

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-95430; File No. SR-BOX-2022-24)

August 4, 2022

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 to establish Section IV.D.2 (“Strategy QCC Transactions”)

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 August 1, 2022, 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 to amend the Fee Schedule for trading on BOX to establish Section IV.D.2 (“Strategy QCC Transactions”) 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 August 1, 2022. The text of the

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).

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>.

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 establish Section IV.D.2 ("Strategy QCC Transactions").

Currently, the transaction fees for Qualified Contingent Cross ("QCC") Orders, including strategy QCC Orders, are detailed in Section IV.D. in the Fee Schedule. Broker Dealer and Market Maker QCC transactions are assessed \$0.17 per contract for both the Agency Order and the Contra Order. Public Customers and Professional Customers are assessed \$0.00 for both the Agency Order and the Contra Order and are eligible for a rebate if at least one side of the QCC transaction is a Broker Dealer or Market Maker.⁵

⁵ See BOX Fee Schedule, Section IV.D, "Qualified Contingent Cross ("QCC") Transactions."

To further incentivize Participants to execute strategy⁶ QCC transactions on BOX, the Exchange now proposes to establish Section IV.D.2 that will detail the fees assessed for these transactions.⁷ Specifically, the Exchange proposes to assess no fees for strategy QCC transactions which are comprised of an originating order to buy or sell at least 1,000 contracts, or 10,000 mini-option contracts, that is identified as being part of a qualified contingent trade, as that term is defined in IM-7110-2 below, coupled with a contra-side order or orders totaling an equal number of contracts. IM-7110-2 provides a “qualified contingent trade” is a transaction consisting of two or more component orders, executed as agent or principal, where: (1) At least

⁶ Strategy orders are defined as one of the following: A “short stock interest strategy” is defined as a transaction done to achieve a short stock interest arbitrage involving the purchase, sale, and exercise of in-the-money options of the same class. A “long stock interest strategy” is defined as a transaction done to achieve long stock involving the purchase, sale, and exercise of in-the-money options of the same class. A “merger strategy” is defined as transactions done to achieve a merger arbitrage involving the purchase, sale and exercise of options of the same class and expiration date, each executed prior to the date on which shareholders of record are required to elect their respective form of consideration, i.e., cash or stock. A “reversal strategy” is established by combining a short security position with a short put and a long call position that shares the same strike and expiration. A “conversion strategy” is established by combining a long position in the underlying security with a long put and a short call position that shares the same strike and expiration. A “jelly roll strategy” is created by entering into two separate positions simultaneously. One position involves buying a put and selling a call with the same strike price and expiration. The second position involves selling a put and buying a call, with the same strike price, but with a different expiration from the first position. A “box spread strategy” is a strategy that synthesizes long and short stock positions to create a profit. Specifically, a long call and short put at one strike is combined with a short call and long put at a different strike to create synthetic long and synthetic short stock positions, respectively. A “dividend strategy” is defined as a transaction done to achieve a dividend arbitrage involving the purchase, sale and exercise of in-the-money options of the same class, executed the first business day prior to the date on which the underlying stock goes ex-dividend. See BOX Fee Schedule, notes 29 and 35.

⁷ The Exchange notes that Public Customers and Professional Customers are not charged a fee for QCC Orders. Therefore, the Exchange believes that Public Customers and Professional Customers will not be as incentivized as other Participants by the proposed fees.

one component is an NMS Stock, as defined in Rule 600 of Regulation NMS under the Exchange Act; (2) all components are effected with a product or price contingency that either has been agreed to by all the respective counterparties or arranged for by a broker dealer as principal or agent; (3) the execution of one component is contingent upon the execution of all other components at or near the same time; (4) the specific relationship between the component orders (e.g., the spread between the prices of the component orders) is determined by the time the contingent order is placed; (5) the component orders bear a derivative relationship to one another, represent different classes of shares of the same issuer, or involve the securities of participants in mergers or with intentions to merge that have been announced or cancelled; and (6) the transaction is fully hedged (without regard to any prior existing position) as a result of other components of the contingent trade.⁸ Because these transactions will not be assessed a fee, the Exchange proposes that strategy QCC transactions will not be eligible for a QCC Rebate and will not count toward QCC Agency Order volume detailed in Section IV.D.1. The Exchange notes that strategy QCC transactions will continue to count toward Market Maker and Public Customer monthly executed volume on BOX detailed in Section IV.A.1 of the BOX Fee Schedule but will not be eligible for the QCC Rebate in Section IV.D.1 and will not be counted towards the QCC Rebate Tiers.

The proposed change is designed to compete with open outcry fee caps for strategy orders.⁹ The Exchange believes that Participants may choose to execute strategy orders that

⁸ BOX Rule 7110(c)(6).

⁹ The Exchange's proposal to not assess fees on strategy QCC transactions is similar to Cboe Exchange, Inc. ("CBOE"), which caps open outcry strategy transactions at \$0.00. See CBOE Fee Schedule, "QCC Rate Table"; footnote 13. CBOE's fee cap applies to open outcry strategy transactions. Although, the proposed strategy QCC Orders are executed electronically, the Exchange believes that executing strategy orders as QCC orders is an alternative for trading strategy orders in open outcry. As such, the proposed

would qualify as strategy QCC Orders either in open outcry or as electronic QCC transactions depending on convenience, fees, and access to Floor Brokers. The Exchange believes that Participants are otherwise indifferent to whether a strategy order is executed in open outcry or electronically. Therefore, the proposed change is designed to further incentivize certain Participants to direct strategy order volume to BOX's electronic QCC mechanism rather than to another exchange's trading floor.

