping mechanism to reflect changes in ownership as a result of trading security tokens.

The Exchange believes that the proposed address whitelisting and end-of-day security token balance reporting requirement is consistent with the Exchange Act, and Section 6(b)(5)³⁴⁷ in particular, because it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information with respect to transactions in security tokens and does not unfairly discriminate among BSTX Participants, all of whom are subject to the same wallet address and end-of-day reporting requirement. The requirement to obtain a wallet address is a one-time, minimal obligation similar to obtaining an MPID or other

³⁴⁷ 15 U.S.C. 78f(b)(5).

market participant identifier that is applicable to each BSTX Participant. The end-of-day security token balance reporting obligation would be used to update the Ethereum blockchain as an ancillary recordkeeping mechanism, which the Exchange believes would be a first step in demonstrating the potential use of blockchain technology in connection with securities transactions. The Exchange does not propose to charge a fee in connection with either of these requirements. As discussed in greater detail above,³⁴⁸ the Exchange believes that these proposed requirements are consistent with the Exchange Act as they are necessary to facilitate the blockchain-based ancillary recordkeeping mechanism and are consistent with authority that the Commission has already approved for exchanges regarding furnishment of records by members of the exchange. The Exchange believes that blockchain technology offers potential benefits to investors, and while such benefits may not be immediately evident while the blockchain is used only as ancillary recordkeeping mechanism, the Exchange believes that a measured and gradual introduction of blockchain technology is a useful way to explore these potential benefits that is consistent with the protection of investors and the public interest.

The Exchange also believes that the proposed rule change is consistent with Section 11A of Exchange Act which sets forth the Commission’s authority to establish and maintain a national market system.³⁴⁹ In setting forth the Commission’s authority to establish a national market system, Congress expressly contemplated that the national market system “may include use of subsystems for particular types of securities with unique trading characteristics.”³⁵⁰ The Exchange has proposed here a type of security (i.e., security tokens) that trade, clear, and settle

³⁴⁸ See supra Parts II.G. through J for further discussion regarding why these proposed requirements are consistent with the Exchange Act.

³⁴⁹ 15 U.S.C. 78k-1.

³⁵⁰ 15 U.S.C. 78k-1(a)(2).

entirely within the scope and using the same processes as the existing national market system, but that pursuant to the proposed BSTX Rules would have the unique characteristic of an end-of-day security token balance reporting process as an ancillary recordkeeping function using the “subsystem” of blockchain technology.³⁵¹ The clear intent of Congress was to provide for a national market system that could include such “securities with unique trading characteristics.” For these reasons the Exchange believes that the proposed rule change is consistent with Section 11A of the Exchange Act.

Finally, the Exchange believes that the proposal is consistent with Section 6(b)(5) of the Exchange Act because the BSTX Rules would not be designed to regulate by virtue of any authority conferred by the Exchange Act matters that are not related to the purposes of the Exchange Act or the administration of the Exchange. Congress adopted Section 2 of the Exchange Act to set forth the reasons for the necessity of the Exchange Act, which expressly include that “transactions in securities as commonly conducted upon securities exchanges and over-the-counter markets are effected with a national public interest which makes it necessary to provide for regulation and control of such transactions and of practices and matters related thereto, including . . . to require appropriate reports[.]”³⁵² [emphasis added.] The Exchange Act and rules of self-regulatory

³⁵¹ The Exchange notes that to the extent the Commission believes that the ancillary recordkeeping process regarding security tokens under the proposed BSTX Rules is not a “unique trading characteristic” of security tokens for purposes of Section 11A of the Exchange Act insofar as it does not directly relate to “trading” of security tokens, then there would not be any concern with respect to security tokens regarding consistency with Section 11A. In other words, either the ancillary recordkeeping process is a unique trading characteristic of security tokens as explicitly contemplated by Congress as part of the national market system or it is not a unique trading characteristic of security tokens because they will trade, clear, and settle the same as all other NMS stock. In the latter case, security tokens would be consistent with Section 11A just like all other NMS stock.

³⁵² 15 U.S.C. 78(b).

organizations, including national securities exchanges and national securities associations, include reporting requirements that regulate and control matters and practices related to securities transactions conducted on securities exchanges and in the over-the-counter markets. For example, all of the U.S. options exchanges and FINRA maintain rules approved by the Commission that require their member broker-dealers to prepare and submit daily large options position reports to a third-party administrator that maintains a large options position reporting system.³⁵³ These large option positions reports are not reports regarding the trading or clearance and settlement of securities transactions themselves but, instead, are reports that are related to end-of-day positions of the members of the options exchange and/or FINRA in a particular class of standardized or over-the-counter securities option. As described above, the proposed BSTX Rules regarding the ancillary recordkeeping process would similarly require BSTX Participants to provide reports regarding their end-of-day positions in security tokens. Also as described above, the Exchange believes that the requirements regarding the ancillary recordkeeping process will promote the use of the functionality of smart contracts and their ability to allocate and re-allocate security token balances across multiple addresses in connection with end-of-day security token position balance information of BSTX Participants such that the requirements will allow market participants to observe and increase their familiarity with the capabilities and potential benefits of blockchain technology in a context that parallels current equity market infrastructure and thereby advances and protects the public's interest in the use and development of new data processing techniques that may create opportunities for more efficient, effective and safe securities markets.³⁵⁴

³⁵³ See e.g., FINRA Rule 2360(b)(5) and Cboe Rule 8.43.

