

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-97959; File No. SR-BOX-2023-19)

July 21, 2023

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Fee Schedule for Trading on the BOX Options Market LLC Facility to Change How Certain Complex Orders are Assessed Within the Fee Structure

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 July 18, 2023, 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 for trading on the BOX Options Market LLC (“BOX”) options facility to change how certain Complex Orders are assessed within the fee

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).

structure, specifically each leg of a Complex Orders that executes against the BOX Book⁵ instead of the Complex Order Book.⁶ 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>.

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 change how certain Complex Orders are assessed within the fee structure, specifically each leg of a Complex Orders that executes against the BOX Book⁷ instead of the Complex Order Book.⁸

⁵ The term "Central Order Book" or "BOX Book" means the electronic book of orders on each single option series maintained by the BOX Trading Host. See BOX Rule 100(a)(10).

⁶ The term "Complex Order Book" means the electronic book of Complex Orders maintained by the BOX Trading Host. See BOX Rule 7240(a)(8).

⁷ The term "Central Order Book" or "BOX Book" means the electronic book of orders on each single option series maintained by the BOX Trading Host. See BOX Rule 100(a)(10).

⁸ The term "Complex Order Book" means the electronic book of Complex Orders maintained by the BOX Trading Host. See BOX Rule 7240(a)(8).

While a Participant may enter a Complex Order with the intent of that Order executing against another Complex Order on the Complex Order Book, the BOX Trading System allows single legs within the Complex Order to execute against orders on the BOX Book.⁹ Currently, each leg of a Complex Order executed against the BOX Book is treated as a Complex Order for purposes of the Fee Schedule and subject to the fees detailed in Section VI (Complex Order Transaction Fees). The Exchange now proposes to amend Section VI.B (Orders on BOX Book Executed Against Complex Orders) of the BOX Fee Schedule to include language stating that each leg of a Complex Order executed against the BOX Book will be treated as a standard order for purposes of the Fee Schedule and now be subject to Section IV (Electronic Transaction Fees). Specifically, the Exchange proposes to amend Section VI.B as follows:

Each order on the BOX Book executed against a Complex Order and each leg of a Complex Order executed against the BOX Book will be treated as a standard order for purposes of the Fee Schedule and subject to Section IV.A (Electronic Transaction Fees for Non-Auction Transactions).

The Exchange believes the proposed change is reasonable because the Exchange's fee structures for electronic non-auction transactions and Complex Orders are designed to independently attract liquidity and to reward Participants for their order flow. Specifically, when a Complex Order interacts with the BOX Book, the orders in the BOX Book are assessed electronic transaction fees for non-auction transactions.¹⁰ In contrast, the legs of the Complex Order involved in the same transaction are assessed fees from a different section of the BOX Fee

⁹ See BOX Rule 7240.

¹⁰ See BOX Fee Schedule Section VI.B.

Schedule, which may be confusing to Participants.¹¹ As such, the Exchange proposes to assess each leg of a Complex Order that trades against the BOX Book the electronic transaction fees for non-auction transactions detailed in Section IV.A of the BOX Fee Schedule. The Exchange believes that assessing each leg of a Complex Order according to the fee structure applicable to electronic non-auction transactions (which may increase or decrease fees or result in BOX providing no rebate or a smaller rebate), is reasonable because such orders may benefit from the liquidity on the BOX Book in addition to the liquidity on the Complex Order Book. The Exchange believes further that the proposed changes are reasonable because they add clarity to the Fee Schedule by expressly providing which fees will be assessed to the legs of a Complex Order when the legs of a Complex Order interact with the BOX Book.

The Exchange notes that Complex Orders from Public Customers are assessed no fee or provided a rebate of \$0.50 depending on the contra party and whether the order is making or taking liquidity in Penny Interval Classes and are assessed no fee or provided a rebate of \$0.90 depending on the contra party and whether the order is making or taking liquidity in Non-Penny Interval Classes. Electronic transaction fees in non-auction transactions for Public Customers are currently assessed no fee or provided a rebate of \$0.20 depending on the contra party and whether the order is making or taking liquidity in Penny Interval Classes, are assessed no fee or provided a rebate of \$0.50 depending on the contra party and whether the order is making or taking liquidity in Non-Penny Interval Classes, and are assessed no fee or rebate for transactions in SPY. Complex Order SPY transactions are assessed the fee or provided the rebate for Penny Interval Classes as SPY is a Penny Interval Class. Therefore, the

¹¹ Although this is not specified expressly in the Fee Schedule, the legs of Complex Orders trading against the BOX Book are currently assessed Complex Order transaction fees in BOX Fee Schedule Section VI.A.

proposal will result in no fee assessment or BOX providing a smaller rebate for the legs of Public Customer Complex Orders that trade against the BOX Book.

