

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

**Eduardo A. Aleman,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80246; File No. SR-BOX-2017-09]

### 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

March 15, 2017.

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 March 7, 2017, 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 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 March 8, 2017. 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>.

<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).

#### 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 the Fee Schedule for trading on BOX. Specifically, the Exchange proposes to revise certain qualification thresholds in Sections I.B.1 of the BOX Fee Schedule, Primary Improvement Order and I.B.2 of the BOX Fee Schedule, the BOX Volume Rebate ("BVR").

###### Primary Improvement Order

Under the tiered fee schedule for Primary Improvement Orders, the Exchange assesses a per contract execution fee to all Primary Improvement Order executions where the corresponding PIP or COPIP Order is from the account of a Public Customer. Percentage thresholds are calculated on a monthly basis by totaling the Initiating Participant's Primary Improvement Order volume submitted to BOX, relative to the total national Customer volume in multiply-listed options classes. The Exchange proposes to delete current Tier 4 in its entirety and renumber the tiers accordingly. The Exchange also proposes to adjust the percentage threshold in proposed Tier 4. Specifically, the Exchange proposes to change proposed Tier 4 from "0.800% and Above" to "0.500% and Above." The Exchange notes that it is not proposing any changes to the fees within the Primary Improvement Order fee structure and the quantity submitted will continue to be calculated on a monthly basis by totaling the Initiating Participant's Primary Improvement Order volume submitted to BOX, relative to the total national Customer volume in multiply-listed options classes.

###### BVR

Next, the Exchange proposes to adjust certain percentage thresholds within the BVR. Under the BVR, the Exchange offers a tiered per contract rebate for all Public Customer PIP Orders and COPIP Orders of 100 and under contracts that do not trade solely with their contra order. Percentage thresholds are calculated on a monthly basis by totaling the Participant's PIP and COPIP volume submitted to BOX, relative to the total national Customer volume in multiply-listed options classes. The Exchange proposes to adjust the percentage thresholds in Tiers 3 and 4. Specifically, the Exchange proposes to change Tier 3 from "0.340% to 0.799%" to "0.340% to 0.499%" and Tier 4 from "0.800% and Above" to "0.500% and Above." The Exchange notes that it is not proposing any changes to the fees within the BVR. The quantity submitted will continue to be calculated on a monthly basis by totaling the Participant's PIP and COPIP volume submitted to BOX, relative to the total national Customer volume in multiply-listed options classes.

###### 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>5</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.

BOX believes it is reasonable, equitable and not unfairly discriminatory to adjust the monthly Percentage Thresholds of National Customer Volume in Multiply-Listed Options Classes. The volume thresholds with their tiered fees and rebates are meant to incentivize Participants to direct order flow to the Exchange to obtain the benefit of the lower fee or higher rebate, which in turn benefits all market participants by increasing liquidity on the Exchange.

The Exchange believes the proposed amendments to the Primary Improvement Order percentage thresholds are reasonable, equitable and not unfairly discriminatory. The proposed changes to the thresholds are equitable and not unfairly discriminatory as they are available to all BOX Participants that initiate Auction Transactions, and Participants may choose whether or not to take

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

advantage of the percentage thresholds and their applicable discounted fees. Further, the Exchange believes that the proposed changes are reasonable and competitive as they will further incentivize Participants to direct order flow to the Exchange, benefiting all market participants.

The Exchange also believes the proposed amendments to the BVR in Section I.B.2 of the BOX Fee Schedule are reasonable, equitable and not unfairly discriminatory. The BVR was adopted to attract Public Customer order flow to the Exchange by offering these Participants incentives to submit their Public Customer PIP and COPIP Orders to the Exchange and the Exchange believes it is appropriate to now amend the BVR. The Exchange believes it is equitable and not unfairly discriminatory to amend the BVR, as all Participants have the ability to qualify for a rebate, and rebates are provided equally to qualifying Participants. Other exchanges employ similar incentive programs;<sup>6</sup> and the Exchange believes that the proposed changes to the volume thresholds are reasonable and competitive when compared to incentive structures at other exchanges. Finally, the Exchange believes it is reasonable and appropriate to continue to provide incentives for Public Customers, which will result in greater liquidity and ultimately benefit all Participants trading on the Exchange.

#### *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. The Exchange is simply proposing to amend certain percentage thresholds for Auction Transaction fees and rebates in the BOX Fee Schedule. The Exchange believes that the volume based rebates and fees increase intermarket and intramarket competition by incenting Participants to direct their order flow to the exchange, which benefits all participants by providing more trading opportunities and improves competition on the Exchange.

#### *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.

<sup>6</sup> See Section B of the PHLX Pricing Schedule entitled "Customer Rebate Program;" ISE Gemini's Qualifying Tier Thresholds (page 6 of the ISE Gemini Fee Schedule); and CBOE's Volume Incentive Program (VIP).

### **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>7</sup> and Rule 19b-4(f)(2) thereunder,<sup>8</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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BOX-2017-09 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-2017-09. 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

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>8</sup> 17 CFR 240.19b-4(f)(2).

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-2017-09, and should be submitted on or before April 11, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-80259; File No. 4-707]

### **Self-Regulatory Organizations; ISE Mercury, LLC; Notice of Filing of Proposed Minor Rule Violation Plan**

March 16, 2017.

Pursuant to Section 19(d)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19d-1(c)(2) thereunder,<sup>2</sup> notice is hereby given that on March 9, 2017, ISE Mercury, LLC ("Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed minor rule violation plan ("MRVP") with sanctions not exceeding \$2,500 which would not be subject to the provisions of Rule 19d-1(c)(1) of the Act<sup>3</sup> requiring that a self-regulatory organization ("SRO") promptly file notice with the Commission of any final disciplinary action taken with respect to any person or organization.<sup>4</sup> In accordance with

<sup>9</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19d-1(c)(2).

<sup>3</sup> 17 CFR 240.19d-1(c)(1).

<sup>4</sup> The Commission adopted amendments to paragraph (c) of Rule 19d-1 to allow SROs to submit for Commission approval plans for the abbreviated reporting of minor disciplinary infractions. See Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984). Any disciplinary action taken by an SRO against any person for violation of a rule of the SRO which has been designated as a minor rule violation pursuant to such a plan filed with and declared effective by the Commission shall not be considered "final" for purposes of Section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding \$2,500 and the sanctioned person has not