

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-78828; File No. SR-BOX-2016-43)

September 13, 2016

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Fee Schedule on the BOX Market LLC (“BOX”) Options Facility to Change the Fees and Credits for Facilitation and Solicitation Transactions

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 31, 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 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 to make a number of changes to the fees and credits for Facilitation and Solicitation Transactions on the BOX Market LLC (“BOX”) options facility. While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on September 1, 2016. The text of the proposed rule change is

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).

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 make a number of changes to the fees and credits for Facilitation and Solicitation Transactions.⁵

Exchange Fees

The Exchange proposes to remodel the fee structure for Facilitation and Solicitation Transactions. Currently, Facilitation and Solicitation transactions are assessed per contract fees based upon account type and whether the order is a: (i) Agency Order⁶; (ii) Facilitation Order or Solicitation Order⁷; or (iii) Response in the Solicitation or Facilitation Auction Mechanisms.

First, the Exchange proposes to restructure the Facilitation and Solicitation Transactions

⁵ Transactions executed through the Solicitation Auction mechanism and Facilitation Auction mechanism.

⁶ An Agency Order is a block-size order that an Order Flow Provider seeks to facilitate as agent through the Facilitation Auction or Solicitation Auction mechanism. Agency Orders can be submitted by all BOX account types.

⁷ Facilitation and Solicitation Orders are the matching contra orders submitted on the opposite side of the Agency Order.

fee schedule to differentiate between fees assessed in Penny and Non-Penny Pilot Classes. The Exchange then proposes to adjust certain fees throughout the Facilitation and Solicitation Transactions fee structure. Specifically, the Exchange proposes to increase the fees assessed for Non-Public Customers⁸ for Agency Orders and Facilitation and Solicitation Orders to \$0.15 from \$0.00. Public Customer fees for Agency Orders and Facilitation and Solicitation Orders will remain at \$0.00. The Exchange then proposes to adjust the fees assessed for Responses in the Solicitation or Facilitation Auction Mechanisms. Specifically, the Exchange proposes to assess a \$0.25 fee in Penny Pilot Classes and a \$0.40 fee in Non-Penny Pilot Classes, regardless of account type. Under the current fee structure, Public Customers are assessed \$0.15, Broker Dealers and Professional Customers are assessed \$0.27 and Market Makers are assessed \$0.20 for Responses in the Solicitation or Facilitation Auction Mechanisms.

The proposed Facilitation and Solicitation Transactions fee structure will be as follows:

Account Type	Agency Order		Facilitation Order or Solicitation Order		Responses in the Solicitation or Facilitation Auction Mechanisms	
	Penny Pilot Classes	Non-Penny Pilot Classes	Penny Pilot Classes	Non-Penny Pilot Classes	Penny Pilot Classes	Non-Penny Pilot Classes
Public Customer	\$0.00	\$0.00	\$0.00	\$0.00	\$0.25	\$0.40
Professional Customer or Broker Dealer	\$0.15	\$0.15	\$0.15	\$0.15	\$0.25	\$0.40
Market Maker	\$0.15	\$0.15	\$0.15	\$0.15	\$0.25	\$0.40

Next, the Exchange proposes to establish Section I.C.1, Facilitation and Solicitation

⁸ Non-Public Customers are defined within the BOX Fee Schedule as Professional Customers, Broker Dealers and Market Makers.

Transaction Rebate which will provide a \$0.10 per contract rebate to Agency Orders executed through the Facilitation and Solicitation Auction Mechanisms where at least one party is a Non-Public Customer. For example, a Public Customer Agency Order that executes against a Non-Public Customer Order through the Facilitation Auction mechanism would receive a \$0.10 rebate. Further, a Public Customer Agency Order that executes against a Public Customer Order through the Facilitation Auction mechanism would not receive a rebate.

Liquidity Fees and Credits

The Exchange then proposes to amend Section II.B. of the BOX Fee Schedule, (Liquidity Fees and Credits for Facilitation and Solicitation Transactions). Specifically, the Exchange proposes to decrease the fees and credits for Facilitation and Solicitation transactions in both Penny and Non-Penny Pilot Classes. The Exchange proposes to decrease the fees for adding liquidity in Facilitation and Solicitation transactions to \$0.75 from \$0.95 in Non-Penny Pilot Classes, and to \$0.25 from \$0.40 in Penny Pilot Classes. The Exchange also proposes to decrease the credits for removing liquidity in Facilitation and Solicitation transactions. Specifically, the Exchange proposes to decrease the credit to \$0.75 from \$1.00 in Non-Penny Pilot Classes, and \$0.25 from \$0.45 in Penny Pilot Classes.

