

of Funds Adviser, trustee or Sponsor of an Investing Trust, or its affiliated person by the Fund, or its respective Master Fund, in connection with the investment by the Fund of Funds in the Fund. Any Fund of Funds Sub-Adviser will waive fees otherwise payable to the Fund of Funds Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund, or its respective Master Fund, by the Fund of Funds Sub-Adviser, or an affiliated person of the Fund of Funds Sub-Adviser, other than any advisory fees paid to the Fund of Funds Sub-Adviser or its affiliated person by the Fund, or its respective Master Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Fund of Funds Sub-Adviser. In the event that the Fund of Funds Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund, or its respective Master Fund, to purchase a security in any Affiliated Underwriting.

7. The Board of a Fund, or its respective Master Fund, including a majority of the non-interested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund, or its respective Master Fund, in an Affiliated Underwriting, once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund, or its respective Master Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund, or its respective Master Fund, in Affiliated Underwritings and the amount purchased directly from an

Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

8. Each Fund, or its respective Master Fund, will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limit in section 12(d)(1)(A), a Fund of Funds and the Trust will execute a FOF Participation Agreement stating without limitation that their respective boards of directors or trustees and their investment advisers, or trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Fund of the investment. At such time, the Fund of Funds will also transmit to the Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Fund and the Fund of Funds will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such

contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund, or its respective Master Fund, in which the Investing Management Company may invest. These findings and their basis will be fully recorded in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund, or its respective Master Fund, will acquire securities of an investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent (i) the Fund, or its respective Master Fund, acquires securities of another investment company pursuant to exemptive relief from the Commission permitting the Fund, or its respective Master Fund, to acquire securities of one or more investment companies for short-term cash management purposes or (ii) the Fund acquires securities of the Master Fund pursuant to the Master-Feeder Relief.

For the Commission, by the Division of Investment Management, under delegated authority.

**Kevin M. O'Neill,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73215; File No. SR-BOX-2014-21]

### Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Regarding the Short Term Option Series Program

September 25, 2014.

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 September 22, 2014, 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 below, which Items have been prepared by the self-regulatory organization. The Commission is

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

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

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 amend BOX Rules 5050 (Series of Options Contracts Open for Trading) and 6090 (Terms of Index Options Contracts) to conform Exchange rules pertaining to finer strike price intervals for standard expiration contracts in option classes that also have Short Term Options ("STOs")<sup>3</sup> listed on them ("related non-STOs", "related non Short Term Options", or "non-STOs"). 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 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 BOX Rules 5050 (Series of Options Contracts Open for Trading) and 6090 (Terms of Index Options Contracts) to conform Exchange rules pertaining to finer strike price intervals for standard expiration contracts in option classes that also have STOs listed on them.

<sup>3</sup> STOs, also known as "weekly options" as well as "Short Term Options", are series in an options class that are approved for listing and trading on the Exchange in which the series are opened for trading on any Thursday or Friday that is a business day and that expire on the Friday of the next business week. If a Thursday or Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Thursday or Friday, respectively. STOs are listed and traded pursuant to the STO Program. For STO Program rules regarding non-index options, see Rule 5050 and IM-5050-6 to Rule 5050. For STO Program rules regarding index options, see Rule 6090 and IM-6090-2 to Rule 6090.

The STO Program, which was initiated in 2010,<sup>4</sup> is codified in IM-5050-6 to Rule 5050 for non-index options including equity and exchange traded fund ("ETF") options, and in IM-6090-2 to Rule 6090 for index options. Under these rules, the Exchange may list STOs in up to fifty option classes,<sup>5</sup> including up to thirty index option classes,<sup>6</sup> in addition to option classes that are selected by other securities exchanges that employ a similar program under their respective rules. For each of these option classes, the Exchange may list five STO expiration dates at any given time, not counting monthly or quarterly expirations.<sup>7</sup> Specifically, on any Thursday or Friday that is a business day, the Exchange may list STOs in designated option classes that expire at the close of business on each of the next five consecutive Fridays that are business days.<sup>8</sup> These STOs, which can be several weeks or more from expiration, may be listed in strike price intervals of \$0.50, \$1, or \$2.50, with the finer strike price intervals being offered for lower priced securities, and for options that trade in the Exchange's dollar strike program.<sup>9</sup> More specifically, the Exchange may list short term options in \$0.50 intervals for strike prices less than \$75, or for option classes that trade in one dollar increments in the related non-short term option, \$1 intervals for strike prices that are between \$75 and \$150, and \$2.50 intervals for strike prices above \$150.<sup>10</sup>

The Exchange recently proposed a change to the STO Program in IM-5050-6 to Rule 5050 regarding non-index options and IM-6090-2 to Rule 6090 regarding index options that allows related non-STO series to be opened during the month prior to expiration of such non-STO series in the same manner and strike price intervals as permitted for STOs.<sup>11</sup> Thus, the Prior Month Filing would allow standard monthly expiration options to trade—a month prior to expiration—in the same intervals as the weekly expiration STO. The Exchange does not propose any

<sup>4</sup> See Securities Exchange Act Release No. 62505 (July 15, 2010), 75 FR 42792 (July 22, 2010) (Notice of Filing and Immediate Effectiveness of SR-BX-2010-047).