Similarly, Complex Orders from Professional Customers and Broker Dealers are currently provided a rebate of \$0.30 or assessed a fee of \$0.50 depending on the contra party and whether the order is making or taking liquidity in Penny Interval Classes and are provided a rebate of \$0.30 or assessed a fee between \$0.98 and \$1.00 depending on the contra party and whether the order is making or taking liquidity in Non-Penny Interval Classes. Electronic transaction fees in non-auction transactions for Professional Customers and Broker Dealers are currently assessed a fee between \$0.15 and \$0.60 depending on the contra party and whether the order is making or taking liquidity in Penny Interval Classes, are assessed a fee between \$0.15 and \$0.95 depending on the contra party and whether the order is making or taking liquidity in Non-Penny Interval Classes, and are assessed a fee between \$0.15 and \$0.60 depending on the contra party and whether the order is making or taking liquidity for transactions in SPY. Complex Order SPY transactions are assessed the fee or provided the rebate for Penny Interval Classes as SPY is a Penny Interval Class. Therefore, the proposal may increase or decrease fees or result in BOX providing no rebate for the legs of Professional Customer and Broker Dealer Complex Orders that trade against the BOX Book depending on the contra party and whether the class traded is a Penny Interval Class, a Non-Penny Interval class, or SPY.

Lastly, Complex Orders from Market Makers are currently provided a rebate of \$0.30 or assessed a fee of \$0.50 depending on the contra party and whether the order is making or taking liquidity in Penny Interval Classes and are provided a rebate of \$0.30 or a fee between \$0.98 and \$1.00 depending on the contra party and whether the order is making or taking

liquidity in Non-Penny Interval classes. Electronic transaction fees in non-auction transactions for Market Makers are currently assessed a fee between \$0.00 and \$0.50 depending on the contra party and whether the order is making or taking liquidity in Penny Interval Classes, are assessed a fee between \$0.00 and \$0.95 depending on the contra party and whether the order is making or taking liquidity in Non-Penny Interval Classes, and are assessed a fee between \$0.00 and \$0.50 depending on the contra party and whether the order is making or taking liquidity for transactions in SPY. Complex Order SPY transactions are assessed the fee or provided the rebate for Penny Interval Classes as SPY is a Penny Interval Class. Therefore, the proposal may increase or decrease fees or result in BOX providing no rebate for the legs of Market Maker Complex Orders that trade against the BOX Book depending on the contra party and whether the class traded is a Penny Interval Class, a Non-Penny Interval Class, or SPY.

The Exchange believes that the proposed change discussed above will allow both sides of a transaction executed on BOX to be assessed consistently and will add clarity by expressly providing how fees will be assessed for each leg of a Complex Order executed against the BOX Book.

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,¹² 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.

¹² 15 U.S.C. 78f(b)(4) and (5).

The Exchange believes the proposed change is reasonable because the Exchange's fee structures for both electronic non-auction transactions and Complex Orders are designed to independently attract liquidity and to reward Participants for their order flow. Specifically, when a Complex Order interacts with the BOX Book, the orders in the BOX Book are assessed electronic transaction fees for non-auction transactions.¹³ In contrast, the legs of the Complex Order involved in the same transaction are assessed fees from a different section of the BOX Fee Schedule, which may be confusing to Participants.¹⁴ As such, the Exchange proposes to assess each leg of a Complex Order traded against the BOX Book the electronic transaction fees for non-auction transactions in Section IV.A of the BOX Fee Schedule. The Exchange believes it is reasonable to assess the same fees for the legs of Complex Orders as single-leg orders because the legs of Complex Orders executed against the BOX Book are executed as if they were single-leg orders.¹⁵ The Exchange believes that the proposed change will allow both sides of a transaction executed on BOX to be assessed consistently, and will add clarity by expressly providing how fees will be assessed for each leg of a Complex Order executed against the BOX Book.

Further, the Exchange believes that to the extent the legs of Complex Orders are assessed lower or higher fees or provided a smaller rebate or no rebate, this proposal is reasonable because such orders may benefit from the liquidity on the BOX Book in addition to the liquidity

¹³ See BOX Fee Schedule Section VI.B.

¹⁴ Although this is not specified expressly in the Fee Schedule, the legs of Complex Orders trading against the BOX Book are currently assessed Complex Order transaction fees in BOX Fee Schedule Section VI.A.

¹⁵ The Exchange notes that Complex Orders will be automatically executed against bids and offers on the BOX Book for the individual legs of the Complex Order to the extent that the Complex Order can be executed in full or in a permissible ratio by such bids and offers. See BOX Rule 7240(b)(3)(ii).

on the Complex Order Book. The Exchange notes that Complex Orders may receive executions for each leg of a Complex Order against the BOX Book when the Complex Order would not otherwise have received an execution in the Complex Order Book. The Exchange notes further that another exchange assesses fees similarly to the proposal.¹⁶ The Exchange believes that, although some transactions will be assessed lower or higher fees or provided a smaller rebate or no rebate under the proposal, the Complex Order fee structure is still designed to attract order flow and will allow BOX to remain a competitive venue for Complex Order flow. The Exchange believes further that the proposed changes are reasonable because they add clarity to the Fee Schedule by expressly providing which fees will be assessed to the legs of a Complex Order when the legs of a Complex Order interact with the BOX Book.

