

are for receiving the Fixed Fee Schedule and how to notify the Exchange if they chose to elect the Variable Fee Schedule under Section I. The Exchange does not propose to change the existing eligibility volume requirements.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

#### *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 that is not necessary or appropriate in furtherance of the purposes of the Act. ETP Holders using the Double Play Order will receive a rebate rather than being charged the Exchange's standard fees for orders routed away to other Trading Centers. The rebate is designed to increase liquidity by encouraging ETP Holders to use Double Play Orders which should also increase liquidity at the Exchange since any unexecuted portion is returned to the NSX Book. As stated above, the Exchange operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges.

#### *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 written comments on the proposed rule change.

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

The proposed rule change has taken effect upon filing pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act<sup>15</sup> and subparagraph (f)(2) of Rule 19b-4.<sup>16</sup> At any time within 60 days of the filing of such 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](mailto:rule-comments@sec.gov). Please include File Number SR-NSX-2013-03 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-NSX-2013-03. 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 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices 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-NSX-2013-03, and should be submitted on or before March 4, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2013-02923 Filed 2-8-13; 8:45 am]

BILLING CODE 8011-01-P

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-68833; File No. SR-BOX-2013-04]

### **Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Make the Market Data Product, the BOX High Speed Vendor Feed ("HSVF"), Available to All Market Participants**

February 5, 2013.

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 January 25, 2013 BOX Options Exchange LLC (the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II, 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 make the direct market data product, the BOX HS VF, available to all market participants. 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 Web site 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 specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in

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

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

<sup>2</sup> 17 CFR 240.19b-4.

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

<sup>16</sup> 17 CFR 240.19b-4.

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, Proposed Rule Change*

1. Purpose

The purpose of the proposed rule change is to amend Rule 7130(a)(2) to make the BOX High Speed Vendor Feed ("HSVF") data product available to all market participants.<sup>3</sup> The BOX HSVF is a proprietary product that provides: (i) Trades and trade cancellation information; (ii) best-ranked price level to buy and the best-ranked price level to sell; (iii) instrument summaries (including information such as high, low, and last trade price and traded volume); (iv) the five best limit prices for each option instrument; (v) request for Quote messages<sup>4</sup>; (vi) PIP Order, Improvement Order and Block Trade Order (Facilitation and Solicitation) information<sup>5</sup>; (vii) orders exposed at NBBO<sup>6</sup>; (viii) instrument dictionary (e.g., strike price, expiration date, underlying symbol, price threshold, and minimum trading increment for instruments traded on BOX); (ix) options class and instrument status change notices (e.g., whether an instrument or class is in pre-opening, continuous trading, closed, halted, or prohibited from trading); and (x) options class opening time.

The HSVF is currently offered to BOX Options Participants at no cost.<sup>7</sup> This proposed rule change will allow the Exchange to make the HSVF available to all market participants at no cost. If the Exchange decides to establish monthly fees for the HSVF, it will do so by way of a separate proposed rule change.

The HSVF provides data that should enhance the ability of subscribers to analyze market conditions, and to create and test trading models and analytical strategies. The Exchange believes that HSVF is a valuable tool that can be used to gain comprehensive insight into the trading activity in a particular option series.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the

<sup>3</sup> Currently, the HSVF is only available to firms, or organizations registered with the Exchange for purposes of participating in options trading on BOX ("BOX Options Participants" or "Participants").

<sup>4</sup> See Exchange Rules 100(a)(57), 7070(h) and 8050.

<sup>5</sup> As set forth in Exchange Rules 7150 and 7270, respectively.

<sup>6</sup> As set forth in Exchange Rules 7130(b)(3) and 8040(d)(6), respectively.

<sup>7</sup> See Exchange Rule 7130(a)(2).

requirements of Section 6(b) of the Act,<sup>8</sup> in general, and Section 6(b)(5) of the Act,<sup>9</sup> in particular, in that HSVF is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protect investors and the public interest, by making BOX's market data product open to all market participants. In particular, the HSVF product will now be available to any market participant that wishes to subscribe to it. The Exchange believes this removes impediments to and better provides for a free and open market. Additionally, this proposed change will enhance subscribers' ability to make more informed and timely trading decisions. As such, BOX believes the proposed rule change is in the public interest, and therefore, consistent with the Act.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The proposed rule change would allow the Exchange to disseminate its propriety market data product, the HSVF, to both Participants and other subscribers on a voluntary basis. BOX is not required to make this data available and it is not necessary for Participants to subscribe to the HSVF in order to trade on BOX. Additionally, the HSVF is similar to propriety data products currently offered by other exchanges, and subscribing to the HSVF will give market participants greater information on which to base their trading strategies. As such, 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**

