

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-75676; File No. SR-BOX-2015-28)

August 12, 2015

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Fee Schedule

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 6, 2015, BOX Options Exchange LLC (the “Exchange” or “BOX”) filed with the Securities and Exchange Commission (the “SEC” or “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 change from interested persons.

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

The Exchange proposes to amend the Fee Schedule to specify that affiliated Exchange Participants (or “Participants”) may request that the Exchange aggregate its [sic] eligible activity with activity of the Participant’s affiliates for purposes of charges or credits based on volume. 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 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

places 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule for trading on BOX to specify that an Exchange Participant may request that the Exchange aggregate their eligible activity with activity of affiliates for purposes of charges or credits based on volume. The proposed rule change is based on NYSE Arca, Inc.’s (“NYSE Arca”) Schedule of Fees and Charges for Exchange Services, NASDAQ Stock Market LLC (“NASDAQ”) Rule 7027, NASDAQ Options Market LLC (“NOM”) Rules at Chapter XV, and the NASDAQ OMX PHLX LLC (“PHLX”) Pricing Schedule.³

As proposed, for purposes of applying any provision of the Exchange’s Fee Schedule where the charge assessed, or credit provided, by the Exchange depends on the volume of a Participant’s activity, a Participant may request that the Exchange aggregate its eligible activity

³ Effective March 18, 2015, NYSE Arca amended its Schedule of Fees and Charges for Exchange Services to specify that affiliated Exchange ETP Holders may request that the Exchange aggregate its eligible activity with activity of the ETP Holder’s affiliates for purposes of Charges or Credits based on volume. See Securities Exchange Act Release No. 74604 (March 30, 2015), 80 FR 18270 (April 3, 2015) (SR-NYSEArca-2015-20). Effective December 1, 2014, NASDAQ amended Rule 7027 to harmonize the treatment of aggregation of affiliate activity of affiliated members to be consistent with the rules governing NOM and PHLX. See Securities Exchange Act Release No. 72966 (Sept. 3, 2014), 79 FR 53473 (Sept. 9, 2014) (SR-NASDAQ-2014-083). NOM and PHLX also amended their respective rules to harmonize the process by which it collects information from its members for purposes of aggregating member activity between its equity and options markets. See Securities Exchange Act Release Nos. 72967 (Sept. 2, 2014), 79 FR 53471 (Sept. 9, 2014) (SR-NASDAQ-2014-082) and 72969 (Sept. 3, 2014), 79 FR 53485 (Sept. 9, 2014) (SR-PHLX-2014-56).

with activity of affiliates.⁴ The Exchange further proposes that a Participant requesting aggregation of eligible affiliate activity would be required to (1) certify to the Exchange the affiliate status of Participants whose activity it seeks to aggregate prior to receiving approval for aggregation, and (2) inform the Exchange immediately of any event that causes an entity to cease being an affiliate. The Exchange would review available information regarding the entities and reserves the right to request additional information to verify the affiliate status of an entity. As further proposed, the Exchange would approve a request, unless it determines that the certificate is not accurate.⁵

The Exchange also proposes that if two or more Participants become affiliated on or prior to the sixteenth day of a month, and submit the required request for aggregation on or prior to the twenty-second day of the month, an approval of the request would be deemed to be effective as of the first day of that month. If two or more Participants become affiliated after the sixteenth day of a month, or submit a request for aggregation after the twenty-second day of the month, an approval of the request by the Exchange would be deemed to be effective as of the first day of the next calendar month. The Exchange believes that this requirement is a fair and objective way to apply the aggregation rule to fees and streamline the billing process.

The Exchange further proposes to provide that for purposes of applying any provision of the Fee Schedule where the charge assessed, or credit provided, by the Exchange depends upon the volume of a Participant's activity, references to an entity would be deemed to include the entity and its affiliates that have been approved for aggregation.⁶

⁴ See Exhibit 5 for proposed language to be added to the Fee Schedule. The Exchange notes that this language is similar to that found in NYSE Arca's Schedule of Fees and Charges for Exchange Services and NASDAQ Rule 7027.

⁵ See NASDAQ Rule 7027(a)(1).

⁶ See supra note 4.

Finally, the Exchange proposes that for purposes of the Fee Schedule, the term “affiliate” of a Participant would mean any BOX Participant under 75% common ownership or control of that Participant.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,⁸ 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 and because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. The Exchange further believes that the proposed rule change is reasonable because it establishes a manner for the Exchange to treat affiliated Participants for purposes of assessing charges or credits that are based on volume. The provision is equitable because all Participants seeking to aggregate their activity are subject to the same parameters, in accordance with a standard that recognizes an affiliation as of the month’s beginning or close in time to when the affiliation occurs, provided the Participant submits a timely request. Moreover, the proposed billing aggregation language, which would lower the Exchange’s administrative burden, is substantially similar to aggregation language adopted by other exchanges.⁹

⁷ See supra note 4.

⁸ 15 U.S.C. 78f(b)(4) and (5).

⁹ See supra note 3.

The Exchange further notes that the proposal would serve to reduce disparity of treatment between Participants with regard to the pricing of different services and reduce any potential for confusion on how activity can be aggregated. The Exchange believes that the proposed rule change avoids disparate treatment of Participants that have divided their various business activities between separate corporate entities as compared to Participants that operate those business activities within a single corporate entity. The Exchange further notes that the proposed rule change is reasonable and is designed to remove impediments to and perfect the mechanism of a free and open market by harmonizing the manner by which the Exchanges permits Participants to aggregate volume with other exchanges. In particular, the Exchange notes that NYSE Arca, NASDAQ, NOM, and PHLX all have a similar standard that the Exchange is proposing to adopt.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,¹⁰ the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As stated above, the proposed rule change, which applies equally to all Participants, is intended to reduce the Exchange's administrative burden in applying volume price discounts for firms which have requested aggregation with that of an affiliated Participant, and is substantially similar to rules adopted by other exchanges. Because the market for order execution and routing is extremely competitive, Participants may readily opt to disfavor the Exchange if they believe that alternatives offer them better value. The Exchange does not believe the proposed changes will impair the ability of

¹⁰ 15 U.S.C. 78f(b)(8).

Participants or competing order execution venues to maintain their competitive standing in the financial markets.

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.

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 Act¹¹ and Rule 19b-4(f)(6) thereunder.¹² 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 Act¹³ and Rule 19b-4(f)(6)(iii) thereunder.¹⁴

At any time within 60 days of the filing of the 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

¹¹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹² 17 CFR 240.19b-4(f)(6).

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

Commission shall institute proceedings under Section 19(b)(2)(B)¹⁵ 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 (<http://www.sec.gov/rules/sro.shtml>);
or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-BOX-2015-28 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-2015-28. 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

¹⁵ 15 U.S.C. 78s(b)(2)(B).

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 the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BOX-2015-28 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

Brent J. Fields
Secretary

¹⁶ 17 CFR 200.30-3(a)(12).