

the requirements of the Act and the rules and regulations thereunder applicable to a national securities association. In particular, the Commission finds that the proposed rule change is consistent with the provisions of Section 15A of the Act, including Section 15A(b)(2) of the Act, in that it facilitates the organization of FINRA and FINRA Dispute Resolution in a manner that will permit FINRA to carry out the purposes of the Act, to comply with the Act, and to enforce compliance by FINRA members and persons associated with FINRA members with the Act, the rules and regulations thereunder, FINRA rules and other federal securities laws. The Commission also finds that the proposed rule change is consistent with Section 15A(b)(4) of the Act, which requires, among other things, that FINRA's rules assure a fair representation of its members in the selection of its directors and administration of its affairs and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of FINRA, broker or dealer.

More specifically, the Commission finds that by enlarging the pool from which to draw Public Members for the NAMC, the proposed rule change facilitates the organization of FINRA and FINRA Dispute Resolution in a manner consistent with Section 15A(b)(2) of the Act; the Commission also finds that enlarging the pool from which to draw Public Members for the NAMC facilitates compliance with and thus is consistent with the provision of Section 15A(b)(4) of the Act to provide that one or more of FINRA's directors shall be representative of issuers and investors and not be associated with a member of FINRA, broker-dealer.

The Commission appreciates the commenter's letter about members with industry experience acting as mediators. However, the Commission believes that the proposed rule change simply prevents mediation activity from automatically qualifying the mediator as an Industry Member. It does not shield the mediator from being classified as an Industry Member for other activities that would otherwise cause the mediator to be considered an Industry Member.

The Commission has reviewed the record for the proposed rule change and believes that the record does not contain any information to indicate that the proposed rule would have a significant effect on efficiency, competition, or capital formation. In light of the record, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation and

has concluded that the proposed rule is unlikely to have any significant effect.¹⁴

For the reasons stated above, the Commission finds that the rule change is consistent with the Act and the rules and regulations thereunder.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁵ that the proposed rule change (SR-FINRA-2012-040) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68141; File No. SR-BOX-2012-016]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposal Regarding Quote Mitigation

November 2, 2012.

Pursuant to Section 19(b)(1) under the Securities Exchange Act of 1934 (the "Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 26, 2012, BOX Options Exchange LLC (the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as constituting a non-controversial rule change under Rule 19b-4(f)(6) under the Act,³ 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

BOX Options Exchange LLC (the "Exchange") proposes to amend Rule 7250 (Quote Mitigation) and refine the current quote mitigation strategy for its options trading facility, BOX Market

LLC ("BOX") by replacing the current quote mitigation rule with a "holdback timer" mechanism. The text of the proposed rule change is available from the principal office of the Exchange, on the Exchange's Internet Web site at <http://boxexchange.com>, and at the Commission's Public Reference Room.

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 refine the BOX quote mitigation strategy. Specifically, the Exchange proposes to amend Rule 7250 (Quote Mitigation) and replace the current rule with a mechanism that systemically limits the dissemination of quotations and other changes to the BOX best bid and offer according to prescribed time criteria (a "holdback timer"). For instance, if there is a change in the price of a security underlying an option, multiple market participants may adjust the price or size of their quotes. Rather than disseminating each individual change, the holdback timer permits BOX to wait until multiple Participants have adjusted their quotes and then disseminates a new quotation. This mechanism will help to prevent the "flickering" of quotations.

The Exchange believes the proposed modification to its holdback timer mechanism within the overall BOX quote mitigation strategy will allow the Exchange to more effectively monitor quotation traffic and mitigate as needed. BOX's current Quote Mitigation mechanism was adopted as a response to the implementation of Penny Pilot Program⁴ amid concerns that market

¹⁴ See 15 U.S.C. 78c(f).

¹⁵ 15 U.S.C. 78s(b)(2).

¹⁶ 17 CFR 200.30-3(a)(12).

¹⁷ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

⁴ See Securities Exchange Act Release Nos. 55073 (January 19, 2007) 72 FR 2047 (January 17, 2007)(Order Approving BSE Quote Mitigation Plan)(SR-BSE-2006-48), and 55155 (January 23, 2007) 72 FR 4714 (February 1, 2007)(Order Approving Penny Pilot Program on BSE)(SR-BSE-2006-49).

quality and system capacity would be overwhelmed by the increase in options market data traffic created by the Program. The Exchange sought to reduce both peak and overall market data traffic by bundling order updates within a certain timeframe. The current mechanism subjects all order updates to bundling when the underlying instrument has been listed for more than ten (10) trading days and for which open interest is fewer than 300 to 400 contracts. The frequency at which these updates are bundled varies from 200 to 1000 milliseconds and depends on a number of factors.⁵ Additionally, the current rule provides that at a minimum, all updates for instruments listed for at least 10 days and having open interest below 50 contracts will be bundled at 200 millisecond intervals.

