

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-78449; File No. SR-BOX-2016-26)

August 1, 2016

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the BOX Rules Regarding Participants and Associated Persons Who are or Become Subject to a Statutory Disqualification

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 25, 2016, BOX Options 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 self-regulatory organization. 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 the BOX Rules regarding Participants and associated persons who are or become subject to a statutory disqualification. 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 places

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

<sup>2</sup> 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 2040 (Restrictions) to add language which provides the Exchange with the discretion to determine whether to permit a person to become an Options Participant or an associated person of a Participant or continue as a Participant or in association with a Participant on the Exchange.

Currently, Rule 2040 restricts any persons from becoming an Options Participant or continuing as an Options Participant where (1) such person is other than a natural person and is not a registered broker or dealer, (2) such person is a natural person who is not either a registered broker or dealer or associated with a registered broker or dealer, (3) such person is subject to a statutory disqualification,<sup>3</sup> except that a person may become a Participant or continue as a Participant where, pursuant to Rules 19d-1, 19d-2, 19d-3 and 19h-1 of the Act, the Commission has issued an order providing relief from such a disqualification and permitting such a person to become a Participant, or (4) such person is not a member of another registered national securities exchange or association.

The Exchange notes that the proposed rule changes below are substantially similar to the Rules of the International Securities Exchange (“ISE”).<sup>4</sup> The Exchange first proposes to amend

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<sup>3</sup> The Exchange uses the Securities Exchange Act of 1934 definition of statutory disqualification. See 15 U.S.C. 78c(a)(39).

<sup>4</sup> See Securities Exchange Release No. 42455, 65 FR 11401 (March 2, 2000) (Order Granting Registration as a National Securities Exchange).

the language of Rule 2040 to give itself the discretion to determine if a restriction on a Participant becoming or continuing on as an Options Participant is appropriate.

The Exchange then proposes to amend BOX Rule 2040(a)(3). Specifically, the Exchange proposes to add a reference to Section 3(a)(39) of the Exchange Act for the definition of statutory disqualification within BOX Rule 2040(a)(3). The Exchange also proposes to delete the language that allows a person to become a Participant or continue as a Participant where, pursuant to Rules 19d-1, 19d-2, 19d-3 and 19h-1 of the Act, the Commission has issued an order providing relief from such a disqualification and permitting such a person to become a Participant. The Exchange believes that this language is obsolete.

The Exchange then proposes to add three more situations with regard to whether a person may become a Participant or continue as a Participant in any capacity on the Exchange. The additional restrictions are (1) when such person fails to meet any of the qualification requirements for becoming a Participant or associated with a Participant after approval thereof; (2) such person fails to meet any condition placed by the Exchange on such Participant or association with a Participant; and (3) such person violates any agreement with the Exchange. The Exchange proposes these additions in order to allow the Exchange more discretion in its determination as to whether a person may become or continue as a Participant or in association with a Participant.

The Exchange also proposes to add language with regard to a Participant or associated person that becomes subject to a statutory disqualification under the Exchange Act. The proposed rule would allow a Participant or associated person who becomes subject to a statutory disqualification and who wants to continue as a Participant of the Exchange or in association

with a Participant, to submit a request to the Exchange seeking to continue as a Participant or in association with a Participant notwithstanding the statutory disqualification.<sup>5</sup>

The Exchange also proposes to add language which allows Participants and associated persons whose request to become a Participant is denied or conditioned, or any person whose association with a Participant is denied or conditioned pursuant to the restrictions codified in Rule 2040(a), and any Participant or person associated with a Participant who is not permitted to continue as a Participant or be an associate with a Participant or to which association is conditioned to appeal the Exchange's decision under Rule 1300 (Review of Certain Exchange Actions) of the Rules.

Lastly, the Exchange proposes to add Interpretive Material which allows the Exchange to waive the provisions of Rule 2040 when a proceeding is pending before another self-regulatory organization ("SRO") or similar association to determine whether to permit a Participant or associated person to become or continue being Participant or associated person notwithstanding a statutory disqualification. The Exchange notes that this proposed rule change is substantially similar to the comparable Rules of the Chicago Board Options Exchange ("CBOE").<sup>6</sup> Further, in the event the Exchange determines to waive the provisions of this Rule with respect to a Participant or associated person, the Exchange shall determine whether the Exchange will concur in any Exchange Act Rule 19h-1 filing made by another SRO or similar association with respect to the Participant or associated person.

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<sup>5</sup> The Participant or person associated with a Participant must submit the request within thirty (30) days of becoming subject to a statutory disqualification.

<sup>6</sup> See Securities Exchange Release No. 43056, 65 FR 46524 (July 28, 2000) (Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to the Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Membership Rules)(SR-CBOE-99-15).

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,<sup>7</sup> in general, and Section 6(b)(5) of the Act,<sup>8</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that the proposed rule changes are consistent with the requirements above. Specifically, the Exchange believes the proposed changes will better enable the Exchange to use its discretion in determining whether a person may become or continue as a Participant or associated person. Because of the discretionary language and additional restrictions, the Exchange may consider additional circumstances when determining whether a person may become or continue as a Participant or associated person on the Exchange.

The Exchange believes that Proposed Rule 2040(c) regarding any person or Participant's ability to appeal a denied or conditioned request to become or continue as a Participant or to associate with a Participant is reasonable because it provides a fair procedure for the Participants and persons associated with Participants pursuant to Rule 11000 (Summary Suspension).

The Exchange also believes the proposed rule change regarding the waiver of the provisions of Rule 2040 will better enable the Exchange to focus Exchange resources on other matters while another SRO or similar association is determining whether to permit a Participant or associated person to become or continue being a Participant or associated person on the exchange.

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<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

Lastly, the Exchange believes that amending the language in BOX Rule 2040(a)(3) is appropriate, as the added language which defers to the Exchange Act for a particular definition, will add clarity to the rules. Further, the Exchange believes it is reasonable to remove obsolete language in BOX Rule 2040(a)(3) because the Exchange is eliminating any potential for confusion by simplifying the Exchange Rules, ensuring that Participants, regulators, and the public can more easily navigate the Exchange's Rulebook.

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.

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

(a) This proposed rule change is filed pursuant to paragraph (A) of section 19(b)(3) of the Exchange Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup>

(b) This proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.

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

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

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 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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BOX-2016-26 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-2016-26. 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, on official business days between the hours of 10:00 a.m. and 3:00 p.m., located at 100 F Street, NE, Washington, DC 20549. 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; 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-2016-26 and should be submitted on or before [date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

Robert W. Errett  
Deputy Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).