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,⁹ 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.

⁹ 15 U.S.C. 78f(b)(4) and (5).

Exchange Fees

The Exchange believes that remodeling the fee structure for Facilitation and Solicitation Transactions is reasonable, equitable and not unfairly discriminatory. In particular, the proposed revisions will allow the Exchange to apply separate fees for certain transactions in Penny and Non-Penny Pilot Classes, a distinction that is made in many other sections of the BOX Fee Schedule, including Section I.A (Non-Auction Transactions) and Section III.A (All Complex Orders).

The Exchange also believes the proposed fees for Non-Public Customers for Agency Orders and Facilitation and Solicitation Orders in Penny or Non-Penny Pilot Classes are reasonable, equitable and not unfairly discriminatory. Professional Customers and Broker Dealers and Market Makers are not currently charged for Agency Orders and Facilitation and Solicitation Orders. The proposal increases the fees for all Non-Public Customers to \$0.15 for both Agency Orders and Facilitation and Solicitation Orders in Penny and Non-Penny Pilot Classes. The Exchange believes these fees are reasonable as they are in line with another exchange in the industry.¹⁰ For example, at the ISE, the fee for both the initiating order and contra order in a Crossing Order¹¹ is \$0.20 for Market Makers, Broker Dealers and Professional Customers, and \$0.00 for Public Customers in Penny Pilot Classes. In Non-Penny Pilot Classes, the fees for the initiating order and contra order in a Crossing Order is \$0.20 for Professional Customers and Broker Dealers, \$0.25 for Market Makers and \$0.00 for Public Customers.

The Exchange believes that charging Professional Customers and Broker Dealers and Market Makers more than Public Customers for Agency Orders and Facilitation and Solicitation

¹⁰ See International Securities Exchange (“ISE”) Fee Schedule Section I available at https://www.ise.com/assets/documents/OptionsExchange/legal/fee/ISE_fee_schedule.pdf.

¹¹ Under the ISE Fee Schedule Crossing Orders are any orders executed in the Exchange’s auction mechanisms, including the Facilitation and Solicitation mechanisms.

Orders is reasonable, equitable and not unfairly discriminatory. The securities markets generally, and BOX in particular, have historically aimed to improve markets for investors and develop various features within the market structure for Public Customer benefit. The Exchange believes that charging lower fees to Public Customers in Facilitation and Solicitation transactions is reasonable and, ultimately, will benefit all Participants trading on the Exchange by attracting Public Customer order flow.

The Exchange also believes the proposed fees for Responses in the Solicitation or Facilitation Auction Mechanisms in Penny and Non-Penny Pilot Classes are reasonable, and equitable. The proposal changes the fees to \$0.25 and \$0.40 in Penny and Non-Penny Pilot Classes, respectively, regardless of account type. Moreover, the proposed fees are competitive with fees charged by another options exchange.¹² For example, at the ISE, fees for Responses to Crossing Orders are \$0.50, regardless of Participant type, in both Penny and Non-Penny Pilot Classes. The Exchange also notes that the proposed fees for Responses to Facilitation or Solicitation Orders are not unfairly discriminatory because they apply equally to all Participants.

The Exchange believes it is reasonable to establish different fees for Facilitation and Solicitation transactions in Penny Pilot Classes compared to transactions in Non-Penny Pilot Classes. The Exchange makes this distinction throughout the BOX Fee Schedule, including the Exchange Fees for PIP and COPIP Transactions. The Exchange believes it is reasonable to establish higher fees for Non-Penny Pilot Classes because these Classes are typically less actively traded and have wider spreads.

The Exchange also believes that establishing a \$0.10 per contract rebate to Agency Orders executed through the Facilitation and Solicitation Auction Mechanisms where at least one

¹² See supra note 10.

party is a Non-Public Customer is reasonable, equitable and not unfairly discriminatory. The Exchange believes that it is reasonable and equitable to provide the opportunity to receive a rebate to incentivize Participants to direct Facilitation and Solicitation order flow to the Exchange, which will result [sic] ultimately benefit all Participant [sic] trading on the Exchange. The Exchange believes it is reasonable and appropriate that “Public Customer to Public Customer” transactions do not receive the proposed rebate, as these orders are never assessed Facilitation and Solicitation transaction fees and therefore should not also receive the benefit of the rebate. Further, the Exchange believes that the rebate is reasonable and equitable because other exchanges offer a similar distinction in Facilitation and Solicitation rebates.¹³ Finally, the Exchange believes that the proposed changes are not unfairly discriminatory because the rebate would be uniformly applied to all Agency Orders where at least one party is a Non-Public Customer.

