

### 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<sup>14</sup> and paragraph (f) of Rule 19b-4<sup>15</sup> 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. If the Commission takes such action, the Commission will institute proceedings 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-C2-2021-009 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-C2-2021-009. 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-C2-2021-009 and should be submitted on or before June 24, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**J. Matthew DeLesDernier**,  
Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-92072; File No. SR-BOX-2021-12]

### Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing of Proposed Rule Change To Amend BOX Rule 5050 (Series of Options Contracts Open for Trading) To Limit Short Term Options Series Intervals

May 28, 2021.

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 May 18, 2021, 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 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 Rule 5050 (Series of Options Contracts Open for Trading). This proposal seeks to limit Short Term Options Series intervals between strikes which are available for quoting and trading on BOX. 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 Exchange proposes to amend Rule 5050, "Series of Options Contracts Open for Trading." Specifically, this proposal seeks to limit the intervals between strikes for multiply listed equity options classes within the Short Term Options Series program that have an expiration date more than twenty-one days from the listing.

###### Background

Today, BOX's listing rules within Rule 5050 permits the Exchange, after a particular class of options (call option contracts or put option contracts relating to a specific underlying stock, Exchange-Traded Fund Share,<sup>3</sup> or

<sup>3</sup> Exchange-Traded Fund Share shall include shares or other securities that are traded on a national securities exchange and are defined as an "NMS stock" under Rule 600 of Regulation NMS, and that (i) represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities, that hold portfolios of securities and/or financial instruments including, but not limited to, stock index futures contracts, options on futures, options on securities and indexes, equity caps, collars and floors, swap agreements, forward contracts, repurchase agreements and reverse repurchase agreements comprising or otherwise based on or representing investments in broad-based indexes or portfolios of securities and/or Financial Instruments and Money Market Instruments (the "Money Market Instruments") (comprising or otherwise based on or representing investments in broad-based indexes or portfolios of securities and/or Financial Instruments and Money Market Instruments (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities and/or Financial Instruments and Money Market Instruments); or (ii) represent interests in a trust that holds a specified non-U.S. currency deposited with the trust or similar entity

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f).

<sup>16</sup> 17 CFR 200.30-3(a)(12).

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

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

ETN<sup>4</sup>) has been approved for listing and trading on the Exchange, to open for trading series of options therein. The Exchange may list series of options for trading on a weekly,<sup>5</sup> monthly<sup>6</sup> or

when aggregated in some specified minimum number may be surrendered to the trust by the beneficial owner to receive the specified non-U.S. currency or currencies and pays the beneficial owner interest and other distributions on the deposited non-U.S. currency or currencies, if any, declared and paid by the trust (“Currency Trust Shares”); or (iii) represent commodity pool interests principally engaged, directly or indirectly, in holding and/or managing portfolios or baskets of securities, commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and/or non-U.S. currency (“Commodity Pool ETFs”) or (iv) represent interests in the SPDR® Gold Trust, the iShares COMEX Gold Trust, the iShares Silver Trust, the ETFS Gold Trust, the ETFS Silver Trust, the ETFS Palladium Trust, the ETFS Platinum Trust or the Sprott Physical Gold Trust; provided the conditions within BOX Rule 5050(h)(1) and (2) are met. See BOX Rule 5020(h).

<sup>4</sup> Securities deemed appropriate for options trading shall include shares or other securities (“Equity Index-Linked Securities,” “Commodity-Linked Securities,” “Currency-Linked Securities,” “Fixed Income Index-Linked Securities,” “Futures-Linked Securities,” and “Multifactor Index-Linked Securities,” collectively known as “Index-Linked Securities” or “ETNs”) that are principally traded on a national securities exchange and an “NMS Stock” (as defined in Rule 600 of Regulation NMS under the Securities Exchange Act of 1934), and represent ownership of a security that provides for the payment at maturity, as described within BOX Rule 5020(k)(1)(A)–(F). See BOX Rule 5020(k).

<sup>5</sup> The weekly listing program is known as the Short Term Options Series Program and is described within IM–5050–6.

