

to Index Fund Shares based on fixed income securities will continue to apply to any series of Index Fund Shares listed pursuant to proposed Rule 14.11(c)(4)(B)(ii), including: (i) Index methodology and calculation;<sup>18</sup> (ii) dissemination of information;<sup>19</sup> (iii) initial shares outstanding;<sup>20</sup> (iv) hours of trading;<sup>21</sup> (v) surveillance procedures;<sup>22</sup> and (vi) all continued listing requirements under Rule 14.11(c)(9)(B).

### III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>23</sup> In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>24</sup> which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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.

With respect to the quantitative requirements of proposed Rule 14.11(c)(4)(B)(ii), the original principal amount outstanding requirement is lower than what is currently applicable to Index Fund Shares based on an index or portfolio of fixed income securities. The Commission notes, however, that the other proposed quantitative requirements (*i.e.*, component concentration, issuer diversification, and minimum number of components) are more stringent than the existing generic listing requirements. Accordingly, the Commission believes that, taken together, the proposed criteria are sufficiently designed to prevent fraudulent and manipulative acts and practices. Specifically, the Commission believes that the proposed generic listing requirements for an index or portfolio of Municipal Securities, in aggregate, should help to ensure that an index underlying a series of Index Fund Shares will be sufficiently large, not concentrated, and diversified to prevent

manipulation of that benchmark. Additionally, the Commission notes that it recently approved a proposal by another national securities exchange to adopt substantially similar generic listing standards.<sup>25</sup>

The Commission also finds that the proposed amendments to Rule 14.11(c)(5) are designed to extend the requirements related to the generic listing and trading of Index Fund Shares based on a combination of two or more types of indexes to an index of Municipal Securities.

In support of its proposal, the Exchange represents the following:

(1) Index Fund Shares listed pursuant to proposed Rule 14.11(c)(4)(B)(ii) will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority ("FINRA") on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.<sup>26</sup> The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.<sup>27</sup> FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares with other markets that are members of the Intermarket Surveillance Group ("ISG") or with which the Exchange has in place a comprehensive surveillance sharing agreement.<sup>28</sup> FINRA also can access data obtained from the Municipal Securities Rulemaking Board ("MSRB") relating to municipal bond trading activity for surveillance purposes.<sup>29</sup> FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by a Fund reported to FINRA's Trade Reporting and Compliance Engine.<sup>30</sup>

(2) Index Fund Shares listed pursuant to the proposed generic listing rule will comply with all other requirements applicable to Index Fund Shares including, but not limited to, the applicable rules governing the trading of equity securities, trading hours, trading halts, surveillance, information barriers, and the Information Circular to members, as set forth in Exchange rules applicable to Index Fund Shares.<sup>31</sup>

(3) The Exchange has in place surveillance procedures relating to trading in the Index Fund Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.<sup>32</sup> In addition, investors will have ready access to information regarding the intraday indicative value and

quotation and last-sale information for the Index Fund Shares. Trade price and other information relating to municipal bonds is available through the MSRB's Electronic Municipal Market Access.<sup>33</sup>

This approval order is based on all of the Exchange's representations, including those set forth above. For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act<sup>34</sup> and the rules and regulations thereunder applicable to a national securities exchange.

### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>35</sup> that the proposed rule change (SR-CboeBZX-2019-023), as modified by Amendment No. 1, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>36</sup>

**Jill M. Peterson,**  
Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87633; File No. SR-NYSEAMER-2019-51]

### Self-Regulatory Organizations; NYSE American, LLC.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Commentary .02 to Rule 960NY To Extend the Penny Pilot

November 26, 2019.

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 November 15, 2019, NYSE American, LLC ("NYSE American" or 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>1</sup> See Rule 14.11(c)(4)(C).

<sup>2</sup> See Rule 14.11(c)(6)(A).

<sup>3</sup> See Rule 14.11(c)(6)(B).

<sup>4</sup> See Rule 14.11(c)(7).

<sup>5</sup> See Rule 14.11(c)(6)(C).

<sup>6</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> See NYSE Arca Proposal, *supra* note 9.

<sup>9</sup> See Amendment No. 1, *supra* note 9, at 14-15.

<sup>10</sup> See *id.* at 15.

<sup>11</sup> See *id.*

<sup>12</sup> See *id.*

<sup>13</sup> See *id.*

<sup>14</sup> See *id.* at 16.

<sup>15</sup> See *id.* at 18-19.

<sup>16</sup> See *id.* at 19.

<sup>17</sup> 15 U.S.C. 78f(b)(5).

<sup>18</sup> 15 U.S.C. 78s(b)(2).

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

<sup>20</sup> 15 U.S.C. 78s(b)(1).

<sup>21</sup> 15 U.S.C. 78a.

<sup>22</sup> 17 CFR 240.19b-4.

## I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Commentary .02 to Rule 960NY to extend the Penny Pilot in options classes in certain issues ("Pilot") previously approved by the Securities and Exchange Commission ("Commission") through June 30, 2020. The Pilot is currently scheduled to expire on December 31, 2019. The proposed rule change is available on the Exchange's website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, 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 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 those 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 parts of such statements.

