

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-101480; File No. SR-BOX-2024-25)

October 30, 2024

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 (“BOX”)

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 15, 2024, BOX Exchange LLC (the “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,<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> 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 assess a \$0.00 Complex Surcharge for certain Complex Order 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 Exchange, at the Commission’s Public Reference Room and also on the Exchange’s Internet website at <https://rules.boxexchange.com/rulefilings>.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>4</sup> 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 the Fee Schedule for trading on BOX to assess a \$0.00 Complex Surcharge for certain Complex Order transactions.

Currently, BOX assesses a Complex Surcharge of \$0.12 per contract to any electronic non-Public Customer Complex Order that executes against an electronic Public Customer Complex Order.<sup>5</sup>

The Exchange now proposes that a \$0.00 per contract Complex Surcharge will be applied for transactions in SPY, QQQ, and IWM when the Public Customer Complex Order is entered by an affiliate or Appointed OFP.<sup>6</sup> Section VI.A. of the Fee Schedule currently provides, in relevant part, "A \$0.12 per contract Complex Surcharge will be applied to any electronic non-Public Customer Complex Order that executes against an electronic Public Customer Complex Order." The Exchange now proposes to add text to Section VI.A. providing,

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<sup>5</sup> See BOX Fee Schedule Section VI.A (All Complex Orders).

<sup>6</sup> For purposes of the Exchange Fee Schedule, the term "affiliate" of a Participant shall mean any Participant under 75% common ownership or control of that Participant. An "Appointed OFP" is an OFP that has been designated by a BOX Market Maker. See BOX Fee Schedule Section IX.A (Aggregate Billing).

“The Complex Surcharge will not be applied for transactions in SPY, QQQ, and IWM when the Public Customer Complex Order is entered by an affiliate or Appointed OFP.”

For example, currently, if a Public Customer submitted a SPY order to the Complex Order Book (making liquidity) that interacted with a Market Maker’s SPY order (taking liquidity), the Market Maker would be charged \$0.62.<sup>7</sup> Under the proposal, if the Public Customer SPY order was entered by an affiliate or Appointed OFP of the Market Maker, then the Market Maker would only be charged the taker fee of \$0.50 and not the \$0.12 Complex Surcharge. The proposed change would effectively decrease the Complex Surcharge assessed in this case from \$0.12 to \$0.00.

The Exchange does not believe that the proposed rule change is novel as a similar discount structure currently exists at another exchange.<sup>8</sup> Further, the Exchange believes that the proposal will encourage Participants to send increased SPY, QQQ, and IWM Complex Order flow to BOX because this proposal will decrease the cost of certain transactions. Specifically, Participants with an affiliate or an Appointed OFP will not be assessed the Complex Surcharge for transactions in SPY, QQQ, and IWM when the Public Customer Complex Order that they trade with is entered by their affiliate or Appointed OFP.

## 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,<sup>9</sup> in particular, in that it

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<sup>7</sup> A \$0.50 fee plus the \$0.12 Complex Surcharge.

<sup>8</sup> See Nasdaq ISE, LLC (“Nasdaq ISE”) Rules Options 7, Section 4, footnote 3 (Taker Fee discounted from \$0.50 to \$0.38 per contract when executed against Priority Customer Complex Orders in Select Symbols entered by an Affiliated Member or Affiliated Entity, excluding Complex Orders executed in the Facilitation Mechanism, Solicited Order Mechanism, and Price Improvement Mechanism). The Exchange believes that Nasdaq ISE’s taker fee discount structure is similar to the proposal in that it applies to a subset of symbols entered by affiliated or assigned firms. The Exchange notes that while ISE offers a discounted fee, the Exchange is proposing to not apply a surcharge, which similarly results in a decreased fee.

<sup>9</sup> 15 U.S.C. 78f(b)(4) and (5).

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. Specifically, the Exchange's proposal to not apply the Complex Surcharge for transactions in SPY, QQQ, and IWM when the Public Customer Complex Order is entered by an affiliate or Appointed OFP is reasonable because this discount will incentivize BOX Participants to send their SPY, IWM, and QQQ order flow to BOX which would increase Complex Order liquidity and benefit all market participants (including those market participants that are not currently affiliates and/or opt not to become an Appointed OFP) by providing more trading opportunities and tighter spreads in SPY, QQQ, and IWM.