<sup>6</sup> The Exchange will open a minimum of one expiration month and series for each class of options open for trading on BOX. See BOX Rule 5050(b). The monthly expirations are subject to certain listing criteria for underlying securities described within Rule 5020. Monthly listings expire the third Friday of the month. The term “expiration date” when used in respect of a series of binary options other than event options means the last day on which the options may be automatically exercised. In the case of a series of event options (other than credit default options or credit default basket options) that are to be automatically exercised prior to their expiration date upon receipt by the Corporation of an event confirmation, the expiration date is the date specified by the listing Exchange; provided, however, that when an event confirmation is deemed to have been received by the Corporation with respect to such series of options, the expiration date will be accelerated to the date on which such event confirmation is deemed to have been received by the Corporation or such later date as the Corporation may specify. In the case of a series of credit default options or credit default basket options, the expiration date is the fourth business day after the last trading day for such series as such trading day is specified by the Exchange on which the series of options is listed; provided, however, that when an event confirmation is deemed to have been received by the Corporation with respect to a series of credit default options or single payout credit default basket options prior to the last trading day for such series, the expiration date for options of that series will be accelerated to the second business day following the day on which such event confirmation is deemed to have been received by the Corporation. “Expiration date” means, in respect of a series of range options expiring prior to February 1, 2015, the Saturday immediately

quarterly<sup>7</sup> basis. BOX Rule 5050(d) sets forth the intervals between strike prices of series of options on individual stocks.<sup>8</sup> In addition to those intervals, the Exchange may list series of options pursuant to the \$1 Strike Price Interval Program,<sup>9</sup> the \$0.50 Strike Program,<sup>10</sup> the \$2.50 Strike Price Program,<sup>11</sup> and the \$5 Strike Program.<sup>12</sup>

The Exchange’s proposal seeks to amend the listing of weekly series of options as proposed within new Supplementary Material .03(f) of Options 4, Section 5, by limiting the intervals between strikes in multiply listed equity options, excluding Exchange-Traded Fund Shares and ETNs, that have an expiration date more than twenty-one days from the listing date. This proposal does not amend monthly or quarterly listing rules nor does it amend the \$1 Strike Price Interval Program, the \$0.50 Strike Program, the \$2.50 Strike Price Program, or the \$5 Strike Program.

#### Short Term Options Series Program

Today, IM–5050–6 permits BOX to open for trading on any Thursday or Friday that is a business day (“Short

following the third Friday of the expiration month of such series, and, in respect of a series of range options expiring on or after February 1, 2015 means the third Friday of the expiration month of such series, or if such Friday is a day on which the Exchange on which such series is listed is not open for business, the preceding day on which such Exchange is open for business. See The Options Clearing Corporation (“OCC”) By-Laws at Section 1.

<sup>7</sup> The quarterly listing program is known as the Quarterly Options Series Program and is described within IM–6090–1.

<sup>8</sup> Except as otherwise provided in IM–5050–6, the interval between strike prices of series of options on individual stocks will be: (1) \$2.50 or greater where the strike price is \$25.00 or less; (2) \$5.00 or greater where the strike price is greater than \$25.00; and (3) \$10.00 or greater where the strike price is greater than \$200.00. The interval between strike prices of series of options on Exchange-Traded Fund Shares approved for options trading pursuant to BOX Rule 5020(h) shall be fixed at a price per share which is reasonably close to the price per share at which the underlying security is traded in the primary market at or about the same time such series of options is first open for trading on the Exchange, or at such intervals as may have been established on another options exchange prior to the initiation of trading on the Exchange. Pursuant to IM–5050–1(b), notwithstanding any other provision regarding the interval of strike prices of series of options on Exchange-Traded Fund Shares in this rule, the interval of strike prices on SPDR® S&P 500® ETF (“SPY”), iShares Core S&P 500 ETF (“IVV”), PowerShares QQQ Trust (“QQQ”), iShares Russell 2000 Index Fund (“IWM”), and the SPDR® Dow Jones® Industrial Average ETF (“DIA”) options will be \$1 or greater.