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,¹⁰ 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 notes that it operates in a highly competitive environment. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 16% of the market share and currently the

change will allow BOX to compete with other exchanges who offer strategy orders at no cost. BOX notes that other exchanges offer fee caps on open outcry strategy transactions as well. See generally NYSE American Options Fee Schedule, Section I(J), "Options Transaction Fees and Credits" (Strategy transactions in open outcry and QCC reversal and conversion strategies are capped at \$1,000 on the same trading day. The cap is reduced to \$200 per trading day for ATP Holders that trade at least 25,000 billable contract sides in qualifying strategy executions) and Nasdaq PHLX LLC Rules Options 7, Section 4 (reversal and conversion strategies capped at \$200 per day; merger, short stock interest, and box spread strategies capped at \$1,000 per day if more than one class of options or \$700 per day if in a single class of options; dividend strategies capped at \$1,100 per day; all strategies capped at \$65,000 per month per member organization).

¹⁰ 15 U.S.C. 78f(b)(4) and (5).

Exchange represents only approximately 6% of the market share.¹¹ The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”¹² As stated above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed fee changes reflect a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange.

The Exchange believes the proposed change is reasonable, equitable, and not unfairly discriminatory as there are other exchanges with similar fees or fee caps for strategy orders¹³ and the proposed fees are uniformly applicable to all Participants. The Exchange also believes the proposed change would further incentivize certain Participants to execute strategy QCC Orders on BOX and may encourage Participants to aggregate all types of strategy orders (i.e. QCC Orders and Qualified Open Outcry (“QOO”) Orders) at BOX as a primary execution venue. The Exchange believes that Participants may consolidate different order types for execution on a single exchange because it increases the volume counted towards volume-based fee incentives,

¹¹ See Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (June 16, 2022), available at https://markets.cboe.com/us/options/market_statistics/.

¹² See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

¹³ See supra note 9.

in particular, the Tiered Volume Rebate for Non-Auction Transactions in Section IV.A.1., of BOX's Fee Schedule, which provides Participants with incentives to achieve certain volume thresholds on BOX. To the extent that the proposed change attracts more strategy orders to BOX, some of which may be executed as QCC Orders and others as QOO Orders, this increased order flow may make BOX a more competitive venue for order execution.

The Exchange also believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow. The Exchange believes the proposed change is a reasonable attempt to further incentivize certain Participants to execute strategy orders on BOX and in turn to increase the depth of its market to the benefit of all market participants. The Exchange also notes that Participants may avail themselves to the proposed strategy order pricing or they can opt for similar offerings at several other exchanges.¹⁴

The Exchange believes that not allowing strategy QCC transactions to be eligible for a rebate is reasonable, equitable and not unfairly discriminatory because, as proposed, a fee is not assessed for these transactions. As such, the Exchange believes that Participants do not require additional incentives to execute these transactions on BOX. The QCC Rebate and Tiers detailed in Section IV.D.1 of the BOX Fee Schedule were designed to reduce the QCC fees assessed to Participants in Section IV.D. The proposal discussed herein is to assess no fee on strategy QCC Orders therefore there is no fee to reduce. Further, the Exchange believes that it is reasonable,

¹⁴ See supra note 9.

equitable and not unfairly discriminatory to not count strategy QCC Order volume towards QCC Tiers because the Exchange does not believe that Participants need additional incentives to transact strategy QCC Orders on BOX.

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to continue to count strategy QCC transactions toward the Tiered Volume Rebate for Non-Auction Transactions in Section IV.A.1., which provides Participants with incentives to achieve certain volume thresholds on BOX. These volume tiers are designed to reflect a reasonable and competitive pricing structure, to incentivize market participants to direct their order flow to BOX, and to enhance market quality. The Exchange believes that allowing strategy QCC orders to count toward customer volume tiers is equitable and not unfairly discriminatory because BOX has historically aimed to improve markets for investors and develop various features within the market structure for public customer benefit. The Exchange believes further that allowing strategy QCC orders to count toward Market Maker volume tiers is equitable and not unfairly discriminatory because of the significant contribution to overall market quality that Market Makers provide. Specifically, Market Makers provide higher volumes of liquidity which ultimately benefits all Participants trading on BOX.

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 proposed change is designed to attract additional order flow to BOX. The Exchange believes that the proposed change could further incentivize certain market participants to direct their strategy QCC Orders to BOX. As noted herein, the proposed strategy QCC Order fees

would be applicable to all similarly situated market participants, and, as such, the proposed change would not impose a disparate burden on competition among Participants on BOX.

Further, the Exchange also does not believe that the proposed fees will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the Act because, as noted above, competing options exchanges currently have similar fees in place in connection with strategy orders.¹⁵ Because competitors are free to modify their own fees or fee caps in response to competing exchanges, BOX believes that the degree to which changes in this market may impose any burden on competition is limited. Further, the Exchange believes that the proposed change could promote competition between BOX and other execution venues, including those that currently offer similar strategy order fees or fee caps. 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

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Id.

Exchange Act¹⁶ and Rule 19b-4(f)(2) thereunder,¹⁷ 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-2022-24 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-2022-24. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

¹⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁷ 17 CFR 240.19b-4(f)(2).

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-2022-24, 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.¹⁸

J. Matthew DeLesDernier,
Deputy Secretary.

¹⁸ 17 CFR 200.30-3(a)(12).