The Exchange believes that this proposal is reasonable, equitable, and not unfairly discriminatory as it is consistent with the discount structure at another exchange.<sup>10</sup> Specifically, ISE currently provides a taker fee discount in Select Symbols<sup>11</sup> when entered against Priority Customer<sup>12</sup> Complex Orders<sup>13</sup> by an Affiliated Member<sup>14</sup> or Affiliated Entity.<sup>15</sup> The Exchange believes that its proposal is similar to the discount structure in place at Nasdaq ISE in that it is proposing to apply a Complex Surcharge of \$0.00 (an effective \$0.12 discount) to certain

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<sup>10</sup> See supra note 8.

<sup>11</sup> The Nasdaq ISE Options Pricing Schedule defines "Select Symbols" as options overlying all symbols listed on the Nasdaq ISE that are in the Penny Interval Program. See Nasdaq ISE Rules Options 7, Section 1(c).

<sup>12</sup> The Nasdaq ISE Options Pricing Schedule provides that a "Priority Customer" is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in Nasdaq ISE Options 1, Section 1(a)(37). See Nasdaq ISE Rules Options 7, Section 1(c).

<sup>13</sup> The Nasdaq ISE Options Pricing Schedule defines a "Complex Order" as any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, as provided in Nasdaq ISE Options 3, Section 14, as well as Stock-Option Orders. See Nasdaq ISE Rules Options 7, Section 1(c).

<sup>14</sup> The Nasdaq ISE Options Pricing Schedule defines an "Affiliated Member" as a Member that shares at least 75% common ownership with a particular Member as reflected on the Member's Form BD, Schedule A. See Nasdaq ISE Rules Options 7, Section 1(c).

<sup>15</sup> The Nasdaq ISE Options Pricing Schedule provides that an "Affiliated Entity" is a relationship between an Appointed Market Maker and an Appointed OFP for purposes of qualifying for certain pricing specified in the Schedule of Fees. See Nasdaq ISE Rules Options 7, Section 1(c).

transactions in a subset of symbols when the Public Customer Complex Order is entered by an affiliate or Appointed OFP.<sup>16</sup>

The Exchange further believes that this proposal is reasonable, equitable, and not unfairly discriminatory because all non-Public Customers would not be assessed a Complex Surcharge for transactions in SPY, QQQ, and IWM when executing against a Public Customer Complex Order that was entered by an affiliate or Appointed OFP. Additionally, the criteria for not applying the Complex Surcharge for transactions in SPY, QQQ, and IWM that execute against Public Customer Complex Orders that were entered by an affiliate or Appointed OFP would be uniformly applied for all Participants.

The Exchange also believes that offering Participants the opportunity to not be assessed the Complex Surcharge for transactions in SPY, QQQ, and IWM when they execute against Public Customer Complex Orders that were entered by an affiliate or Appointed OFP is equitable and not unfairly discriminatory as it relates to Participants who are not affiliates or Appointed OFPs because any Participant may enter into such a relationship for the purpose of aggregating volume executed on the Exchange.

The Exchange believes further that discounting the Complex Surcharge when the Public Customer Complex Order is entered by an affiliate or Appointed OFP is reasonable because the discount is designed to increase SPY, QQQ, and IWM order flow to BOX, which would benefit all market participants.

The Exchange believes its proposal to establish different pricing for SPY, QQQ, and IWM Complex Order in this case is reasonable, equitable, and not unfairly discriminatory

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<sup>16</sup> See supra note 8. The Exchange further notes that it is proposing to not apply the Complex Surcharge to transactions in SPY, QQQ, and IWM, while the Nasdaq ISE discount is applicable to all options within their Penny Interval Program.