<sup>9</sup> The \$1 Strike Interval Program is described within IM–5050–2.

<sup>10</sup> The \$0.50 Strike Interval Program is described within IM–5050–5.

<sup>11</sup> The \$2.50 Strike Interval Program is described within IM–5050–3.

<sup>12</sup> The \$5.00 Strike Interval Program is described within Rule 5050(d)(5).

Term Option Opening Date”) series of options on an option class that expires at the close of business on each of the next five Fridays that are business days and are not Fridays in which monthly options series or Quarterly Options Series expire (“Short Term Option Expiration Dates”), provided an option class has been approved for listing and trading on the Exchange.<sup>13</sup> Today, the Exchange may open up to thirty initial series for each option class that participates in the Short Term Option Series Program.<sup>14</sup> Further, if the Exchange opens less than thirty (30) Short Term Option Series for a Short Term Option Expiration Date, additional series may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the exercise price or prices of the series already opened.<sup>15</sup>

The Exchange may open for trading Short Term Option Series on the Short Term Option Opening Date that expire on the Short Term Option Expiration Date at strike price intervals of (i) \$0.50 or greater where the strike price is less than \$100, and \$1 or greater where the strike price is between \$100 and \$150 for all option classes that participate in the Short Term Options Series Program; (ii) \$0.50 for option classes that trade in one dollar increments and are in the Short Term Option Series Program; or

<sup>13</sup> The Exchange may have no more than a total of five Short Term Option Expiration Dates, not including any Monday or Wednesday SPY Expirations as provided below. If the Exchange is not open for business on the respective Thursday or Friday, the Short Term Option Opening Date will be the first business day immediately prior to that respective Thursday or Friday. Similarly, if the Exchange is not open for business on a Friday, the Short Term Option Expiration Date will be the first business day immediately prior to that Friday. With respect to Wednesday SPY Expirations, the Exchange may open for trading on any Tuesday or Wednesday that is a business day series of options on the SPDR S&P 500 ETF Trust (SPY) to expire on any Wednesday of the month that is a business day and is not a Wednesday in which Quarterly Options Series expire (“Wednesday SPY Expirations”). With respect to Monday SPY Expirations, the Exchange may open for trading on any Friday or Monday that is a business day series of options on the SPY to expire on any Monday of the month that is a business day and is not a Monday in which Quarterly Options Series expire (“Monday SPY Expirations”), provided that Monday SPY Expirations that are listed on a Friday must be listed at least one business week and one business day prior to the expiration. The Exchange may list up to five consecutive Wednesday SPY Expirations and five consecutive Monday SPY Expirations at one time; the Exchange may have no more than a total of five Wednesday SPY Expirations and a total of five Monday SPY Expirations. Monday and Wednesday SPY Expirations will be subject to the provisions of this Rule. See IM–5050–6(c) and (d).

<sup>14</sup> See IM–5050–6(b)(3).

<sup>15</sup> See IM–5050–6(b)(4).

(iii) \$2.50 or greater where the strike price is above \$150. During the month prior to expiration of an option class that is selected for the Short Term Option Series Program (“Short Term Option”), the strike price intervals for the related non-Short Term Option (“Related non-Short Term Option”) shall be the same as the strike price intervals for the Short Term Option.<sup>16</sup>

The Exchange may select up to fifty currently listed option classes on which Short Term Option Series may be opened on any Short Term Option Opening Date. In addition to the fifty option class restriction, the Exchange may also list Short Term Option Series on any option classes that are selected by other securities exchanges that employ a similar program under their respective rules. For each option class eligible for participation in the Short Term Option Series Program, the Exchange may open up to thirty Short Term Option Series for each expiration date in that class. The Exchange may also open Short Term Option Series that are opened by other securities exchanges in option classes selected by

such exchanges under their respective short term option rules.<sup>17</sup>

The Exchange notes that listings in the weekly program comprise a significant part of the standard listing in options markets and that the industry has observed a notable increase over approximately the last five years in compound annual growth rate (“CAGR”) of weekly strikes as compared to CAGR for standard third-Friday expirations.<sup>18</sup>

