system, and, in general, to protect investors and the public interest. Adding JBO as a potential origin for orders to the appropriate sections on the Fees Schedule will ensure that market participants entering orders for a JBO account to be cleared into the Firm range at the OCC will easily be able to discern the fees that apply to such orders. This will eliminate any potential confusion, thereby removing a potential impediment to and perfecting the mechanism for a free and open market and a national market system, and, in general, protecting investors and the public interest.

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

C2 does not believe that the proposed rule change will impose any burden on competition that is 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 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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and paragraph (f)(2) of Rule 19b–4 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 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 Number SR–C2–2012–037 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–C2–2012–037. 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, 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–C2–2012–037 and should be submitted on or before December 5, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.6

Kevin M. O’Neill,
Deputy Secretary.

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BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; BOX Options Exchange LLC; Order Approving Proposed Rule Change To Amend the Price Improvement Period

November 7, 2012.

I. Introduction

On July 25, 2012, BOX Options Exchange LLC (“Exchange” or “BOX”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”), and Rule 19b–4 thereunder, a proposed rule change to amend Rule 7150, which relates to the Exchange’s Price Improvement Period (“PIP”), by modifying the order of execution of quotes and orders that are on the BOX Book prior to the start of a PIP. The proposed rule change was published for comment in the Federal Register on August 9, 2012.4 The Commission received one comment letter on the proposed rule change5 and a response to the comment letter from the Exchange.6 This order approves the proposed rule change.

II. Description of the Proposal

Currently, Rule 7150(f) permits a PIP to begin at or better than the National Best Bid or Offer (“NBBO”). Further, Rule 7150(f)(1) provides that, at the commencement of the PIP, all quotes and orders on the BOX Book prior to the PIP will be executed at or better than (i) the Single-Priced Primary Improvement Order price, or (ii) the PIP Start Price of a Max Improvement Primary Improvement Order, except any proprietary quote or order from the Initiating Participant, will be executed immediately against the customer order designated for the PIP (“PIP Order”) in price/time priority.7 As a result, if an order is submitted to the BOX and there is sufficient quantity on the BOX Book prior to the PIP Broadcast to execute the

9 See Letter to Elizabeth M. Murphy, Secretary, Commission, from Kurt Eckert, Principal, Wolverine Trading, LLC dated August 30, 2012 (“Wolverine Letter”).
10 See Letter to Elizabeth M. Murphy, Secretary, Commission, from Anthony D. McCormick, Chief Executive Officer, Exchange, dated October 4, 2012 (“Exchange Response”).
11 Capitalized terms that are not otherwise defined herein are defined as in the Exchange’s Rules.
Under the proposal, Unrelated Orders submitted to BOX will continue to execute as they do currently under Rules 7150(i) and 7150(j). Accordingly, Unrelated Orders received after a PIP Broadcast will execute in time priority after quotes and orders at the same price that were on the BOX Book prior to the PIP Broadcast.

The Exchange stated that in connection with this proposed rule change, it will provide to the Commission the following monthly data, and corresponding analysis, related to the PIP: (1) The number of orders of 50 contracts or greater entered into the PIP auction; (2) the percentage of all orders of 50 contracts or greater sent to BOX that are entered into the PIP auction; (3) the spread in the option at the time an order of 50 contracts or greater is submitted to the PIP auction; (4) the percentage of PIP trades executed at the NBBO plus $.01, plus $.02, plus $.03, etc.; and (5) the number of orders submitted by Order Flow Providers (“OPFs”) and Market Makers when the spread was an increment (e.g., $.05, $.10, $.15, etc.). Also, relative to item (5) above, for each spread, the Exchange will provide the percentage of contracts in orders of fewer than 50 contracts and for orders of 50 contracts or greater submitted to the PIP that were traded by: (a) the OPF or Market Maker that submitted the order to the PIP; (b) BOX Market Makers assigned to the class; (c) other BOX Participants; (d) Public Customer Orders (including CPOs); (e) Unrelated Orders (orders in standard increments entered during the PIP); and (f) quotes and orders on the BOX Book prior to the PIP Broadcast.

