

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-97794; File No. SR-BOX-2023-17)

June 23, 2023

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 7660 (Communications and Equipment)

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 June 12, 2023, BOX Exchange LLC (the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

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

The Exchange proposes to amend Rule 7660 (Communications and Equipment). 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 <https://rules.boxexchange.com/rulefilings>.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 purpose of the proposed rule change is to amend Rule 7660 to modernize and clarify the scope of the recordkeeping obligations for Floor Participants³ relating to communication devices. Specifically, the Exchange is proposing to amend Rule 7660 to: (1) codify that the registration requirement is only applicable to any communication device to be used for business purposes; and (2) explicitly provide that Floor Participants must maintain records of the use of any communication devices on the Trading Floor.⁴

Rule 7660, which applies to the use of electronic communication devices on the Trading Floor, was adopted in 2017 with the establishment of the BOX Trading Floor. The Exchange is now proposing to update and modernize Rule 7660(k).

Currently Rule 7660(f) provides that Floor Participants must register, prior to use, any new communication device to be used on the Trading Floor. Each device registered with the Exchange must be registered by category of user. If there is a change in the category of any user, the device must be re-registered with the Exchange. At the time of registration, Floor Participant representatives must sign a statement that they are aware of and understand the rules and procedures governing the use of communication devices on the Options Floor. The Exchange is

³ The term “Floor Participant” means Floor Brokers as defined in Rule 7540 and Floor Market Makers as defined in Rule 8510(b). See BOX Rule 100(a)(26).

⁴ The term “Trading Floor” or “Options Floor” means the physical trading floor of the Exchange located in Chicago. The Trading Floor shall consist of one “Crowd Area” or “Pit” where all option classes will be located. The Crowd Area or Pit shall be marked with specific visible boundaries on the Trading Floor, as determined by the Exchange. A Floor Broker must open outcry an order in the Crowd Area. See BOX Rule 100(a)(68).

proposing to update Rule 7660(f) to codify that the registration requirement is only applicable to communication devices to be used for business purposes. Specifically, the Exchange is proposing to amend Rule 7660(f) to state: “Floor Participants must register, prior to use, any new communication device to be used for business purposes on the Trading Floor. Each device registered with the Exchange must be registered by category of user. If there is a change in the category of any user, the device must be re-registered with the Exchange. At the time of registration, Floor Participant representatives must sign a statement that they are aware of and understand the rules and procedures governing the use of communication devices on the Options Floor.”

The proposed updates to Rule 7660(f) are intended to codify an existing requirement that Floor Participants must register, prior to use, any new communication device to be used for business purposes on the Trading Floor. The Exchange is proposing this additional language to clarify that the registration requirement is only applicable to communication devices to be used for business purposes. This requirement is already reflected on the BOX Communication Device Registration Form and the Exchange is not proposing to change the existing practice. The Exchange is looking to codify this existing requirement into the Rulebook to provide additional clarity to Floor Participants. The Exchange believes that this proposed change will help provide greater clarity to the existing practices on the Trading Floor and may reduce the potential for confusion regarding the requirements relating to communication devices on the Trading Floor.

The Exchange notes that proposed Rule 7660(f) is similar in relevant part to an existing rule governing recordkeeping on the trading floor at another exchange.⁵

⁵ See Cboe Exchange, Inc. (“Cboe”) Rule 5.81(a). The registration requirements relating to communication devices and equipment on the trading floor at Cboe explicitly provides that prior to use, all communication devices for business purposes must be registered with the exchange. Proposed Rule 7660(f) states: Floor Participants must register, prior to use, any new communication device to be used for business purposes on

Currently, Rule 7660(k) provides that Floor Participants must maintain their cellular or cordless telephone records, including logs of calls placed, for a period of not less than three years, the first two in an easily accessible place. The Exchange reserves the right to inspect and/or examine such telephone records. The Exchange is proposing to modernize Rule 7660(k) to make it clear that the recordkeeping obligations are applicable to any registered communication devices and not limited to telephone records. Specifically, the Exchange is proposing to update Rule 7660(k) to state: “Floor Participants must maintain records of the use of telephones and all other registered communication devices, including, but not limited to, logs of calls, emails, and chats, for a period of not less than three years, the first two in an easily accessible place. The Exchange reserves the right to inspect and/or examine such records.”

The proposed updates to Rule 7660(k) are intended to modernize and clarify that the recordkeeping obligations are applicable to all registered communication devices and that records of Floor Participant’s use of any communication devices, including, but not limited to, emails and chats, are also required to be maintained. The Exchange believes that this proposed change will help with the Exchange’s surveillance function. Additionally, the Exchange has notified all Participants that their record keeping obligations apply to all communication devices and extend to chats and emails by Regulatory Notice.⁶

the Trading Floor. Each device registered with the Exchange must be registered by category of user. If there is a change in the category of any user, the device must be re-registered with the Exchange. At the time of registration, Floor Participant representatives must sign a statement that they are aware of and understand the rules and procedures governing the use of communication devices on the Options Floor. Cboe Rule 5.81(a) states: (a) Subject to the requirements of this Rule, Trading Permit Holders may use any communication device (e.g., any hardware or software related to a phone, system, or other device, including an instant messaging system, e-mail system, or similar device) on the trading floor and in any trading crowd of the Exchange. Prior to using a communications device for business purposes on the trading floor of the Exchange, Trading Permit Holders must register the communications device by identifying (in a form and manner prescribed by the Exchange) the hardware (i.e., headset, cellular telephone, tablet, or other similar hardware).

⁶ See Exchange Notice 2023-11. Available at: https://boxexchange.com/assets/Communications-and-Equipment-Notice_2.28.2023.pdf.