The Exchange believes that replacing the current mechanism with a holdback timer will allow BOX to more efficiently reduce quotation traffic when necessary instead of bundling all order updates that meet the restrictive criteria set forth in the current rule. The Exchange believes that the holdback timer mechanism taken together with the other tools it currently employs as part of the overall BOX quote mitigation strategy will allow BOX to continue to effectively mitigate quote message traffic.

The other tools in place are:

- Monitoring. BOX actively monitors the quotation activity of its market makers. When the Exchange detects that a market maker is disseminating an unusual number of quotes, the Exchange contacts that market maker and alerts it to such activity. Such monitoring frequently reveals that the market maker may have internal system issues or has incorrectly set system parameters that were not immediately apparent. Alerting a market maker to possible excessive quoting usually leads the market maker to take steps to reduce the number of its quotes.

- Delisting. BOX has a policy of withdrawing approval of underlying securities with low trading volume, thereby eliminating the quotation traffic attendant to such listings.⁶

Further, BOX notes that the holdback timer mechanism is currently part of the quote mitigation strategies of the International Securities Exchange's ("ISE"), C2 Options Exchange ("C2"), and the Chicago Board Options Exchange ("CBOE")⁷; and the Exchange

believes implementation of this proposed change on BOX will increase uniformity among the exchanges and cause less confusion among market participants.

BOX will utilize a holdback timer that delays quotation updates to OPRA for no longer than one (1) second. BOX may vary the holdback timer by option class. BOX does not intend to disclose the length of the holdback timer to its Participants or non-Participants. BOX notes that the holdback timer addresses the dissemination to OPRA of quotation updates and other changes to BOX's best bid and offer, and not the execution of orders.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,⁸ in general, and Section 6(b)(5) of the Act,⁹ in particular, that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. Several of the options exchanges have codified their use of a holdback timer as a quote mitigation strategy which has been endorsed over the last few years by the Securities Information and Financial Markets Association. The Exchange believes the addition of the holdback timer mechanism within its quote mitigation strategy will more effectively allow BOX to monitor quotation traffic and mitigate as needed. Additionally, this mechanism is currently part of the quote mitigation strategies of the International Securities Exchange's ("ISE"), C2 Options Exchange ("C2"), and the Chicago Board Options Exchange ("CBOE")¹⁰; and the Exchange believes implementation of this proposed change on BOX will

⁶ 21, 61152 (December 10, 2009) 74 FR 66699 (December 16, 2009) (Order Approving C2 Application as National Securities Exchange and Finding the C2 Rules, including Rule 6.34(b), Consistent with the Act), and 55772 (May 16, 2007), 72 FR 28732 (May 22, 2007) (SR-CBOE-2007-45) (Notice of Filing and Immediate Effectiveness of CBOE Rule 6.23A(b)).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ See Securities Exchange Act Release Nos. 55166 (January 24, 2007) 72 FR 62024 (February 1, 2007) (Order Approving ISE Rule 804(h)) (SR-ISE-2006-62), 61152 (December 10, 2009) 74 FR 66699 (December 16, 2009) (Order Approving C2 Application as National Securities Exchange and Finding the C2 Rules, including Rule 6.34(b), Consistent with the Act), and 55772 (May 16, 2007), 72 FR 28732 (May 22, 2007) (SR-CBOE-2007-45) (Notice of Filing and Immediate Effectiveness of CBOE Rule 6.23A(b)).

increase uniformity among the exchanges and cause less confusion among Participants. As such, the Exchange believes the proposed change is consistent with the Act.

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

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing 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 for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and Rule 19b-4(f)(6)(iii) thereunder.¹²

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.

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 email to rule-comments@sec.gov. Please include File

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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. The Commission notes that the Exchange has satisfied this requirement.

⁵ See BOX Rule 7250(b)(1) through (3).

⁶ See BOX Rule 5030(b)(3).