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent

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

<sup>9</sup> 15 U.S.C. 78f(b)(5).

with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)<sup>10</sup> of the Act and Rule 19b-4(f)(6) thereunder.<sup>11</sup>

A proposed rule change filed under 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.<sup>12</sup> However, Rule 19b-4(f)(6)(iii)<sup>13</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Exchange notes that waiver of the 30-day operative delay will allow the Exchange to immediately offer the product to all market participants. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow all market participants to have immediate access to HSVF. For this reason, the Commission designates the proposed rule change to be operative upon filing.<sup>14</sup>

At any time within 60 days of the filing of such 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](mailto:rule-comments@sec.gov). Please include File Number SR-BOX-2013-04 on the subject line.

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

<sup>12</sup> 17 CFR 240.19b-4(f)(6)(iii). 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 Exchange has satisfied this requirement.

<sup>13</sup> *Id.*

<sup>14</sup> For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

### Paper Comments

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

All submissions should refer to File Number SR–BOX–2013–04. 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–BOX–2013–04 and should be submitted on or before March 4, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2013–02999 Filed 2–8–13; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68816; File No. SR–PHLX–2013–11]

### Self-Regulatory Organizations; The NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to [sic] Proposes To Delay the Operative Date of a Rule Change to Exchange Rule 133

February 1, 2013.

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 January 28, 2013, NASDAQ OMX PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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 proposes a rule change to propose [sic] to delay the operative date of a rule change to Exchange Rule 133, which provides for methodology for determining when to halt trading in all stocks due to extraordinary market volatility, from the date of February 4, 2013, until April 8, 2013.

The text of the proposed rule change [sic] is available at <http://nasdaqomxphlx.cchwallstreet.com/nasdaqomxphlx/phlx>, at the Exchange's principal office, 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 amend Rule 133, which provides the methodology for determining when to halt trading in all stocks due to extraordinary market volatility, to delay the operative date of the pilot by which such Rule operates from the current scheduled date of February 4, 2013, until April 8, 2013, to coincide with the initial date of operations of the Regulation NMS Plan to Address Extraordinary Market Volatility (“LULD Plan”).<sup>3</sup> As proposed, the pilot period will begin and end at the same time as the pilot period for the LULD Plan. The current Rule 133 would remain in effect until April 8, 2013. If the pilot is not either extended or approved permanently at the end of the pilot period, the current version of Rule 133 would be in effect.

##### Current Rule 133

The Exchange amended Rule 133 on June 6, 2012.<sup>4</sup> The changes to Rule 133 are effective, but not operative until February 4, 2013. The current standard, set forth in the rules of other exchanges,<sup>5</sup> provides for Level 1, 2, and 3 declines and specified trading halts following such declines. The values of Levels 1, 2 and 3 are calculated at the beginning of each calendar quarter, using 10%, 20% and 30%, respectively, of the average closing value of the Dow Jones Industrial Average (“DJIA”) for the month prior to the beginning of the quarter. Each percentage calculation is rounded to the nearest fifty points to create the Levels' trigger points. The values then remain in effect until the

<sup>3</sup> The Exchange adopted the proposed changes to the market-wide circuit breakers on a pilot basis for a period that corresponds to the pilot period for the LULD Plan so that the impact of the two proposals can be reviewed together. See Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–PHLX–2011–129). The Exchange anticipates that the initial date of LULD Plan operations will be changed to April 8, 2013. The proposal would delay the operative date to the market-wide circuit breakers pilot to April 8, 2013 in order for the implementation date for the market-wide circuit breakers pilot would [sic] remain the same date as for the LULD Plan.

<sup>4</sup> See Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–PHLX–2011–129).

<sup>5</sup> The rule was last amended in 1998, when declines based on specific point drops in the DJIA were replaced with the current methodology of using a percentage decline that is recalculated quarterly. See Securities Exchange Act Release No. 39846 (April 9, 1998), 63 FR 18477 (April 15, 1998) (SR–NYSE–98–06, SR–Amex–98–09, SR–BSE–98–06, SR–CHX–98–08, SR–NASD–98–27, and SR–Phlx–98–15).

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

<sup>2</sup> 17 CFR 240.19b–4.

<sup>15</sup> 17 CFR 200.30–3(a)(12).