Proposal

The Exchange proposes to widen the intervals between strikes in order to limit the number of strikes listed for equity options (excluding options on ETFs and ETNs) listed as part of the Short Term Option Series Program that have an expiration date more than 21 days from the listing date, by adopting proposed Rule 4.5(d)(6). The Exchange notes that this proposal is substantively identical to the strike interval proposal recently submitted by Nasdaq BX, Inc. (“BX”) and approved by the Securities and Exchange Commission (“Commission”).<sup>19</sup>

The proposal widens intervals between strikes for expiration dates of equity option series (excluding options on ETFs and ETNs) beyond 21 days utilizing the three-tiered table in proposed IM-5050-11 (presented below) which considers both the Share Price and Average Daily Volume for the option series. The table indicates the applicable strike intervals and supersedes IM-6090-2(b)(4), which currently permits 10 additional series to be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the exercise price or prices of the series already opened. As a result of the proposal, IM-6090-2(b)(4) would not permit an additional series of an equity option to have an expiration date more than 21 days from the listing date to be opened for trading on the Exchange despite the noted circumstances in subparagraph (b)(4) when such additional series may otherwise be added.

Tier	Average daily volume	Share Price				
		Less than \$25	\$25 to less than \$75	\$75 to less than \$150	\$150 to less than \$500	\$500 or greater
1 .....	Greater than 5,000 .....	\$0.50	\$1.00	\$1.00	\$5.00	\$5.00
2 .....	Greater than 1,000 to 5,000 .....	1.00	1.00	1.00	5.00	10.00
3 .....	0 to 1,000 .....	2.50	5.00	5.00	5.00	10.00

The Share Price would be the closing price on the primary market on the last day of the calendar quarter. This value would be used to derive the column from which to apply strike intervals throughout the next calendar quarter. The Average Daily Volume would be the total number of options contracts traded in a given security for the applicable calendar quarter divided by the number of trading days in the applicable calendar quarter. Beginning on the second trading day in the first month of each calendar quarter, the Average Daily Volume shall be calculated by utilizing data from the prior calendar quarter based on Customer-cleared volume at OCC. For options listed on the first trading day of a given calendar quarter, the Average Daily Volume shall be calculated using the calendar quarter

prior to the last trading calendar quarter.<sup>20</sup> Under current rules, if the Exchange is not open for business on the respective Thursday or Friday, the Short Term Option Opening Date will be the first business day immediately prior to that respective Thursday or Friday, as is the case today for STOs as specified within IM-5050-6.

The Exchange proposes that Short Term Options Series that are newly eligible for listing pursuant to Rule 5020(a) will not be subject to this proposed IM-5050-11 until after the end of the first full calendar quarter following the date the option class was first listed for trading on any options market.<sup>21</sup> The Exchange would be permitted to list options on newly eligible listings, without any curtailment in strike intervals, until the

end of the first full quarter after they were listed. BOX’s proposal would thereby permit BOX to add strikes to meet customer demand in the options class. By deferring the curtailment until after the end of the first full calendar quarter, additional information on the underlying security would be available to market participants and public investors. During this period of deferment the price of the underlying would have an opportunity to settle based on the price discovery that has occurred in the primary market. An options class that represents a newly listed primary security may fluctuate in price after its initial listing; such volatility reflects a natural uncertainty about the security. Also, BOX would have the ability to list as many strikes as are permissible for the Short Term

<sup>16</sup> See IM-5050-1(b).  
<sup>17</sup> See IM-5050-6(b)(1).  
<sup>18</sup> See Securities Exchange Act Release No. 91125 (February 12, 2021), 86 FR 10375 (February 19, 2021) (SR-BX-2020-032) (“BX Strike Interval Approval Order”); and SR-2020-BX-032 as amended by Amendment No. 1 (February 10, 2021) available at: <https://www.sec.gov/comments/sr-bx-2020-032/srbx2020032-8359799-229182.pdf> (“BX proposal”); see also BX Options Strike Proliferation Proposal (February 25, 2021) available at: <https://www.nasdaq.com/solutions/bxoptions-strike-proliferation-proposal>.

