

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-78830; File No. SR-BOX-2016-44)

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 Liquidity Fee and Credit Structure for PIP and COPIP Transactions

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 September 1, 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,<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 change [sic] the liquidity fee and credit structure for PIP and COPIP 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

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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).

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 Section II.A. of the BOX Fee Schedule to make changes to the liquidity fees and credits for PIP and COPIP Transactions.<sup>5</sup> Specifically, the Exchange proposes to amend the liquidity fees and credits for transactions where the PIP or COPIP Order is from the account of a Professional Customer, Broker Dealer or Market Maker ("Non-Public Customer"). The Exchange recently established separate fees and credits for Non-Public Customer PIP and COPIP Transactions.<sup>6</sup>

Unlike Public Customer PIP and COPIP transactions, liquidity fees and credits for Non-Public Customer PIP and COPIP transactions are only assessed if the Non-Public Customer PIP or COPIP Order does not trade with its contra order (the Primary Improvement Order). Under

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<sup>5</sup> Transactions executed through Price Improvement Period ("PIP") and the Complex Order Price Improvement Period ("COPIP") auction mechanisms. All COPIP transactions will be charged per contract per leg.

<sup>6</sup> See Securities Exchange Act Release No. 78618 (August 18, 2016), 81 FR 57977 (August 24, 2016) (SR-BOX-2016-41).

the current structure, if there are responses in the PIP or COPIP the “removal” credit is applied to the portion of the Non-Public Customer PIP or COPIP Order that does not trade with its Primary Improvement Order, and the Improvement Order responses are charged the “add” fee. The Exchange proposes to adjust the fee structure and instead apply any “removal” credits to the Primary Improvement Order instead of the Non-Public Customer PIP or COPIP Order. Improvement Order responses will continue to be charged the “add” fee and the liquidity fee and credit rates remain unchanged.

For example, if a Broker Dealer submits a PIP Order for the account of a Non-Public Customer to buy 100 contracts in the PIP and there are no responders, The PIP Order would execute against the matching Primary Improvement Order to sell 100 contracts and neither Order would be assessed a liquidity fee or credit. If, instead, the same PIP Order receives an Improvement Order response to sell 75 contracts, the PIP Order would execute against the Improvement Order for 75 contracts and the Primary Improvement Order for 25 contracts. Liquidity fees and credits would be assessed on the 75 contracts which executed against the Improvement Order, and under the proposed change, the Broker Dealer’s Primary Improvement Order, rather than the PIP Order, would receive a removal credit for the 75 contracts. Accordingly, the Improvement Order response would be charged the add fee for the 75 contracts, the same as it would be today. The Exchange notes that there continue to be no liquidity fees or credits assessed on the remaining 25 contracts.

The Exchange also proposes to make other non-substantive edits to Section II.A. to clarify and support the proposed change.

## 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>7</sup> 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.

The Exchange believes amending the Liquidity Fees and Credits for Non-Public Customer PIP and COPIP transactions is reasonable, equitable and not unfairly discriminatory. Liquidity fees and credits on BOX do not directly result in revenue to BOX, but are meant to incentivize Participants to attract order flow. The current PIP and COPIP liquidity fee and credit structure is designed to incentivize valuable Public Customer PIP and COPIP Order flow, which the Exchange does not believe is necessary or appropriate for Non-Public Customer PIP and COPIP Order flow. The proposed change will shift the liquidity credit to the Primary Improvement Order that is submitting the Non-Public Customer PIP or COPIP Order to the auction for price improvement. The Exchange believes this is equitable and not unfairly discriminatory as the Initiating Participant no longer receives the benefit of a guaranteed execution against a Public Customer's PIP or COPIP Order<sup>8</sup> but continues to play a critical role by guaranteeing the Non-Public Customer PIP or COPIP Order an execution at the NBBO or at a better price, and is subject to market risk while the Non-Public Customer PIP Order or COPIP Order is exposed to other BOX Participants for the price improvement opportunity. Therefore, the Exchange believes for Non-Public Customer PIP and COPIP Orders it is equitable and not

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<sup>7</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>8</sup> Under BOX Rule 7150(h)(a) [sic] and 7245(h)(a) [sic] the Initiating Participant retains trade allocation privileges upon conclusion of the PIP or COPIP for up to forty percent (40%) of the remaining size of the PIP or COPIP Order after Public Customer orders are satisfied. If only one competing order matches the Initiating Participant's Single-Priced Primary Improvement Order at the final price level, then the Initiating Participant may retain priority for up to fifty percent (50%) of the remaining size of the PIP or COPIP Order after Public Customer orders are satisfied.

unfairly discriminatory to instead provide the liquidity credit to the Initiating Participant's Primary Improvement Order so that the Initiating Participant will continue to submit Non-Public Customer PIP or COPIP Orders to the PIP and COPIP. Further, the Exchange believes that the proposed change will have no impact on competition in the PIP or COPIP, as Responders will continue to be charged the same liquidity fee.

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. Specifically, the Exchange believes that amending where the liquidity credit is applied in Non-Public Customer PIP and COPIP Transactions will not impose a burden on competition among various Exchange Participants. The Exchange believes that the proposed changes will result in these Participants being 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 Act<sup>9</sup> and Rule 19b-4(f)(2) thereunder,<sup>10</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 (<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-2016-44 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-2016-44. 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

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

<sup>10</sup> 17 CFR 240.19b-4(f)(2).

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-2016-44, 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.<sup>11</sup>

Robert W. Errett  
Deputy Secretary

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