Further, BOX will provide, for the first and third Wednesday of each month, the: (a) Total number of PIP auctions on that date; (b) number of PIP auctions where the order submitted to the PIP was fewer than 50 contracts; (c) number of PIP auctions where the order submitted to the PIP was 50 contracts or greater; (d) number of PIP auctions where the number of Participants (excluding the Initiating Participant) in the auction was zero, one, two, three, four, etc. Finally, the Exchange will provide information each month with respect to situations in which the PIP is terminated prematurely or a Market Order, Limit Order, or BOX-Top Order immediately execute with a PIP Order before the PIP’s conclusion. The following information will be provided: (1) The number of times that a Market Order, Limit Order, or BOX-Top Order in the same series on the same side of the market as the PIP Order prematurely terminated the PIP, and (a) the number of times such orders were entered by the same (or affiliated) firm that initiated the PIP that was terminated, and (b) the number of times such orders were entered by a firm (or an affiliate of such firm) that participated in the execution of the PIP Order; (2) for the orders addressed in each of items (1)(a) and (1)(b) above, the percentage of PIP premature terminations due to the receipt, during the PIP, of a Market Order, Limit Order, or BOX-Top Order in the same series on the same side of the market as the PIP Order, and the average amount of price improvement provided to the PIP Order where the PIP is prematurely terminated; (3) the number of times that a Market Order, Limit Order, or BOX-Top Order in the same series on the opposite side of the market as the PIP Order immediately executed against the PIP Order, and (a) the number of times such orders were entered by the same (or affiliated) firm that initiated the PIP, and (b) the number of times such orders were entered by a firm (or an affiliate of such firm) that participated in the execution of the PIP Order; (4) for the orders addressed in each of items (3)(a) and (3)(b) above, the percentage of PIP early executions due to the receipt, during the PIP, of a Market Order, Limit Order, or BOX-Top Order in the same series on the opposite side of the market as the PIP Order; and the average amount of price improvement provided to the PIP Order where the PIP Order is immediately executed; and (5) the average amount of price improvement provided to the PIP Order when the PIP runs for 100 milliseconds.

The Exchange stated that, upon Commission approval of the proposal and at least one week prior to implementation of the proposed rule change, it will issue an Informational Circular to Options Participants informing them of the proposal’s implementation date.

III. Discussion and Commission Findings

After careful review of the proposal, the comment letter, and the Exchange Response, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the
order by allowing those orders to be exposed to competition in the PIP, before interacting with pre-existing quotes and orders on the BOX Book at the PIP Start Price. In the Commission’s view, the Exchange’s proposal is reasonably designed to balance the potential for customers to receive price improvement in the PIP, rather than to have their orders immediately executed against a pre-existing quote on the BOX Book at the NBBO, with the potential to impact Market Makers’ or other market participants’ incentives to quote aggressively because they no longer will have the assurance that their quotes at the NBBO will execute against the PIP Order before the PIP begins. Quotes and orders that are on the BOX Book prior to the PIP Broadcast will continue to be able to interact with non-PIP order flow during the auction period. In addition, under the proposal, such quotes and orders will have priority to interact with any PIP order flow at the end of the auction period, unless the entire PIP order is price improved. Moreover, Market Makers or other market participants that wish to interact with the PIP Order can do so by submitting their own Improvement Orders into the PIP auction. For these reasons, the Commission believes that the proposal is consistent with the Act.

The commenter also remarked that the proposal is defective because it would allow a PIP auction to begin at the NBBO rather than requiring at least a penny of price improvement over the BOX BBO. The commenter suggested that the proposal be amended so that the PIP start price would be at least a penny better than the BOX BBO. The Commission notes, however, that instant proposal relates solely to the priority and allocation of quotes and orders that are on the BOX Book prior to a PIP’s commencement. The Exchange has not proposed to revise the start price of the PIP and thus this issue is not before the Commission. Further, as discussed above, the Commission believes that the proposed rule change, as submitted, is consistent with the Act. In addition, the commenter stated its belief that the proposal has the potential to harm retail investors. According to the commenter, the proposal serves “to remove real orders from interaction with
lit markets at exchanges” and reduces the NBBO to “little more than a reference price that is not the best available for retail investors.” The commenter further noted that, to the extent price competition decreases on an exchange, the NBBO increasingly loses value as a reference price. The commenter stated its view that the proposal is harmful to market efficiency in that it “turns the exchange into an internalization facilitator rather than a bona fide market with multiple participants competing to offer the best prices to customers.”

The Exchange responded that the proposal promotes transparent competition to ensure that customer orders receive the best price possible. The Exchange noted that the PIP Broadcast is sent to any Options Participant that wishes to receive it. According to the Exchange, the PIP permits Market Makers to submit competing orders into the PIP auction for their own account, and all non-market maker Options Participants also may submit competing orders into the PIP auction for their own account or for their customer accounts. The Exchange also responded that Options Participants are actively competing for customer orders in the PIP. Moreover, the Exchange noted that its Market Makers are the Options Participants most likely to compete for execution against customer orders in the PIP, even though their quotes that are on the BOX Book at the NBBO currently execute prior to a PIP’s start. Any Options Participant (except for the Initiating Participant), including Options Participants that have placed quotes and orders on the BOX Book, may choose to submit Improvement Orders into the PIP and compete for the PIP Order.