⁷ See Securities Exchange Act Release Nos. 55166 (January 24, 2007) 72 FR 62024 (February 1, 2007) (Order Approving ISE Rule 804(h)) (SR-ISE-2006-

Number SR–BOX–2012–016 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2012–016. 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 Web site (<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 Web site viewing and printing in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 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–2012–016 and should be submitted on or before November 29, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68147; File No. SR–OCC–2012–17]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of No Objection to Advance Notice Filing, as Modified by Amendment No. 1 Thereto, Relating to the Margining of Segregated Futures Customer Accounts on a Gross Basis

November 2, 2012.

I. Introduction

On September 14, 2012, The Options Clearing Corporation (“OCC”) filed with the Securities and Exchange Commission (“Commission”) an advance notice concerning a proposed rule change SR–OCC–2012–17 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”)¹ and Rule 19b–4 thereunder.² The proposed rule change was published in the **Federal Register** on September 26, 2012.³ The advance notice was published in the **Federal Register** on October 1, 2012.⁴ On October 11, 2012, OCC filed Amendment No. 1 to the proposed rule change and the advance notice.⁵ The Commission received no comment letters on either publication. This publication serves as a notice of no objection to the advance notice.

II. Description of the Proposed Rule Change

This advance notice concerns a proposed rule change. The purpose of this proposed rule change is to provide for the calculation of initial margin for OCC segregated futures customer accounts on a gross basis, as required by CFTC Rule 39.13(g)(8)(i).⁶

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ “Notice of Filing of Proposed Rule Change Relating to the Margining of Segregated Futures Customer Accounts on a Gross Basis,” Release No. 34–67896 (September 20, 2012), 77 FR 59231 (September 26, 2012).

⁴ “Advance Notice Relating to the Margining of Segregated Futures Customer Accounts on a Gross Basis,” Release No. 34–67921 (September 25, 2012), 77 FR 59998 (October 1, 2012).

⁵ In Amendment No. 1, OCC proposed wording changes and responded to a CFTC interpretation concerning what constitutes initial margin. Specifically, it amended the text of Rule 601 by inserting the word “initial” before the word “margin,” to more closely parallel CFTC Rule 39.13(g)(8)(i) which references “initial margin.” It also amended Item 3 of Form 19b–4 to, first, include CFTC's definition of “initial margin” and second, to clarify which components of OCC's margin calculations meets the definition of “initial margin” as the term is defined under CFTC Rules. Amendment No. 1 is technical in nature, and therefore the Commission is not publishing Amendment No. 1 for public comment.

⁶ 17 CFR 39.13(g)(8)(i).

The CFTC's Customer Gross Margin Rule

On October 18, 2011, the CFTC issued final regulations implementing many of the new statutory core principles for CFTC-registered derivatives clearing organizations (“DCOs”) enacted under the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”). As a registered DCO (as well as a registered securities clearing agency), OCC has previously implemented rule changes designed to bring OCC into compliance with CFTC rules applicable to DCOs that went into effect on January 9, 2012⁷ and May 7, 2012.⁸ OCC believes it is necessary to amend its Rules in order to ensure compliance with the gross margin rule, which requires a DCO to “collect initial margin on a gross basis for each clearing member's customer account(s) equal to the sum of the initial margin amounts that would be required by the derivatives clearing organization for each individual customer within that account if each individual customer were a clearing member”⁹ as required by CFTC Rule 39.13(g)(8)(i). The gross margin rule goes into effect on November 8, 2012; however, OCC proposed to begin complying with the gross margin rule on November 5, 2012 as described herein.

OCC's System for Calculating Margin

OCC currently calculates margin requirements for each clearing member's segregated futures customer account held at OCC on a net basis by applying OCC's System for Theoretical Analysis and Numerical Simulations (“STANS”). STANS calculates initial margin with respect to each account of a clearing member, including each clearing member's futures customer account(s), on a net basis. STANS includes both a net asset value (“NAV”) component and a risk component, with the risk component being the equivalent of “initial margin” as that term is defined under CFTC Rules. The NAV component marks all positions to market and nets long and short positions to determine the NAV of each clearing member's portfolio of customer positions. The NAV component represents the cost to liquidate the portfolio at current prices by selling the net long positions and buying in the net short positions. The risk component is estimated by means of an expected shortfall risk measure obtained from

⁷ See SR–OCC–2011–18.

⁸ See SR–OCC–2012–06.

⁹ Derivatives Clearing Organization General Provisions and Core Principles, 76 FR 69334, 69439 (November 8, 2011).

¹³ 17 CFR 200.30–3(a)(12).