Liquidity Fees and Credits

The Exchange believes that lowering the liquidity fees and rebates for Facilitation and Solicitation transactions is reasonable and equitable. Under the proposed change the fee for adding liquidity will be lowered to \$0.75 from \$0.95 (Non-Penny Pilot Class) and to \$0.25 from \$0.40 (Penny Pilot Class). Accordingly, the credit for removing liquidity will be lowered to \$0.75 from \$1.00 (Non-Penny Pilot Class) and to \$0.25 from \$0.45 (Penny Pilot Class). The

¹³ See the ISE Fee Schedule, Section IV.A. (QCC and Solicitation Rebates). ISE offers a per contract rebate for agency orders in its Facilitation and Solicitation Auction Mechanisms. A higher rebate is given to Non-Customer to Customer Facilitation and Solicitation Transactions (\$0.00 to \$0.11 depending on volume) than Customer to Customer Facilitation and Solicitation Transactions (\$0.00 to \$0.03 depending on volume). See also Chicago Board Options Exchange (“CBOE”) Fee Schedule, QCC Rate Table available at <http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf>. CBOE offers a per contract \$0.10 credit for the equivalent of Facilitation and Solicitation transactions that occur between Non-Customer to Customer executions; however, no credit is offered for Customer to Customer executions.

Exchange also notes that the proposed liquidity fees and credits for Facilitation or Solicitation transactions are not unfairly discriminatory because they apply equally to all Participants.

BOX believes that the changes to Facilitation and Solicitation transaction liquidity fees and credits are equitable and not unfairly discriminatory in that they apply to all categories of participants and across all account types. The Exchange notes that liquidity fees and credits on BOX are meant to offset one another in any particular transaction. The liquidity fees and credits do not directly result in revenue to BOX, but will simply allow BOX to provide the credit incentive to Participants to attract order flow. The Exchange believes it is appropriate to provide incentives to market participants to use the Facilitation and Solicitation auction mechanisms, because doing so may result in greater liquidity on BOX which would benefit all market participants. Further, the Exchange believes that the proposed changes are reasonable as they are in line with another exchange in the industry.¹⁴

Finally, the Exchange believes it is reasonable to establish different fees and credits for Facilitation and Solicitation transactions in Penny Pilot Classes compared to transactions in Non-Penny Pilot Classes. The Exchange makes this distinction throughout the BOX Fee Schedule, including the liquidity fees and credits for PIP and COPIP Transactions. The Exchange believes it is reasonable to establish higher fees and credits for Non-Penny Pilot Classes because these Classes are typically less actively traded and have wider spreads. The Exchange believes that offering a higher rebate will incentivize order flow in Non-Penny Pilot issues on the Exchange, ultimately benefitting all Participants trading on BOX.

¹⁴

Id.

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 Exchange believes that the proposed adjustments to the Facilitation and Solicitation Transaction fees will not impose a burden on competition among various Exchange Participants. Rather, BOX believes that the changes will result in the Participants being charged appropriately for their Facilitation and Solicitation Transactions and are designed to enhance competition in these auction mechanisms. Submitting an order is entirely voluntary and Participants can determine which type of order they wish to submit, if any, to the Exchange.

The Exchange believes that the proposed rebate for Facilitation and Solicitation transactions will not impose a burden on competition among various Exchange Participants. The Exchange believes the proposed rebate is attractive to market participants and is similar to rebates offered by other exchanges.¹⁵ Further, the Exchange does not believe that the proposed rule change to not offer a rebate for "Public Customer to Public Customer" transactions will burden intramarket competition because although "Public Customer to Public Customer" transactions will not receive a rebate, these transactions are not assessed Facilitation and Solicitation transaction fees (unlike Non- "Customer to Customer" Facilitation and Solicitation transactions). The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change applies only to BOX and because other Exchanges have similar exclusions.¹⁶

¹⁵ See supra note 13. CBOE does not offer a rebate (credit) for Customer to Customer executions.

¹⁶ Id.

The Exchange also believes that amending the proposed liquidity fees and credits for Facilitation and Solicitation Transactions will not impose a burden on competition among various Exchange Participants. The Exchange believes that the proposed changes will result with these Participants being charged or credited appropriately for these transactions.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing exchanges. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule 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 Act¹⁷ and Rule 19b-4(f)(2) thereunder,¹⁸ 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.

¹⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁸ 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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-BOX-2016-43 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-2016-43. 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, 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 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-2016-43, 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.¹⁹

Robert W. Errett
Deputy Secretary

¹⁹ 17 CFR 200.30-3(a)(12).