### A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

The Exchange proposes to amend Commentary .02 to Rule 960NY to extend the time period of the Pilot,<sup>4</sup> which is currently scheduled to expire on December 31, 2019, until June 30, 2020. The Exchange believes that extending the Pilot would allow for further analysis of the Pilot and a determination of how the Pilot should be structured in the future.

This filing does not propose any substantive changes to the Pilot: All classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

<sup>4</sup> See Securities and Exchange Act Release No. 86061 (June 7, 2019) 84 FR 27665 (June 13, 2019) (SR-NYSEAMER-2019-22).

#### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b)<sup>5</sup> of the Act, in general, and furthers the objectives of Section 6(b)(5),<sup>6</sup> in particular, in that it is 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, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system.

In particular, the proposed rule change, which extends the Pilot for six months, allows the Exchange to continue to participate in a program that has been viewed as beneficial to traders, investors and public customers and viewed as successful by the other options exchanges participating in it. Accordingly, the Exchange believes that the proposal is consistent with the Act because it will allow the Exchange to extend the Pilot prior to its expiration on December 31, 2019. The Exchange notes that this proposal does not propose any new policies or provisions that are unique or unproven, but instead relates to the continuation of an existing program that operates on a pilot basis.

The Exchange believes that the Pilot promotes just and equitable principles of trade by enabling public customers and other market participants to express their true prices to buy and sell options to the benefit of all market participants.

The proposal to extend the Pilot is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, by allowing the Exchange and the Commission additional time to analyze the impact of the Pilot while also allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

### 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. Specifically, the Exchange believes that, by extending the expiration of the Pilot, the proposed rule change will allow for further analysis of the Pilot and a determination

of how this program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot is an industry-wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot will allow for continued competition between Exchange market participants trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup> 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 operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.<sup>9</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. If the Commission takes such action, the Commission shall institute proceedings

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

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(iii). Rule 19b-4(f)(6)(iii) 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 satisfied this requirement.

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

under Section 19(b)(2)(B)<sup>10</sup> of the Act to determine whether the proposed rule change 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-NYSEAMER-2019-51 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-NYSEAMER-2019-51. 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 website (<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 website 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 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEAMER-2019-51 and

should be submitted on or before December 24, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Jill M. Peterson,**  
Assistant Secretary.

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#### SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34-87637; File No. SR-BOX-2019-33]**

#### **Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Add IM-7620-1 (Sub-Penny Cabinet) To Allow Transactions To Take Place at a Price That is Below \$1 per Option Contract**

November 27, 2019.

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 November 13, 2019, BOX 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 publishing this notice to solicit comments on the proposed rule change from interested persons.

#### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to add IM-7620-1 (Sub-Penny Cabinet) to allow transactions to take place at a price that is below \$1 per option contract. 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 website at <http://boxoptions.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 purpose of the proposed rule change is to add Rule IM-7620-1 (Sub-Penny Cabinet) to allow transactions to take place at a price that is below \$1 per option contract. An "accommodation" or "cabinet" trade refers to trades in listed options on the Exchange that are worthless or not actively traded. Cabinet trading is conducted in accordance with the Exchange Rule 7620 which sets forth the terms and conditions for engaging in cabinet trades. Currently, a cabinet order is defined as a closing limit order at a price of \$1 per option contract for the account of a customer or Floor Market Maker. In certain cases opening orders<sup>3</sup> may be matched with a cabinet order.<sup>4</sup> Only Floor brokers may represent cabinet orders on the BOX Trading Floor. Cabinet transactions occur via open outcry at a cabinet price of \$1 per option contract in any options series open for trading in the Exchange. Once the cabinet order has been either crossed or matched, the Floor Broker must submit the designated cabinet form as soon as possible but no later than the close of business that trading day. Cabinet order transactions are reported as late trades on the Exchange.<sup>5</sup>

The purpose of this rule change is to add Rule IM-7620-1 to allow for transactions to take place in open outcry at a price of at least \$0 but less than \$1 per option contract ("sub-penny cabinet orders"). These lower priced transactions would be traded pursuant to the same procedures applicable to \$1 cabinet trades, except that (i) bids and offers for opening transactions would only be permitted to accommodate closing transactions in order to limit use of the procedure to liquidations of existing positions, and (ii) the procedures would also be made available for trading in option classes participating in the Penny Pilot

<sup>3</sup> The Exchange notes an "opening order" is a contra-side opening order in response to a Customer who submits a closing order to clear their position.

<sup>4</sup> See BOX Rule 7620(c), (d), and (e).

<sup>5</sup> The Exchange notes there have been no issues in processing and clearing cabinet trade transactions since Rule 7620 has been implemented.

<sup>10</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>11</sup> 17 CFR 200.30-3(a)(12).

<sup>12</sup> 15 U.S.C. 78s(b)(1).

<sup>13</sup> 17 CFR 240.19b-4.