<sup>5</sup> See IM-5050-6(b)(1) to Rule 5050.

<sup>6</sup> See IM-6090-2(b)(1) to Rule 6090.

<sup>7</sup> See IM-5050-6(a) to Rule 5050 and IM-6090-2(a) to Rule 6090.

<sup>8</sup> *Id.*

<sup>9</sup> See IM-5050-6(b)(5) to Rule 5050 and IM-6090-2(b)(5) to Rule 6090.

<sup>10</sup> *Id.* The \$2.50 interval does not apply to indexes. See IM-6090-2(b)(5) to Rule 6090.

<sup>11</sup> See Securities Exchange Act Release No. 72483 (June 26, 2014), 79 FR 37820 (July 2, 2014) (Notice of Filing and Immediate Effectiveness of SR-BX-2014-18) (the "Prior Month Filing").

substantive changes, but only ensures that the language within Rules 5050 and 6090, respectively, is in conformity in respect of the interval that STOs and non-STOs may trade in during the month prior to expiration of the non-STOs.

Rules 5050(d)(6) and 6090(c)(6) now state that notwithstanding any other provision regarding strike prices in the respective rules, related non-STO series may be opened during the *week* prior to expiration of such non-STO series in the same manner and strike price intervals as permitted for STOs. This proposal conforms Rule 5050(d)(6) to IM-5050-6 and Rule 6090(c)(6) to IM-6090-2. Specifically, as proposed Rules 5050(d)(6) and 6090(c)(6) would state that notwithstanding any other provision regarding strike prices in this rule, non-STOs that are on a class or an index class that has been selected to participate in the STO Program (related non-STO series) shall be opened during the *month* prior to expiration of such related non-STO series in the same manner and intervals as permitted in IM-5050-6 to Rule 5050 or IM-6090-2 to Rule 6090.<sup>12</sup> No other changes are proposed.

The Exchange is now permitted to list the standard monthly expiration contract options in these narrower STO intervals at any time during the month prior to expiration, which begins on the first trading day after the prior month's expiration date, subject to the provisions of Exchange rules. As discussed, this proposal simply conforms the language of Rules 5050 and 6090 to make each of the rules internally consistent.

The Exchange believes that continuing to introduce consistent strike price intervals for STOs and related non-STOs during the month prior to expiration benefits investors by giving them more flexibility to closely tailor their investment decisions. The Exchange also believes that this provides the investing public and other market participants with additional opportunities to hedge their investments, thus allowing these investors to better manage their risk exposure.

##### 2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),<sup>13</sup> in general, and Section 6(b)(5) of the Act,<sup>14</sup> in particular, in that it is

<sup>12</sup> See Rules 5050(d)(6) and 6090(c)(6).

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

As noted above, standard expiration options currently trade in wider intervals than their weekly counterparts, except during the week prior to expiration. This creates a situation where contracts on the same option class that expire both several weeks before and several weeks after the standard expiration are eligible to trade in strike price intervals that the standard expiration contract is not. The Prior Month Filing allowed STOs and non-STOs to be listed and traded in the same intervals pursuant to Rules 5050 (non-index options) and 6090 (index options). This proposal conforms the language of each of the respective rules to reflect the monthly time period, and negates potential confusion from inconsistent language.<sup>15</sup>

#### *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. To the contrary, the Exchange believes that the proposed technical conforming rule change continues to provide additional investment options and opportunities to achieve the investment objectives of market participants seeking efficient trading and hedging vehicles, to the benefit of investors, market participants, and the marketplace in general.

#### *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 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

<sup>15</sup> The Exchange represents that, because of the technical conforming nature of the proposal, it will not have any impact on system capacity.

operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>16</sup> and Rule 19b-4(f)(6) thereunder.<sup>17</sup>

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that waiver of this requirement will allow STOs to be traded on the Exchange pursuant to rules that are internally conformed, and would thus negate any potential market confusion. For this reason, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest; and will allow the Exchange to remain competitive with other exchanges. Therefore, the Commission designates the proposed rule change to be operative upon filing.<sup>18</sup>

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. 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BOX-2014-21 on the subject line.

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>17</sup> 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of 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.

<sup>18</sup> For purposes only of waiving the 30-day operative delay, the Commission has also 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 Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-BOX-2014-21. 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 a.m. and 3 p.m. Copies of the 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-2014-21 and should be submitted on or before October 22, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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<sup>19</sup> 17 CFR 200.30-3(a)(12).