<sup>19</sup> See BX Strike Interval Approval Order, *id.*  
<sup>20</sup> For example, options listed as of January 4, 2021 would be calculated on January 5, 2021 using

the Average Daily Volume from July 1, 2020 to September 30, 2020.  
<sup>21</sup> For example, if an options became newly eligible for listing pursuant to Rule 5020 on March 1, 2021, the first full quarterly lookback would be available on July 1, 2021. This option would become subject to the curtailment on July 2, 2021.

Options Series once the expiry is within twenty-one days. Short Term Options Series which have an expiration date less than twenty-one days from the listing date are not subject to the curtailment, thereby allowing BOX to list additional, and potentially narrower, strikes in the event of market volatility or other market events.

In the event of a corporate action, the Share Price of the surviving company would be utilized. These metrics are intended to align expectations for determining which strike intervals will be utilized. Finally, notwithstanding the limitations imposed by proposed IM-5050-11, this Strike Interval Proposal does not amend the range of strikes that may be listed pursuant to IM-5050-6, regarding the Short Term Option Series Program.

By way of example, if the Share Price for a symbol was \$142 at the end of a calendar quarter, with an Average Daily Volume greater than 5,000, thereby, requiring strike intervals to be listed \$1.00 apart, that strike interval would apply for the calendar quarter, regardless of whether the Share Price changed to greater than \$150 during that calendar quarter.<sup>22</sup>

The proposed table within IM-5050-11 takes into account the notional value of a security, as well as Average Daily Volume in the underlying stock, in order to limit the intervals between strikes in the Short Term Options listing program. BOX would utilize OCC Customer-cleared volume, as customer volume is an appropriate proxy for demand. The OCC Customer-cleared volume represents the majority of options volume executed on the Exchange that, in turn, reflects the demand in the marketplace. The options series listed on BOX are intended to meet customer demand by offering an appropriate number of strikes. Non-Customer cleared OCC volume represents the supply side. The strike intervals for listing strikes in certain options are intended to remove repetitive and unnecessary strike listings across the weekly expiries. BOX's Strike Interval Proposal seeks to reduce the number of strikes in the furthest weeklies, where there exist wider markets and therefore lower market quality.

The proposed table within IM-5050-11 is intended to distribute strike intervals in multiply listed equity options where there is less volume as measured by the Average Daily Volume

<sup>22</sup> The Exchange notes that any limits on intervals imposed by the Exchange's Rules will continue to apply. In this example, the strikes would be in \$1 intervals up to \$150, which is the upper limit imposed by IM-5050-6(b)(5).

tiers. Therefore, the lower the Average Daily Volume, the greater the proposed spread between strike intervals. Options classes with higher volume contain the most liquid symbols and strikes, therefore the finer the proposed spread between strike intervals. Additionally, lower-priced shares have finer strike intervals than higher-priced shares when comparing the proposed spread between strike intervals.

Today, weeklies are available on 16% of underlying products. The Exchange's Strike Interval Proposal curtails the density of strike intervals listed in series of options, without reducing the classes of options available for trading on BX. Short Term Options Series with an expiration date greater than twenty-one days from the listing date equates to 7.5% of the total number of strikes in the options market, which equals 81,000 strikes.<sup>23</sup> The Exchange expects this proposal to result in the limitation of approximately 20,000 strikes within the Short Term Options Series which is 2% of the total strikes in the options markets.<sup>24</sup> The Exchange understands there has been an inconsistency of demand for series of options beyond 21 calendar days.<sup>25</sup> The proposal takes into account customer demand for certain options classes, by considering both the Share Price and the Average Daily Volume, in order to remove certain strike intervals where there exist clusters of strikes whose characteristics closely resemble one another and, therefore, do not serve different trading needs,<sup>26</sup> rendering these strikes less useful. The Exchange also notes that the proposal focuses on strikes in multiply listed equity options, and excludes ETFs and ETNs, as the majority of strikes reside within equity options.