³⁵⁴ Report of the Senate Committee on Banking, Housing & Urban Affairs, S. Rep. No. 94-75, at 8 (1975) (expressing Congress' finding that new data processing and communications systems create the opportunity for more efficient and effective markets).

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

The Exchange 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 Exchange Act. The Exchange operates in an intensely competitive global marketplace for transaction services. Relying on its array of services and benefits, the Exchange competes for the privilege of providing market services to broker-dealers. The Exchange's ability to compete in this environment is based in large part on the quality of its trading systems, the overall quality of its market and its attractiveness to the largest number of investors, as measured by speed, likelihood and costs of executions, as well as spreads, fairness, and transparency.

The Exchange believes that the primary areas where the proposed rule change has the potential to result in a burden on competition are with regard to the terms on which: (1) issuers may list their securities for trading, (2) market participants that may access the Exchange and use its facilities, (3) security token transactions may be cleared and settled, (4) security token transactions occurring OTC, and (5) security token transactions occurring on other exchanges that might extend unlisted trading privileges to security tokens.

Regarding considerations (1) and (2), and as described in detail in Item 3 above, the BSTX Rules are drawn substantially from the existing rules of other exchanges that the Commission has already found to be consistent with the Exchange Act, including regarding whether they impose any burden on competition that is not necessary or appropriate in furtherance of its purposes. For example, the BSTX Listing Rules in the 26000 and 27000 Series that affect issuers and their ability to list security tokens for trading are based substantially on the current rules of NYSE American. The Exchange has proposed that issuers would be required to create and maintain a security token compliant with the BSTX Protocol. The Exchange

recognizes that these requirements are additional to those of other exchanges. However, the Exchange does not believe this poses a burden on competition because issuers are free to choose to list on other exchanges without such requirements. The Exchange believes that these requirements may attract issuers that are interested in exploring the potentials of blockchain technology. Additionally, the BSTX Rules regarding membership and access to and use of the facilities of BSTX are also substantially based on existing exchange rules. Specifically, the relevant BSTX Rules are as follows: participation on BSTX (Rule 18000 Series); business conduct for BSTX participants (Rule 19000 Series); financial and operational rules for BSTX participants (Rule 20000 Series); supervision (Rule 21000 Series); miscellaneous provisions (Rule 22000 Series); trading practices (Rule 23000 Series); discipline and summary suspension (Rule 24000 Series); trading (Rule 25000 Series); market making (Rule 25200 Series); and dues, fees, assessments, and other charges (Rule 28000 Series). As described in detail in Item 3, these rules are substantially based on analogous rules of the following exchanges, as applicable: BOX; Investors Exchange LLC; Cboe BZX Exchange, Inc.; The Nasdaq Stock Market LLC; and NYSE American LLC. The address whitelisting and end-of-day security token balance reporting requirements to facilitate the use of the Ethereum blockchain as an ancillary recordkeeping mechanism in proposed Rule 17020 would apply equally to all BSTX Participants and therefore would not impose any different burden on one BSTX Participant compared to another. The Exchange believes that these requirements would impose only a minimal burden on BSTX Participants that is unlikely to materially impact the competitive balance among investors and traders of security tokens.

Regarding consideration (3) above and the manner in which security token transactions may be cleared and settled, the Exchange proposes to clear and settle security tokens in

accordance with the rules, policies and procedures of a registered clearing agency, similar to how the Exchange believes other exchange-listed equity securities are cleared and settled today. Therefore, BSTX's rules do not impose any burden on competition regarding the manner in which trades may be cleared or settled because market participants would be able to clear and settle security token transactions insubstantially the same manner as they already clear and settle transactions in other types of NMS stock.

With respect to consideration (4) above, as previously noted, market participants would not be limited in their ability to trade security tokens OTC because security tokens could be traded OTC and would be cleared and settled in the same manner as other NMS stocks through the facilities of a registered clearing agency. Thus, the Exchange does not believe that its proposal will place any new burden on competition with respect to OTC trading, given that trading, clearance and settlement will take place in the same manner as for other NMS stocks. The Exchange acknowledges that BSTX Participants would be subject to additional requirements (i.e., acquiring a wallet address and end-of-day security token balance reporting pursuant to proposed Rule 17020) that are not required of non-BSTX Participants trading security tokens. The Exchange believes that these additional requirements impose only a minimal burden on BSTX Participants and should not have any material or undue burden or impact on competition between BSTX Participants and non-BSTX Participants. Acquiring a wallet address is a one-time burden that can be readily addressed by contacting the Exchange, and the end-of-day security token balance reporting requests only that the BSTX Participant, either directly or through its carrying firm, report information that it (or its carrying firm) already has available to it from DTC on a daily basis regarding the balance of security tokens held.

Finally, with respect to consideration (5) noted above regarding other exchanges extending unlisted trading privileges to security tokens, the Exchange does not believe that the proposed Rules would impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. Security tokens would trade, clear, and settle in the same manner as other NMS stock. Accordingly, other exchanges would be able to extend unlisted trading privileges to security tokens in accordance with Commission rules.

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. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 2, is consistent with the Act. In particular, the Commission seeks comment on the questions posed in the Order Instituting Proceedings previously issued by the Commission with respect to this proposed rule change.³⁵⁵ 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-2019-19 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.

³⁵⁵ See Order Instituting Proceedings, *supra* note 8, 85 FR at 4043,

All submissions should refer to File Number SR-BOX-2019-19. 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>). 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-2019-19 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.³⁵⁶

J. Matthew DeLesDernier
Assistant Secretary

³⁵⁶ 17 CFR 200.30-3(a)(12).