

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-93562; File No. SR-BOX-2021-26)

November 12, 2021

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 Facility

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 28, 2021, BOX Exchange LLC (“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”) options facility. While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on November 1, 2021. 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 Section II.A. (QOO Order Fees) and Section II.C. (QOO Order Rebate) of the BOX Fee Schedule. Specifically, the Exchange proposes to amend Section II.A. (QOO Order Fees) to remove the QOO Order fee cap of \$75,000 per month per Broker Dealer and Section II.C. (QOO Order Rebate) to remove the QOO Order rebate cap of \$30,000 per month per Broker Dealer.

Currently, QOO Order fees for Broker Dealers on BOX are capped at \$75,000 per month per Broker Dealer. The Exchange proposes to eliminate this monthly QOO Order fee cap for Broker Dealers. The fee cap was intended to incentivize Broker Dealers to submit floor transactions on the Exchange by capping manual transaction fees. The Exchange no longer believes such fee cap is necessary because, as discussed herein, the fee cap was initially established to incentivize Broker Dealers to bring increased liquidity and order flow to the new BOX Trading Floor, however the BOX Trading Floor is now well established and does not need this incentive to encourage order flow to the Trading Floor.

The Exchange also applies a QOO Order rebate cap of \$30,000 per month per Broker Dealer. Currently, Floor Brokers are eligible to receive a \$0.075 per contract rebate for all

Broker Dealer and Market Maker QOO Orders presented on the BOX Trading Floor.⁵ The rebate is not applied to Public Customer executions, executions subject to the Strategy QOO Order Fee Cap, or Broker Dealer executions where the Broker Dealer is facilitating a Public Customer. The Exchange proposes to remove the monthly rebate cap for Broker Dealer executions.⁶ The Exchange notes that it is not making any other changes to the QOO Order fees or the QOO Order Rebate. The QOO Order fees and QOO Order rebate will be assessed and applied in the same manner as they are today.

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,⁷ 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 the proposed elimination of the QOO Order fee cap of \$75,000 per month per Broker Dealer and the QOO Order rebate cap of \$30,000 per month per Broker Dealer is reasonable, equitable, and not unfairly discriminatory. As discussed above, the Exchange established the QOO Order fee cap and rebate cap in an effort to incentivize market participants to send order flow to the BOX Trading Floor. The Exchange believes such incentive

⁵ Floor Brokers are also eligible to receive a \$0.05 per contract rebate for all Professional Customer QOO Orders presented on the BOX Trading Floor.

⁶ The Exchange notes that BOX has removed the QOO Order rebate cap in the past. See Securities Exchange Act Release No. 87704 (December 10, 2019), 84 FR 68499 (December 16, 2019) (SR-BOX-2019-35).

⁷ 15 U.S.C. 78f(b)(4) and (5).

is no longer necessary because the Exchange has a well-established trading floor and no longer needs this incentive to encourage increased order flow to the BOX Trading Floor.

QOO Order Fee Cap

The Exchange established the QOO Order fee cap of \$75,000 per month per Broker Dealer in 2017 when the Exchange introduced fees for Manual Transactions after the approval of the BOX Trading Floor.⁸ The Exchange established the QOO Order fee cap for Broker Dealers to incentivize Broker Dealers to bring increased liquidity and order flow to the new BOX Trading Floor.

The Exchange believes that removing the \$75,000 monthly cap on QOO Order Fees for Broker Dealers is reasonable and appropriate because, as discussed above, these fee caps were introduced to provide incentives for Broker Dealers to bring increased liquidity and order flow to the BOX Trading Floor. The Exchange no longer believes such incentive is necessary. As such, the Exchange believes the removal of the QOO Order fee cap is reasonable.

The Exchange believes the removal of the QOO Order fee cap is not unfairly discriminatory because Public Customer, Market Maker, and Professional Customer order fees are not subject to the fee cap. Additionally, the QOO Order Fees will continue to be applied in the same manner as they are today. Further, the Exchange believes that the removal of the monthly QOO Order fee cap for Broker Dealer executions is equitable and not unfairly discriminatory because the proposal applies to all similarly situated market participants.

QOO Order Rebate Cap

⁸ See Securities Exchange Act Release No. 81292 (August 2, 2017), 82 FR 37144 (August 8, 2017) (SR-BOX-2016-48). See also Securities Exchange Act Release No. 81504 (August 30, 2017), 82 FR 42195 (September 6, 2017) (SR-BOX-2017-28).

BOX established the QOO Order Rebate program and the monthly rebate cap in August 2017. As discussed in BOX's 2017 proposal to establish the QOO Order Rebate program and rebate cap, the rebate was created to incentivize order flow to the BOX Trading Floor. Unlike competing exchanges, the Exchange does not offer a front-end order entry on the BOX Trading Floor. With this, Participants have two possible means of bringing orders to the Exchange's Trading Floor for possible execution: (1) they can invest in the technology, systems and personnel to participate on the Trading Floor and deliver the order to the Exchange matching engines for validation and execution; or (2) they can utilize the services of another Participant acting as a Floor Broker. The QOO Order Rebate program was established to attract order flow by rewarding Floor Brokers with rebates for directing qualifying orders to the BOX Trading Floor.