This Strike Interval Proposal serves to respond to comments received from industry members with respect to the increasing number of strikes that are required to be quoted by market makers in the options industry. BOX requires Market Makers to quote a certain amount of time in the trading day in their assigned options series to maintain liquidity in the market.<sup>27</sup> With an increasing number of strikes being listed across options exchanges, Market

<sup>23</sup> The Exchange notes that this proposal is an initial attempt at reducing strikes and anticipates filing additional proposals to continue reducing strikes. The above referenced data, specifically the percentage of underlying products and percentage of and total number of strikes, are approximations and may vary slightly at the time of this filing.

<sup>24</sup> From information drawn from time period between January 2020 and May 2020. See BX proposal, *supra* note 19.

<sup>25</sup> See BX proposal, *supra* note 19.

<sup>26</sup> See BX proposal, *supra* note 19.

<sup>27</sup> See Rule 8050.

Makers must expend their capital to ensure that they have the appropriate infrastructure to meet their quoting obligations on all options markets in which they are assigned in options series. The Exchange believes that this Strike Interval Proposal would limit the intervals between strikes, reducing the number of strikes listed on BOX, and thereby allow Market Makers to expend their capital in the options market in a more efficient manner. Due to this increased efficiency, the Exchange believes that this Strike Interval Proposal would improve overall market quality on BOX by limiting the intervals between strikes in multiply listed equity options that have an expiration date more than twenty-one days, from the listing date.

#### Implementation

The Exchange proposes to implement the proposed changes on July 1, 2021. The Exchange will issue a notice to its Participants with the date of implementation. Lastly, the Exchange will issue a notice to its Participants whenever the Exchange is the first exchange to list an eligible Short Term Option Series.<sup>28</sup>

#### 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>29</sup> in general, and Section 6(b)(5) of the Act,<sup>30</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, 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. The Strike Proposal seeks to limit the intervals between strikes listed in the Short Term Options Series program that have an expiration date more than twenty-one days. While the current listing rules permit BOX to list a number of weekly strikes on its market, the Exchange's Strike Interval Proposal removes impediments to and

<sup>28</sup> When the Exchange is the first exchange to list an option class under IM-5050-11 the Exchange shall provide a notice to its Participants regarding the Short Term Option Series to be listed. Such notice will include for each eligible option class: The closing price of the underlying, the Average Daily Volume of the option class; and the eligible strike category (per the proposed table) in which the eligible option class falls under as a result of the closing price and the Average Daily Volume.

<sup>29</sup> 15 U.S.C. 78f(b).

<sup>30</sup> 15 U.S.C. 78f(b)(5).

perfects the mechanism of a free and open market and a national market system by encouraging Market Makers to deploy capital more efficiently and improving market quality overall on BOX through limiting the intervals between strikes when applying the strike interval table to multiply listed equity options that have an expiration date more than twenty-one days from the listing date. Also, as BOX's Strike Interval Proposal seeks to reduce the number of weekly options that would be listed on its market in later weeks, Market Makers would be required to quote in fewer weekly strikes as a result of the Strike Interval Proposal. Amending BOX's listing rules to limit the intervals between strikes for multiply listed equity options that have an expiration date more than twenty-one days causes less disruption in the market as the majority of the volume traded in weekly options exists in options series which have an expiration date of twenty-one days or less. The Exchange's Strike Interval Proposal curtails the number of strike intervals listed in series of options without reducing the number of classes of options available for trading on BOX.

The Strike Interval Proposal takes into account customer demand for certain options classes by considering both the Share Price and the Average Daily Volume in the underlying security to arrive at the manner in which weekly strike intervals would be listed in the later weeks for each multiply listed equity options class. The Exchange utilizes OCC Customer-cleared volume, as customer volume is an appropriate proxy for demand. The OCC Customer-cleared volume represents the majority of options volume executed on the Exchange that, in turn, reflects the demands in the marketplace. The options series listed on BOX is intended to meet customer demand by offering an appropriate number of strikes. Non-Customer cleared OCC volume represents the supply side.