The Exchange notes another mechanism in the BOX Fee Schedule where both sides of a transaction are assessed fees, in a consistent manner, from the same section of the Fee Schedule. In Section IV.B of the BOX Fee Schedule for PIP and COPIP transactions, each PIP Order or COPIP Order that executes against an Unrelated Order on the BOX Book shall be treated as a non-auction transaction.¹⁷ Specifically, both sides of the same transaction where one is an Unrelated Order entered into the BOX market during a PIP and the other is a PIP Order, are assessed fees from the same section of the BOX Fee Schedule – Section IV.A (Electronic

¹⁶ See Cboe EDGX Exchange, Inc. (“Cboe EDGX”) Options Fee Schedule (providing that standard fee codes are applicable to Complex Orders that leg into the Simple Book). The Simple Book on Cboe EDGX is the regular electronic book of orders. There is an exception for fee code ZD which corresponds to: “Complex order legs into Simple Book, Customer” and a fee of “FREE.” The Exchange notes that, although such Customer Complex Orders are free, the standard Cboe EDGX rates would provide a credit. The Exchange believes that the Cboe EDGX fee structure for Complex Orders that leg into the Simple Book uses different rates but is similar in operation to the proposal.

¹⁷ For the PIP, an Unrelated Order is a non-Improvement Order entered into the BOX market during a PIP. For the COPIP, an Unrelated Order is a non-Improvement Order entered on BOX during a COPIP or BOX Book Interest during a COPIP.

Transaction Fees for Non-Auction Transactions). The Exchange believes that this structure provides clarity to the Fee Schedule and reduces Participant confusion about how these executions are treated.

The Exchange notes that the BOX Fee Schedule, including Section VI (Complex Order Transaction Fees), assesses fees and credits according to the account type of the Participant originating the order and the contra party.¹⁸ The result of this structure is that a Participant does not know the fee it will be charged when submitting certain orders. The Exchange believes that this uncertainty is reasonable because each section of the BOX Fee Schedule is designed to independently attract order flow and to compete with exchanges that have similar fee structures.¹⁹ Similarly, the proposed change contains some uncertainty about which fees will be assessed because Participants may not know ahead of time whether their Complex Order will interact with the Complex Order Book or the BOX Book. As a result, Participants must recognize when submitting a Complex Order to BOX that they could be assessed a range of fees or rebates and must expect the highest applicable fee or lowest applicable rebate such that fees(rebates) may be lower(higher) than their expectations. The Exchange notes that under the proposal, Public Customer Complex Orders will not pay a fee regardless of whether the Complex Order executes in the Complex Order Book or the BOX Book, however, such orders will receive a smaller rebate or no rebate if the legs of the Complex Order execute against the BOX Book.

¹⁸ See BOX Fee Schedule Sections IV.A (Electronic Non-Auction Transactions) and VI.A (Complex Order Transaction Fees).

¹⁹ See Nasdaq ISE, LLC (“Nasdaq ISE”) Options 7 Section 4 (Complex Order Fees and Rebates) and MIAX Emerald, LLC Options Exchange Fee Schedule (Transaction Fees). The Exchange notes that Nasdaq ISE assesses fees based on market participant, whether the market participant is trading against a Priority Customer, maker/taker, and whether the symbol is a Select or non-Select Symbol, whereas BOX varies fees based on account type, contra party, maker/taker, and whether the class is a Penny Interval Class or a Non-Penny Interval Class.

Further, the Exchange believes the proposed changes are equitable and not unfairly discriminatory as the proposed fee structure will apply uniformly to all Participants.

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 proposal does not impose an undue burden on inter-market competition. The Exchange believes its proposal, to the extent it increases or decreases fees or provides smaller rebates or no rebates, remains competitive with other options markets. 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 and rebates to remain competitive with other exchanges. Because competitors are free to modify their own fees and rebates in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. The Exchange notes that another exchange has a similar fee structure.²⁰

The proposed changes do not impose an undue burden on intra-market competition because the Exchange does not believe that the proposal will place any category of market participant at a competitive disadvantage. Specifically, the Exchange believes that applying Section IV.A (Electronic Transaction Fees for Non-Auction Transactions) to the legs of Public Customer Complex Orders that trade against the BOX Book does not impose an undue burden on intra-market competition because the fee structure contained in Section IV.A is designed to attract Public

²⁰ See supra note 16.

Customer order flow which increases the number of executions on the Exchange, thus benefiting all market participants. The Exchange notes that, as discussed above, although the Public Customer rebates in Section IV.A are smaller than Public Customer rebates in Section VI (Complex Order Transaction Fees), Public Customers benefit from the additional liquidity available on the BOX Book.

Lastly, the Exchange believes that the proposed changes will provide all Participants with consistency and clarity regarding how Complex Order fees are assessed on BOX. The Exchange notes that all Participants sending a Complex Order to BOX that interacts with the BOX Book will be subject to fees and rebates already in place on the Exchange.

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 Act²¹ and Rule 19b-4(f)(2) thereunder,²² 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.

²¹ 15 U.S.C. 78s(b)(3)(A)(ii).

²² 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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-BOX-2023-19 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-2023-19. 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-2023-19 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.²³

Sherry R. Haywood,
Assistant Secretary.

²³ 17 CFR 200.30-3(a)(12).