The Commission believes that these features of the PIP are designed to provide the opportunity for a competitive auction, which benefits customers by giving them the chance for price improvement better than the NBBO and thus the Exchange’s proposal should not result in a harmful impact on market efficiency. As discussed above, the proposal is intended to provide increased opportunities for price improvement of customer PIP Orders priced at the NBBO by permitting a PIP to go forward without those quotes and orders on the BOX Book at the PIP start price being executed against the PIP Order before the PIP auction commences. Quotes and orders on the BOX Book prior to a PIP Broadcast will retain their priority at the same price at the conclusion of the PIP (assuming they have not already been executed on the BOX Book). However, as noted above, the Exchange has committed to provide the Commission with monthly data and corresponding analysis related to the PIP, including statistics with respect to the execution of quotes and orders on the BOX Book prior to the start of the PIP. This data will assist the Commission and the Exchange in monitoring the impact of the proposed rule change.

IV. Section 11(a) of the Act

Section 11(a)(1) of the Act prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises discretion (collectively, “covered accounts”), unless an exception applies. The Exchange represents that the proposed rule change is consistent with Section 11(a) of the Act. Specifically, the Exchange believes that the PIP is generally consistent with Section 11(a)(1)(G) of the Act and Rule 11a1–1(T) thereunder because Options Participants that are not Market Makers must yield priority in the PIP to all non-member orders (i.e., to all Public Customer Orders and non-BOX Participant broker-dealer orders) at the same price. In addition, the Exchange believes that the proposed change to execute, against the PIP Order and at the end of a PIP auction, those quotes and orders on the BOX Book prior to the PIP Broadcast (if at the PIP Start Price) satisfies the conditions of Rule 11a2–2(T) under the Act. For the reasons set forth below, the Commission believes that the proposed rule change is consistent with the requirements of Section 11(a) of the Act and the rules thereunder.

A. Section 11(a)(1)(G) of the Act and Rule 11a1–1(T) Thereunder

Section 11(a)(1)(G) of the Act provides an exception from the general prohibition set forth in Section 11(a)(1)

See supra note 11.
See Notice, supra note 4 at n.12.

Rule 11a1–1(T)(a)(1)–(3) provides that each of the following requirements must be met: (1) A member must disclose that a bid or offer for its account is for its account to any member with whom such bid or offer is placed or to whom it is communicated, and any member through whom that bid or offer is communicated must disclose to others participating in effecting the order that it is for the account of a member; (2) immediately before executing the order, a member (other than the specialist in such security) presenting any order for the account of a member on the exchange must clearly announce or otherwise indicate to the specialist and to other members then present for the trading in such security on the exchange that he is presenting an order for the account of a member; and (3) notwithstanding the rules of priority, parity, and precedence otherwise applicable, any member presenting for execution a bid or offer for its own account or for the account of another member must grant priority to any bid or offer at the same price for the account of a person who is not, or is not associated with, a member, irrespective of the size of such bid or offer or the time when entered. See 17 CFR 240.11a1–1(T)(a)(1)–(3).

37 See supra note 11.

35 See Notice, supra note 4 n at 12.
dealer orders at the same price. The current proposed rule change revises the treatment of quotes and orders on the BOX Book prior to the PIP Broadcast, which orders will now be executed against the PIP Order at the end of the PIP (if at the same price). However, the execution of these quotes and orders against the PIP Order qualifies for a separate exception to the Section 11(a) restrictions. Thus, because current Exchange rules require Options Participants that are not Market Makers to yield priority in the PIP to all non-member orders, the Commission believes that the proposal with respect to transactions effected through the PIP, other than for quotes and orders on the BOX Book prior to the PIP Broadcast, is consistent with the requirements in Section 11(a) of the Act and Rule 11a1–1(T) thereunder. The Commission reminds exchanges and their members, however, that, in addition to yielding priority to non-member orders at the same price, members must also meet the other requirements under Section 11(a)(1)(G) of the Act and Rule 11a1–1(T) thereunder (or satisfy the requirements of another exception) to effect transactions for their own accounts.

B. “Effect versus Execute” and Rule 11a2–2(T) under the Act

Rule 11a2–2(T) under the Act, known as the “effect versus execute” rule, provides exchange members with another exception from the Section 11(a) prohibitions. Rule 11a2–2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute the transactions on the exchange. To comply with Rule 11a2–2(T)’s conditions, a member: (1) May not be affiliated with the executing member; (2) must transmit the order from off the exchange floor; (3) may not participate in the execution of the transaction once it has been transmitted to the member performing the execution; and (4) with respect to an account over which the member has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule. The Exchange believes that the execution of quotes and orders that are on the BOX Book prior to a PIP Broadcast against a PIP Order will satisfy the requirements of Rule 11a2–2(T). For the reasons set forth below, the Commission believes that, under the proposed rule change, such executions will satisfy the conditions of Rule 11a2–2(T).

