

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-96234; File No. SR-BOX-2022-28)

November 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 Amend Certain Fees and Rebates for Qualified Contingent Cross 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 October 28, 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 certain fees and rebates for Qualified Contingent Cross (“QCC”) transactions on the BOX Options Market LLC (“BOX”) options facility. The text of the proposed rule change is available from the principal office 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).

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 amend the certain fees and rebates for Qualified Contingent Cross (“QCC”) transactions.⁵ A QCC Order is defined as 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.⁶

The Exchange proposes to amend the transactions fees for all Broker Dealers and Market Makers for their QCC transactions on BOX. Specifically, the Exchange proposes to increase the QCC fees for Broker Dealers and Market Makers to \$0.20 from \$0.17 for both the Agency Order

⁵ BOX was made aware that competing options exchanges intend to make similar changes to their respective QCC fees and rebates effective for October 3, 2022. As such, the Exchange is filing this proposal so that BOX can remain competitive with respect to QCC transactions within the options industry.

⁶ See BOX Rule 7110(c)(6).

and the Contra Order. The Exchange notes that the proposed fees are identical to another exchange in the industry.⁷

The Exchange also proposes to amend certain rebates for QCC transactions.⁸ Specifically, the Exchange proposes to amend the rebates in Tiers 2, 3, and 4, for both Rebate 1 and Rebate 2 in the QCC Rebate subsection. In Tier 2, if a Participant's QCC Agency Order Volume on BOX is 1,500,000 to 2,499,999 contracts, the Exchange proposes to increase Rebate 1 to \$0.16 from \$0.15 and increase Rebate 2 to \$0.24 from \$0.23. In Tier 3, if a Participant's QCC Agency Order Volume on BOX is 2,500,000 to 3,499,999 contracts, the Exchange proposes to increase Rebate 1 to \$0.16 from \$0.15 and increase Rebate 2 to \$0.25 from \$0.24. Lastly, in Tier 4, if a Participant's QCC Agency Order Volume on BOX is 3,500,000 contracts or above, the Exchange proposes to increase Rebate 1 to \$0.17 from \$0.15 and increase Rebate 2 to \$0.27 from \$0.25. The Exchange notes that the proposed rebates are in line with (or in some instances higher than) rebates currently assessed at another exchange.⁹

Lastly, the Exchange proposes to delete the sentence in Section IV.D.1 that states that "if the Participant qualifies for both rebates, only the larger rebate will be applied to the QCC transaction." The Exchange notes that under the current fee schedule, a market participant can only qualify for 1 of the 2 rebates set forth in Section IV.D.1 and therefore, the Exchange proposes to remove this sentence.

⁷ See Cboe EDGX Exchange, Inc. ("CboeEDGX") Fee Schedule.

⁸ The Exchange notes that the order volume thresholds in Tiers 1 through 4 remain the same.

⁹ See supra note 7.

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 believes that the proposed changes to the QCC Rebate structure are reasonable because the proposed changes provide opportunities for Participants to receive higher rebates for increasing the Participant's Agency QCC Order volume on BOX. The Exchange again notes that a volume-based incentive structure with similar rebates for QCC transactions currently exists at another exchange and that the Exchange is filing this proposal so that BOX can remain competitive with respect to QCC transactions within the options industry.¹¹ The Exchange also believes that the proposed QCC Rebates are equitable and not unfairly discriminatory as the proposed rebates will apply uniformly to the Participants that reach the applicable tiers. Further, the Exchange continues to believe that applying the proposed rebates where at least one party to the QCC transaction is a Broker Dealer or Market Maker is reasonable, equitable, and not unfairly discriminatory because Public Customers and Professional Customers are not assessed fees for these transactions and, in turn, do not need the incentive of the rebate.

The Exchange continues to believe that the current rebate structure and proposed rebates are reasonable as it provides an incremental incentive for Participants to strive for the higher tier

¹⁰ 15 U.S.C. 78f(b)(4) and (5).

¹¹ Id.

levels, which provide increasingly higher rebates for incrementally more QCC volume achieved, which the Exchange believes is a reasonably designed incentive for Participants to grow their QCC order flow to receive the enhanced rebates. The Exchange also believes that continuing to have two alternative rebates (depending on the capacity of the parties to the transaction) is reasonable and appropriate as this is how the Exchange assesses the rebates for QCC transactions today.¹²

The Exchange believes the proposed changes to the QCC transaction fees are reasonable as they are identical to fees currently assessed for QCC transactions at another exchange.¹³ The Exchange also believes that the proposed fees are equitable and not unfairly discriminatory as they will apply equally to all Broker Dealers and Market Makers on BOX. Further, the Exchange believes that increasing QCC transaction fees for Broker Dealers and Market Makers (and not Public Customers and Professional Customers) is reasonable, equitable and not unfairly discriminatory because Broker Dealers and Market Makers are offered increased rebates (as discussed above) for their QCC transactions where Public Customers and Professional Customers are not assessed fees for these transactions. As such, the Exchange believes that continuing to assess no fee to Public Customers and Professional Customers is reasonable, equitable, and not unfairly discriminatory.

Further, the Exchange believes that charging Broker Dealers and Market Makers more than Public Customers and Professional Customers for QCC Orders is reasonable equitable and not unfairly discriminatory. The securities markets generally, and BOX in particular, have

¹² The Exchange notes that Rebate 1 assesses lower rebates than rebates in Rebate 2 because when only one side of the QCC transaction is a Broker Dealer or Market Maker then only one side of the QCC transaction is assessed a fee, therefore the total fees assessed are lower and the corresponding rebate is also lower.

¹³ See supra note 7.

historically aimed to improve markets for investors and develop various features within the market structure for Public Customer benefit. The Exchange believes that continuing to charge no fees to Public Customers and Professional Customers in QCC transactions is reasonable and, ultimately, will benefit all Participants trading on the Exchange by attracting Public Customer and Professional Customer order flow. Further, as discussed above, the Exchange believes that the proposed fees for Broker Dealers and Market Makers are equitable and not unfairly discriminatory as they will be assessed to all Broker Dealers and Market Makers on BOX. The Exchange continues to believe that charging no fee to Professional Customers is reasonable and, ultimately, will benefit all Participants trading on the Exchange by attracting additional order flow.

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 believes that the proposed changes to the QCC transactions fees will not cause an unnecessary burden on intermarket competition as the proposed fees are identical to fees at another exchange. Rather, the Exchange believes that offering similar fees as another exchange could promote competition in the industry. Further, the Exchange notes that the proposed QCC transactions fees will be applied uniformly to all similarly situated Broker Dealers and Market Makers on BOX and thus will not cause any burden on intramarket competition. Further, the Exchange believes that the proposed changes to the QCC Rebates will not cause an unnecessary burden on intermarket competition as the proposed rebates are in line with similar QCC rebates assessed at another exchange. The Exchange also notes that the proposed QCC rebates will be applied uniformly to the Participants that reach the applicable tiers. The Exchange believes that the proposed changes related

to QCC transactions would not impose any burden on intramarket competition, but rather, serves to increase intramarket competition by incentivizing market participants to direct their QCC orders to the Exchange which in turn may allow market participants to offer more competitive prices for their services.

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 rebates 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 Act¹⁴ and Rule 19b-4(f)(2) thereunder,¹⁵ 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.

¹⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁵ 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-2022-28 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-2022-28. 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-2022-28, 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.¹⁶

J. Matthew DeLesDernier,
Deputy Secretary.

¹⁶ 17 CFR 200.30-3(a)(12).