The Strike Interval Proposal for listing strikes in certain multiply listed equity options is intended to remove certain strikes where there exist clusters of strikes whose characteristics closely resemble one another and, therefore, do not serve different trading needs that renders the strikes less useful and thereby protects investors and the general public by removing an abundance of unnecessary choices for an options series, while also improving market quality. BOX's Strike Interval Proposal seeks to reduce the number of strikes in the furthest weeklies, where there exist wider markets, and, therefore, lower market quality. The

implementation of the proposed table is intended to spread strike intervals in multiply listed equity options, where there is less volume that is measured by the average daily volume tiers. Therefore, the lower the average daily volume, the greater the proposed spread between strike intervals. Options classes with higher volume contain the most liquid symbols and strikes, therefore the finer the proposed spread between strike intervals. Additionally, lower-priced shares have finer strike intervals than higher-priced shares when comparing the proposed spread between strike intervals.

Beginning on the second trading day in the first month of each calendar quarter, the Average Daily Volume shall be calculated by utilizing data from the prior calendar quarter based on OCC Customer-cleared volume. Utilizing the second trading day allows the Exchange to accumulate data regarding OCC Customer-cleared volume from the entire prior quarter. Beginning on the second trading day would allow trades executed on the last day of the previous calendar quarter to have settled<sup>31</sup> and be accounted for in the calculation of Average Daily Volume. Utilizing the previous three months is appropriate because this time period would help reduce the impact of unusual trading activity as a result of unique market events, such as a corporate action (*i.e.*, it would result in a more reliable measure of average daily trading volume than would a shorter period).

As stated, the proposal is substantively identical to the strike interval proposal recently submitted by BX and approved by the Commission.<sup>32</sup> The Exchange believes that varied strike intervals will continue to offer market participants the ability to select the appropriate strike interval to meet that market participants' investment objectives.

#### *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 does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as the proposed rule change limits the number of Short Term Option Series

<sup>31</sup> Options contracts settle one business day after trade date. Strike listing determinations are made the day prior to the start of trading in each series.

<sup>32</sup> See BX Strike Interval Approval Order, *supra* note 19.

strikes available for quoting and trading on the Exchange for all market participants. Therefore, all market participants will equally be able to transact in options series in the strikes listed for trading on the Exchange. The proposal is intended to reduce the number of strikes for weekly options listed in later weeks without reducing the number of classes of options available for trading on the Exchange while also continuing to offer an appropriate number of strikes the Exchange believes will meet market participants' investment objectives.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as it only impacts the permissible strike intervals for certain options series listed on the Exchange. Additionally, another options exchange has recently implemented a substantively identical to the strike interval proposal recently submitted by BX and approved by the Commission.<sup>33</sup> The proposal is a competitive response that will permit the Exchange to list the same series in multiply listed options as another options exchange.

#### *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**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii)<sup>34</sup> of the Act and Rule 19b-4(f)(6) thereunder.<sup>35</sup> Because the foregoing 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 for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>36</sup>

<sup>33</sup> See BX Strike Interval Approval Order, *supra* note 19.

<sup>34</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>35</sup> 17 CFR 240.19b-4(f)(6).

<sup>36</sup> In addition, Rule 19b-4(f)(6)(iii) requires the Exchange 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

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-2021-12 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-2021-12. 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

designated by the Commission. The Exchange has satisfied this requirement.

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-BOX-2021-12, and should be submitted on or before June 24, 2021. For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>37</sup>

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021-11691 Filed 6-2-21; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-92038; File No. SR-OCC-2021-003]

### Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving Proposed Rule Change To Establish OCC's Persistent Minimum Skin-In-The-Game

May 27, 2021.

#### I. Introduction

On February 10, 2021, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change SR-OCC-2021-003, ("Proposed Rule Change") pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Exchange Act")<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder to establish a persistent minimum level of skin-in-the-game that OCC would contribute to cover default losses or liquidity shortfalls.<sup>3</sup> The Proposed Rule Change was published for public comment in the **Federal Register** on March 2, 2021.<sup>4</sup> The

<sup>37</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> See Notice of Filing *infra* note 4, 86 FR at 12237.

