

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-88882; File No. SR-BOX-2020-10)

May 15, 2020

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Fee Schedule on the BOX Options Market LLC (“BOX”) Facility to Amend Section I.D., Qualified Contingent Cross Transactions

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 1, 2020, BOX Exchange LLC (the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend the Fee Schedule on the BOX Options Market LLC (“BOX”) facility. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission’s Public Reference Room and also on the Exchange’s Internet website at <http://boxexchange.com>.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

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 Exchange 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 Exchange 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 proposes to amend the Fee Schedule for trading on BOX to amend Section I.D., Qualified Contingent Cross (“QCC”)⁵ Transactions. Currently, Professional Customers, Broker Dealers and Market Makers are assessed a \$0.17 fee for their Agency Orders and a \$0.17 fee for their Contra Orders for QCC transactions. Public Customers are not assessed a QCC Transaction Fee. The Exchange proposes to no longer assess Professional Customers QCC Transaction Fees.

The Exchange also proposes to amend the rebate for QCC Transactions. Currently, a \$0.14 per contract rebate is applied to the Agency Order where at least one party to the QCC transaction is a Non-Public Customer. The Exchange now proposes to apply the \$0.14 per contract rebate to the Agency Order where at least one party to the QCC Transaction is either a

⁵ A QCC Order is an originating order (Agency Order) to buy or sell at least 1,000 standard option contracts, or 10,000 mini-option contracts, that is identified as being part of a qualified contingent trade, coupled with a contra side order to buy or sell an equal number of contracts.

Broker Dealer or a Market Maker. The rebate will continue to be paid to the Participant that entered the order into the BOX system.

Lastly, the Exchange proposes to establish a \$0.22 per contract rebate that will be applied to the Agency Order when both parties to the QCC Transaction are a Broker Dealer or Market Maker. The rebate will be paid to the Participant that entered the order into the BOX system. Further, if the Participant qualifies for both rebates, only the larger rebate will be applied to the QCC transaction.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(4) and 6(b)(5) of the Act,⁶ in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that no longer assessing QCC transaction fees for Professional Customers, thus permitting Professional Customer orders to be treated similar to Public Customer Orders with respect to the QCC order type, is reasonable. QCC Orders are an order to buy or sell at least 1,000 contracts, or 10,000 contracts in the case of Mini Options. These large-sized contingent orders are complex in nature and have a stock-tied component, which requires the option leg to be executed at the NBBO or better. The parties to a contingent trade are focused on the spread or ratio between the transaction prices for each of the component instruments (i.e., the net price of the entire contingent trade), rather than on the absolute price of any single component.

⁶ 15 U.S.C. 78f(b)(4) and (5).

The differentiation between a Public Customer and Professional Customer is not necessary with respect to QCC Orders because these orders are exempt from requirements regarding order exposure.⁷ In addition, when the Exchange originally adopted fees for the QCC order type, the Exchange was largely focused on maintaining a market structure with features to benefit Public Customers.⁸ This still holds true today, and the Exchange will continue to do this by charging no fees to Public Customers in QCC transactions. In the current proposal, the Exchange simply wishes to extend this benefit to an additional type of market participant, specifically Professional Customers.⁹ The Exchange believes that charging no fees to Public Customers and Professional Customers is reasonable and, ultimately, will benefit all Participants trading on the Exchange by attracting additional order flow. Further, QCC Orders are not executed pursuant to a priority scheme.¹⁰ As discussed herein, the Exchange believes that treating Public Customer orders and Professional Customer orders in a similar manner with respect to fees, when transacting QCC Orders, will attract more QCC Orders to the Exchange because there would be no fee for Professional Customer orders. Lastly, the Exchange notes that another options exchange assesses no fees to Professional Customers for their QCC transactions.¹¹

⁷ See Rule 7110(c)(6).

⁸ See SR-BOX-2017-24.

⁹ The Exchange notes Professional Customers are not brokers or dealers in securities, their designation is derived from the higher number of orders placed in comparison to Public Customers.

¹⁰ By way of comparison, Public Customers receive priority over other market participants with respect to the execution of their orders within the Exchange's order book or on the Floor.

¹¹ See Nasdaq Phlx LLC ("Phlx") Fee Schedule Options 7 Pricing Schedule; Section 4 ("Customers and Professionals are not assessed a QCC Transaction Fee").