because pricing by symbol is a common practice on many U.S. options exchanges as a means to incentivize order flow to be sent to an exchange for execution in the most actively traded options classes. The Exchange notes that separate fees and rebates for SPY, QQQ, and IWM and currently assessed for non-auction electronic transactions and Complex Orders.<sup>17</sup> The Exchange notes further that other exchanges design fee structures to compete specifically for volume in these (and other high volume) symbols.<sup>18</sup> SPY, QQQ, and IWM are among the most actively traded options<sup>19</sup> and therefore the Exchange believes that not assessing the Complex Surcharge on qualifying Complex Orders for these classes is appropriate to more effectively attract order flow to BOX. The Exchange further believes that assessing different pricing for SPY, QQQ and IWM, as compared to other symbols, is reasonable because SPY, QQQ and IWM are highly liquid symbols, have higher volumes, and other exchanges design fee structures to specifically compete for executions in these symbols. The Exchange believes that creating a separate category within the fee structure for these classes is appropriate to more effectively attract order flow to BOX in these classes.

The Exchange believes the proposal will create an incentive for Participants to bring Complex Orders in SPY, QQQ, and IWM to BOX. The Exchange believes that if the proposed incentive is effective, then an ensuing increase in trading activity on BOX will improve the quality of the market to the benefit of all market participants. Further, to the extent this proposal attracts new Participant volume to BOX, all market participants will benefit through increased liquidity and more trading opportunities.

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<sup>17</sup> See BOX Fee Schedule Sections IV.A (Electronic Transaction Fees) and VI (Complex Order Transaction Fees).

<sup>18</sup> See e.g., Cboe C2 Exchange, Inc. Options Fee Schedule (“Transaction Fees” applicable to SPY, QQQ, and IWM among 9 other symbols); MIAX PEARL, LLC Options Fee Schedule (“Transaction Rebates/Fees” for Priority Customer SPY, QQQ, and IWM Taker).

<sup>19</sup> See <https://www.optioneducation.org/toolsoptionquotes/today-s-most-active-options> (providing a daily list of the most active options by type).

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 intermarket competition. The Exchange believes its proposal remains competitive with other options markets and will offer market participants with another choice of where to transact its business. 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 believes that the proposed discount will encourage market participants to send greater amounts of Complex Orders in SPY, QQQ, and IWM to BOX for execution in order to take advantage of the proposed discount and lower their costs. The Exchange believes that the additional liquidity in SPY, QQQ, and IWM will enhance the quality of BOX's Complex Order market and increase related trading opportunities on BOX. Accordingly, the Exchange believes that the proposed changes may increase intermarket and intra-market competition by incentivizing Participants to direct their SPY, QQQ, and IWM orders to the Exchange, thereby increasing the volume of contracts traded on BOX and enhancing the quality of the market in these classes. Enhanced market quality and increased transaction volume that result from the anticipated increase in SPY, QQQ, and IWM order flow directed to BOX would benefit all market participants and improve competition on BOX in SPY, QQQ, and IWM.

The Exchange further believes that its proposal will not place any category of market participant at a competitive disadvantage and therefore does not impose an undue burden on intra-market competition because all non-Public Customers would be assessed a Complex Surcharge of \$0.00 for transactions in SPY, QQQ, and IWM when executing against a Public Customer Complex Order that was entered by an affiliate or Appointed OFP. Additionally, the criteria for applying a Complex Surcharge of \$0.00 for transactions in SPY, QQQ, and IWM that execute against Public Customer Complex Orders that were entered by an affiliate or Appointed OFP would be uniformly applied for all Participants.

Additionally, offering Participants the opportunity to not be assessed the Complex Surcharge for transactions in SPY, QQQ, and IWM that execute against Public Customer Complex Orders that were entered by an affiliate or Appointed OFP does not impose an undue burden on competition as it relates to Participants who are not affiliates or Appointed OFPs because any Participant may enter into such a relationship for the purpose of aggregating volume executed on BOX . Finally, the criteria for assessing a Complex Surcharge of \$0.00 would be uniformly applied to all Participants.

The Exchange again 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 discussed above, the Exchange believes that the proposed 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 Act<sup>20</sup> and Rule 19b-4(f)(2) thereunder,<sup>21</sup> 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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include file number SR-BOX-2024-25 on the subject line.

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<sup>20</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>21</sup> 17 CFR 240.19b-4(f)(2).

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-2024-25. 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-2024-25 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.<sup>22</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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<sup>22</sup> 17 CFR 200.30-3(a)(12).