The Exchange notes that proposed Rule 7660(k) is similar in relevant part to an existing rule governing recordkeeping on the trading floor at another exchange⁷ and to an existing Exchange recordkeeping rule.⁸

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,⁹ in general, and Section 6(b)(5) of the Act,¹⁰ in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

The Exchange believes that the rule change will promote just and equitable principles of trade by making the rules clearer and easier to use. The Exchange is proposing to update Rule 7660(f) to codify the requirement that Floor Participants must register, prior to use, any new communication device to be used for business purposes on the Trading Floor. The Exchange is proposing this additional language to clarify that the registration requirement is only applicable to communication devices to be used for business purposes. As noted above, the proposed amendment to 7660(f) is an effort to codify an existing Exchange practice that is detailed in the BOX Communication Device Policy and is similar in relevant part to a provision governing the registration of devices in the communications and equipment rules at another exchange.¹¹ The

⁷ See Cboe Rule 5.81(g). The recordkeeping obligations relating to communication devices and equipment on the trading floor at Cboe explicitly covers all communication devices and includes emails and chats as well. Proposed Rule 7660(k) states: Floor Participants must maintain records of the use of telephones and all other registered communication devices, including, but not limited to, logs of calls, emails, and chats, for a period of not less than three years, the first two in an easily accessible place. The Exchange reserves the right to inspect and/or examine such records. Cboe Rule 5.81(g) states: Trading Permit Holders must maintain records of the use of communication devices, including, but not limited to, (1) logs of calls placed, (2) emails, and (3) chats, for a period of not less than three years, the first two years in an easily accessible place. The Exchange reserves the right to inspect such records pursuant to Rule 13.2.

⁸ See BOX Rule 7670(a)(1)(G).

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ See supra note 5.

Exchange believes that this proposed update to codify the requirement to register all communication devices that to be used for a business purpose on the Trading Floor will help provide greater clarity into existing practices on the Trading Floor and may reduce the potential for confusion regarding the requirements relating to communication devices on the Trading Floor. As such, the Exchange believes that the proposed changes to codify this existing registration requirement in Rule 7660(f) is in the public interest, and therefore, consistent with the Act.

The Exchange is also proposing to modernize Rule 7660(k) to amend the records retention requirement for telephone records to explicitly provide that, the recordkeeping obligations are applicable to all registered communication devices and that records of Floor Participant's use of any communication devices, including, but not limited to, emails and chats are also required to be maintained for a period of not less than three years, the first two in an easily accessible place. As noted above, these proposed amendments are similar in relevant part to a provision governing recordkeeping in the communications and equipment rules at another exchange¹² and to an existing Exchange recordkeeping rule.¹³ The Exchange believes that this modernization and clarification of the scope of the recordkeeping requirements under Rule 7660(k), will help with the Exchange's surveillance function and make the Rule clearer for Participants. As such, the Exchange believes that the proposed changes to modernize and clarify Rule 7660(k) is in the public interest, and therefore, consistent with the Act.

¹² See supra note 7.

¹³ See supra note 8.

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 Act, as amended. The Exchange believes that the proposed change will not impose a burden on intermarket or intramarket competition, as the proposed change applies equally to all market participants. While the Exchange does not believe that the proposed non-controversial change is a burden on competition, or is competitive in nature, the Exchange believes that proposed updates to codify an existing practice and provide for clearer, modernized recordkeeping obligations will benefit market participants. The Exchange also notes that the proposed updates to 7660(f) are similar in relevant part to an existing provision governing communication device registration in the communications and equipment rules at another options exchange¹⁴ and that the proposed updates to 7660(k) are similar in relevant part to an existing provision governing recordkeeping in the communications and equipment rules at another options exchange¹⁵ and to an existing Exchange recordkeeping rule.¹⁶ As such, 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.

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.

¹⁴ See supra note 5.

¹⁵ See supra note 7.

¹⁶ See supra note 8.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁷ and Rule 19b-4(f)(6) thereunder.¹⁸ Because the proposed rule change does not:

(i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁹ and Rule 19b-4(f)(6)(iii) thereunder.²⁰

A proposed rule change filed under Rule 19b-4(f)(6)²¹ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),²² the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. As discussed above, the Exchange states that this proposed update to 7660(f) to codify the existing requirement to register all communication devices to be used for a business purpose on the Trading Floor will help provide greater clarity into existing practices on the Trading Floor and may reduce the potential for confusion regarding the requirements relating to communication

¹⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁸ 17 CFR 240.19b-4(f)(6).

¹⁹ 15 U.S.C. 78s(b)(3)(A).

²⁰ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

²¹ 17 CFR 240.19b-4(f)(6).

²² 17 CFR 240.19b-4(f)(6)(iii).

devices on the Trading Floor. The Exchange believes that the waiver of the operative delay will protect investors by allowing the Exchange to quickly codify existing practices and to modernize and clarify the scope of the recordkeeping requirements under Rule 7660(k). The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to immediately codify an existing practice within Rule 7660(f) and amend Rule 7660(k) to modernize the requirements applicable to communication devices. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.²³

At any time within 60 days of the filing of this proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)²⁴ of the Act to determine whether the proposed rule change 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 (<https://www.sec.gov/rules/sro.shtml>); or

²³ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²⁴ 15 U.S.C. 78s(b)(2)(B).

- Send an email to rule-comments@sec.gov. Please include file number SR-BOX-2023-17 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-2023-17. This file number should be included on the subject line if email 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 (<https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright

protection. All submissions should refer to file number SR-BOX-2023-17 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁵

J. Lynn Taylor,

Assistant Secretary.

²⁵ 17 CFR 200.30-3(a)(12).