The Exchange believes the proposed changes with respect to the QCC Rebate is reasonable, equitable and not unfairly discriminatory. The Exchange believes that applying the \$0.14 per contract rebate to the Agency Order where at least one party to the QCC transaction is a Broker Dealer or Market Maker is reasonable as Professional Customers will no longer be assessed a fee for these transactions. The Exchange believes that Professional Customers no longer need the incentive of the rebate since the Exchange will no longer assess fees for their Agency Orders or Contra Orders for QCC transactions pursuant to this proposal. Further, the Exchange believes that the proposed change is equitable and not unfairly discriminatory because it potentially applies to all Participants that enter the originating order (except for when both the agency order and contra-side orders are Public Customers or Professional Customers) and because it is intended to incentivize the sending of more QCC Orders to the Exchange. The Exchange believes it is reasonable, equitable and not unfairly discriminatory to not provide a rebate for the originating order for QCC transactions when both the originating order and contra side orders are from Public Customers or Professional Customers, since Public Customers and Professional Customers are already incentivized by having no transaction fee for QCC Orders. The Exchange notes that another exchange in the industry does not apply rebates to these types of orders.¹²

Lastly, the Exchange believes the proposal to adopt the \$0.22 per contract rebate applied to the Agency Order when both parties to the QCC transaction are a Broker Dealer and a Market Maker is reasonable, equitable and not unfairly discriminatory. The Exchange again notes that

¹² See Phlx Fee Schedule Options 7 Pricing Schedule; Section 4. On Phlx, QCC rebates will be applied for all qualifying executed QCC orders except where the transaction is either: (i) Customer-to-Customer; (ii) Customer-to-Professional; and (iii) Professional-to-Professional.

Public Customers are generally assessed a \$0.00 transaction fee. Further, under this proposal, Professional Customers will no longer be assessed transaction fees for their QCC Orders. As discussed herein, Professional Customers do not need the incentive of the proposed rebate since there are no fees assessed for their Agency Orders or Contra Orders for QCC transactions. Further, the Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to adopt the proposed QCC rebate for when both parties to the QCC transaction are a Broker Dealer or Market Maker, in order to increase competition and potentially attract different combinations of additional QCC order flow to the Exchange. Further, the Exchange notes that another exchange currently applies a similar rebate to QCC transactions.¹³

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the degree to which fee changes in this market may impose any burden on competition is extremely limited.

¹³ See Miami International Securities Exchange LLC ("MIAX") Fee Schedule. MIAX offers a \$0.22 per contract rebate to Market Makers and Broker Dealers when their Contra Order is from a Non-Public Customer. The Exchange notes that under this proposal, Professional Customers will not be assessed fees for their QCC transactions (unlike MIAX who assesses a \$0.15 and \$0.17 fee for their Agency Orders and Contra Order, respectively). As such, the Exchange believes it is reasonable and appropriate to establish a similar rebate for these types of orders.

The initial purpose of the distinction between a Public Customer order and a Professional Customer order was to prevent market professionals with access to sophisticated trading systems that contain functionality not available to retail customers, from taking advantage of Public Customer priority, where Public Customer orders are given execution priority over Non- Public Customer orders.

QCC Orders are by definition large-sized contingent orders which have a stock-tied component. The parties to a contingent trade are focused on the spread or ratio between the transaction prices for each of the component instruments (i.e., the net price of the entire contingent trade), rather than on the absolute price of any single component. Treating Public Customer orders and Professional Customer orders in the same manner in terms of pricing with respect to QCC Orders does not provide any advantage to a Professional Customer. The distinction does not create an opportunity to burden competition, for the reasons stated herein with respect to priority. Further, the Exchange notes that another Exchange in the options industry treats Public Customers and Professional Customers the same with regard to QCC transactions.¹⁴

Lastly, the Exchange believes that the proposed rebates will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because it will encourage increased QCC order flow, which will bring greater volume and liquidity, thereby benefitting all market participants by providing more trading opportunities and tighter spreads.

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

No written comments were either solicited or received.

¹⁴ See supra note 11.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act¹⁵ and Rule 19b-4(f)(2) thereunder,¹⁶ because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-BOX-2020-10 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.

¹⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁶ 17 CFR 240.19b-4(f)(2).

All submissions should refer to File Number SR-BOX-2020-10. 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 such 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-2020-10, 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.¹⁷

J. Matthew DeLesDernier
Assistant Secretary

¹⁷ 17 CFR 200.30-3(a)(12).