The Exchange believes that removing the rebate cap is reasonable and appropriate as it will continue to allow Floor Brokers to price their services at a level that would enable them to attract increased QOO order flow from market participants who might otherwise utilize the front-end order entry mechanism offered by the Exchange's competitors, instead of incurring the cost in time and resources to install and develop their own internal systems to deliver QOO orders directly to the Exchange system. As such, the Exchange believes it is beneficial from a competitive standpoint to continue to offer the rebate to the executing Floor Broker on a QOO order without capping the dollar amount allowed for the rebate. Further, the Exchange believes removing the rebate cap will encourage Floor Brokers to bring additional QOO order flow to the Exchange because Floor Brokers will be further incentivized by the removal of the QOO Order rebate cap for these specific QOO orders. Lastly, the Exchange believes the proposed change is reasonable and appropriate, as the Exchange is allowing eligible Floor Brokers greater

opportunities to price their services related to the execution of qualifying QOO transactions more competitively.

In addition, the Exchange believes that removing the QOO Order rebate cap is reasonable as a competing exchange with a similar rebate program offered to Floor Brokers currently has a rebate cap twelve times higher than the QOO Order rebate cap on BOX.⁹

The Exchange believes that the removal of the monthly rebate cap is equitable and not unfairly discriminatory because the proposal allows all similarly situated Floor Brokers to benefit from the removal of the QOO Order rebate cap. Furthermore, the Exchange believes that all market participants would benefit from additional trading opportunities generated from increased order flow due to the removal of the QOO Order rebate cap.

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. 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, the Exchange believes that the degree

⁹ See NYSE Arca Options Fees and Charges, Qualified Contingent Cross (“QCC”) Transactions Fees and Credits, Footnote 13 (stating the “maximum Floor Broker credit paid shall not exceed \$375,000 per month per Floor Broker firm.”). Similar to the Floor Broker Credit for Executed QCC Transactions on NYSE Arca, the QOO Order Rebate on BOX is applied to both sides of the paired order and is directed to the Floor Broker, and not to the Participant who is assessed the QOO Order fee. Finally, similar to the BOX QOO Rebate, the NYSE Arca QCC credit is only applied when the Floor Broker executes the QCC Order manually on the NYSE Arca trading floor.

to which fee changes in this market may impose any burden on competition is limited. For the reasons discussed above, the Exchange believes that the proposed changes do not impose an undue burden on competition. The Exchange does not believe that removing the monthly fee cap of \$75,000 per Broker Dealer and the monthly rebate cap of \$30,000 per month per Broker Dealer will burden competition because the Exchange capped the Manual Transaction Fees for QOO Orders and introduced the QOO Order monthly rebate cap in an effort to incentivize market participants, but such incentives are no longer necessary because the Exchange has a well-established trading floor and no longer needs these incentives to encourage increased order flow to the BOX Trading Floor.

With respect to the QOO Order rebate cap, one of the Exchange's competitors offers a QCC credit cap that is twelve times higher than the Exchange's QOO Order rebate cap.¹⁰ In addition, as mentioned above, the Floor Broker Credit for QCC Transactions on NYSE Arca is similar to the QOO Order Rebate on BOX in that it is applied to both sides of the paired order and is directed to the Floor Broker and not to the Participant who is assessed the QOO Order fee. Moreover, similar to the BOX QOO Rebate, the NYSE Arca QCC credit is only applied when the Floor Broker executes the QCC Order manually on the NYSE Arca trading floor.

Further, the Exchange does not believe that removing the QOO Order rebate cap will impose an undue burden on intra-market competition because all Floor Brokers will remain eligible to transact QOO Orders and receive the same rebate. Further, the Exchange believes that the removal of the rebate cap will promote competition by allowing Floor Brokers to

¹⁰ Id. See also NASDQ PHLX ("Phlx") Pricing Schedule, Section 4 (stating the "maximum QCC Rebate to be paid in a given month will not exceed \$550,000."). The Exchange notes Phlx's QCC Rebate cap is over eighteen times higher than the current QOO Order rebate cap on BOX.

competitively price their services and for the Exchange to remain competitive with other exchanges. As noted above, the Exchange previously removed the monthly rebate cap in 2019.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

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.

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 Act¹¹ and Rule 19b-4(f)(2) thereunder,¹² 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.

¹¹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹² 17 CFR 240.19b-4(f)(2).

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-2021-26 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-BOX-2021-26. 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-2021-26, 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.¹³

J. Matthew DeLesDernier
Assistant Secretary

¹³ 17 CFR 200.30-3(a)(12).