Rule 11a2–2(T)’s first condition is that the order be executed by an exchange member who is unaffiliated with the member initiating the order. The Commission has stated that the requirement is satisfied when automated exchange facilities, such as the Trading Host, are used, as long as the design of these systems ensures that members do not possess any special or unique trading advantages over non-members in handling their orders after transmitting them to the Exchange. The Exchange represents that the design of the BOX Book, including the mechanism that executes quotes and orders resting on the Book prior to a PIP against the PIP order at the conclusion of a PIP auction, ensures that broker-dealers do not have any special or unique trading advantages in handling their orders after transmission. Accordingly, the Exchange believes that a member effecting a transaction through the BOX Book, even where the quote or order on the Book prior to a PIP executes against the PIP Order, satisfies the requirement for execution through an unaffiliated member.

According to the Exchange, the design of BOX ensures that no Options Participant would enjoy any special control over the timing of execution or special order handling advantages after order transmission to the BOX Book. All orders on the BOX Book are centrally processed and executed automatically by BOX. Orders sent to BOX would be transmitted from remote terminals directly to the system by electronic means. Once an order is submitted to the BOX Book, the order would be executed against another order based on the established matching algorithms for the BOX Book. In addition, as proposed, those quotes and orders on the BOX Book prior to a PIP may trade with the PIP Order, or would execute when orders or quotations on BOX match one another based on price/time priority. The execution would not depend on the Options Participant but rather upon what other orders are entered into BOX at or around the same time as the subject order, what orders are on the BOX Book, or if a PIP is initiated and what responses are received in response to the PIP, and where the order is ranked based on the priority ranking algorithm. At no time following the submission of an order to the BOX Book would an Options Participant be able to acquire control or influence over the result or timing of order execution, including whether it is executed against an order in the PIP. Accordingly, Options Participants could not control or influence the result or timing of orders submitted to the BOX Book, even if such an order were to match with the PIP Order. Based on the Exchange’s representations, the Commission believes that the proposal satisfies this requirement of Rule 11a2–2(T).

Second, Rule 11a2–2(T) requires orders for covered accounts be transmitted from off the exchange floor. In the context of other automated trading systems, the Commission has found that the off-floor transmission requirement is met if a covered account order is transmitted from a remote location directly to an exchange’s floor by electronic means. The Exchange
states that orders sent to the BOX Book, regardless of where it executes within the BOX system, including the Book or the PIP, would be transmitted from remote terminals directly to BOX by electronic means. OFFs and Market Makers would only submit orders and quotes to BOX from electronic systems from remote locations, separate from BOX. The Exchange further represents that there are no other Options Participants that would be able to submit orders to BOX other than OFFs or Market Makers. Accordingly, the Commission believes that Options Participants’ orders electronically received by BOX satisfy the off-floor transmission requirement for the purposes of the Rule.

Third, Rule 11a2–2(T) requires that the member not participate in the execution of its order once it has been transmitted to the member performing the execution. The Exchange represents that, at no time following the submission of an order to the BOX Book, would an Options Participant be able to acquire control or influence over the result or timing of order execution, even if its order on the BOX Book may execute with a PIP Order. According to the Exchange, upon submission to BOX, an order would be executed against another order on the BOX Book or against the PIP Order based on an established matching algorithm. The execution would not depend on the Options Participant, but rather upon what other orders are entered into BOX at or around the same time as the subject order, what orders are on the BOX Book, whether a PIP is initiated and what responses are received in response to the PIP, and where the order is ranked based on the priority ranking algorithm. As such, the Commission believes that the non-participation requirement is met when orders are executed automatically on the BOX Book, including if they execute against a PIP order.

Fourth, in the case of a transaction effected for an account with respect to which the initiating member or an associated person thereof exercises investment discretion, neither the initiating member nor any associated person thereof may retain any compensation in connection with effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to Section 11(a) of the Act and Rule 11a2–2(T). The Exchange has represented that, as a prerequisite for BOX usage, if an Options Participant is to rely on Rule 11a2–2(T) for a covered account transaction, the Options Participant must comply with the limitations on compensation set forth in Rule 11a2–2(T).

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–BOX–2012–003) is hereby approved, and Rule 11a2–2(T) is amended as set forth herein.

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

Kevin M. O’Neill,
Deputy Secretary.

BILLING CODE 8011–01–P

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Connecticut (FEMA–4087–DR), dated 10/30/2012.

Incident: Hurricane Sandy.

Incident Period: 10/27/2012 and continuing.

DATES: Effective Date: 10/30/2012.

Physical Loan Application Deadline Date: 12/31/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 07/31/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.


SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President’s major disaster declaration on 10/30/2012, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:


Contiguous Counties (Economic Injury Loans Only):


The Interest Rates are:

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