<sup>4</sup> Securities Exchange Act Release No. 91199 (Feb. 24, 2021), 86 FR 12237 (Mar. 2, 2021) (File No. SR-OCC-2021-003) ("Notice of Filing"). OCC also filed a related advance notice (SR-OCC-2021-801) ("Advance Notice") with the Commission pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled the Payment, Clearing, and Settlement Supervision Act of 2010 and Rule 19b-4(n)(1)(i) under the Exchange Act. 12 U.S.C. 5465(e)(1). 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b-4, respectively. The Advance Notice was published in the **Federal Register** on March 1, 2021. Securities Exchange Act Release No. 91184 (Feb. 23, 2021), 86 FR 12057 (Mar. 1, 2021) (File No. SR-OCC-2021-801). A Notice of No Objection to the Advance Notice was published in the **Federal Register** on April 12, 2021. See Securities Exchange Act Release

Commission has received comments regarding the proposal described in the Proposed Rule Change.<sup>5</sup> This Order approves the Proposed Rule Change.

#### II. Background<sup>6</sup>

"Skin-in-the-game," as a component of financial risk management, entails a covered clearing agency choosing, upon the occurrence of a default or series of defaults and application of all available assets of the defaulting participant(s), to apply its own capital contribution to the relevant clearing or guaranty fund in full to satisfy any remaining losses prior to the application of any (a) contributions by non-defaulting members to the clearing or guaranty fund, or (b) assessments that the covered clearing agency require non-defaulting participants to contribute following the exhaustion of such participant's funded contributions to the relevant clearing or guaranty fund.<sup>7</sup>

OCC's skin-in-the-game component of its financial risk management regime is described in its current rules, which provide for the use of OCC's own capital to mitigate losses arising out of a Clearing Member default.<sup>8</sup> Specifically, OCC's rules provide for the offsetting of default losses remaining after the application of a defaulted Clearing Member's margin deposits and Clearing Fund contributions with OCC's capital in excess of 110 percent of the Target Capital Requirement at the time of the default.<sup>9</sup> OCC's rules also provide for charging losses remaining after the application of OCC's excess capital to OCC senior management's deferred

No. 91491 (Apr. 7, 2021), 86 FR 19061 (Apr. 12, 2021) (File No. SR-OCC-2021-801).

<sup>5</sup> Comments on the Proposed Rule Change are available at <https://www.sec.gov/comments/sr-occ-2021-003/srocc2021003.htm>.

Since the proposal contained in the Proposed Rule Change was also filed as an advance notice, all public comments received on the proposal are considered regardless of whether the comments are submitted on the Proposed Rule Change or the Advance Notice. Comments on the Advance Notice are available at <https://www.sec.gov/comments/sr-occ-2021-801/occ2021801.htm>.

<sup>6</sup> Capitalized terms used but not defined herein have the meanings specified in OCC's Rules and By-Laws, available at <https://www.theocc.com/about/publications/bylaws.jsp>.

<sup>7</sup> See Securities Exchange Act Release No. 78961 (Sep. 28, 2016), 81 FR 70786, 70806 (Oct. 13, 2016) (S7-03-14) ("Covered Clearing Agency Standards").

<sup>8</sup> See Securities Exchange Release No. 88029 (Jan. 24, 2020), 85 FR 5500, 5502 (Jan. 30, 2020) (File No. SR-OCC-2019-007) ("CMP Approval Order").

<sup>9</sup> See OCC Rule 1006(e), available at [https://www.theocc.com/getmedia/9d3854cd-b782-450f-bcf7-33169b0576ce/occ\\_rules.pdf](https://www.theocc.com/getmedia/9d3854cd-b782-450f-bcf7-33169b0576ce/occ_rules.pdf) (last visited Mar. 16, 2021). See also CMP Approval Order at 5502.