

appropriate in furtherance of the purposes of the Act.

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

Written comments were neither solicited nor received on the proposed rule change.

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

Pursuant to section 19(b)(3)(A) <sup>17</sup> of the Act and Rule 19b-4(f)(6) <sup>18</sup> thereunder, the MSRB has designated the proposed rule change as one that affects a change that 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. A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative until 30 days after the date of filing. <sup>19</sup> However, Rule 19b-4(f)(6)(iii) permits the Commission to waive the 30 day operative delay if such action is consistent with the protection of investors and the public interest. <sup>20</sup>

The MSRB has requested that the Commission designate the proposed rule change operative upon filing on November 2, 2015, which is less than 30 days after the date of filing of the proposed rule change, as specified in Rule 19b-4(f)(6)(iii). <sup>21</sup> According to the MSRB, the proposed rule change is necessary for the MSRB to comply with Regulation SCI and the waiver of the 30 day operative delay allows the MSRB to conform its rules prior to the Regulation SCI compliance date of November 3, 2015. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the MSRB to incorporate changes required under Regulation SCI, such as requiring participation in BC/DR Plans testing, prior to the Regulation SCI compliance date.

Accordingly, the Commission designates the proposed rule change to be operative upon filing on November 2, 2015. <sup>22</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.

**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-MSRB-2015-12 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.
- All submissions should refer to File Number SR-MSRB-2015-12. 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 Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for

inspection and copying at the principal office of the MSRB. 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-MSRB-2015-12 and should be submitted on or before December 11, 2015.

For the Commission, pursuant to delegated authority. <sup>23</sup>

**Robert W. Errett,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-76447; File No. SR-BOX-2015-36]

**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 Options Facility**

November 16, 2015.

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 4, 2015, 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 to revise the qualification thresholds for all volume based fees and rebates on the BOX Market LLC ("BOX") options facility. Changes to the fee schedule pursuant to

<sup>17</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>18</sup> 17 CFR 240.19b-4(f)(6).

<sup>19</sup> *Id.*

<sup>20</sup> In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change, along with a brief description and text of such proposed rule change, at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The Commission has designated a shorter time for delivery of such written notice.

<sup>21</sup> See SR-MSRB-2015-12 (filed with the Commission on November 2, 2015).

<sup>22</sup> For purposes only of waiving the 30-day operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>23</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> 15 U.S.C. 78s(b)(3)(A)(ii).

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

this proposal will be effective upon filing. 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 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 to revise the qualification thresholds for all

volume based fees and rebates in the BOX Fee Schedule.

Currently the Exchange tiers certain rebates and fees based on a Participant's average daily volume ("ADV") as calculated at the end of each month.<sup>5</sup> The Exchange proposes to revise the qualification thresholds so that tiers will not be based on a fixed number of contracts, but instead be based on a percentage of the Participant's volume relative to the account type's overall total industry equity and ETF option volume,<sup>6</sup> excluding Flex Options.<sup>7</sup>

The Exchange believes that the proposed percentages are generally equivalent to the current fixed thresholds at current volume levels, but will have the advantage of fluctuating with industry volume. The Exchange also notes that other option exchanges have similar methodology when determining volume thresholds.<sup>8</sup> The Exchange does not propose to amend the rebates and fees associated with these tiers, or the market participant categories that the fees and rebates apply to.

#### Tiered Volume Rebates for Non-Auction Transactions

The Exchange currently provides Non-Auction transaction rebates to Public Customers and Market Makers who achieve certain volume based

thresholds. The per contract rebate is based on the Participant's ADV considering all transactions executed on BOX by the Market Maker or Public Customer, respectively, as calculated at the end of each month.

The Exchange proposes to instead calculate percentage thresholds on a monthly basis by totaling the Market Maker or Public Customer's executed volume on BOX, relative to the total national Market Maker or Customer volume in multiply-listed options classes. Market Makers and Public Customers who achieve certain volume based thresholds will continue to receive a per contract rebate on all Non-Auction transactions.

The Exchange proposes the following qualification thresholds for Public Customer and Market Maker rebates in Non-Auction Transactions:

Tier	Percentage thresholds of national market maker volume in multiply-listed options classes (monthly)	Per contract rebate
1 .....	0.000–0.069 .....	\$0.00
2 .....	0.070–0.249 .....	(\$0.03)
3 .....	0.250–0.299 .....	(\$0.05)
4 .....	Above 0.300 .....	(\$0.10)

Tier	Percentage thresholds of national customer volume in multiply-listed options classes (monthly)	Per contract rebate			
		Penny pilot classes		Non-penny pilot classes	
		Maker	Taker	Maker	Taker
1 .....	0.000–0.129 .....	\$0.00	\$0.00	\$0.00	\$0.00
2 .....	0.130–0.339 .....	(\$0.15)	(\$0.15)	(\$0.40)	(\$0.40)
3 .....	0.340–0.549 .....	(\$0.25)	(\$0.25)	(\$0.50)	(\$0.50)
4 .....	Above 0.550 .....	(\$0.40)	(\$0.40)	(\$0.90)	(\$0.70)

#### Tiered Fee Schedule for Initiating Participants

Fees for auction transactions apply to transactions executed through Price Improvement Period ("PIP") and the Complex Order Price Improvement

Period ("COPIP") auction mechanisms. The Exchange currently assesses a tiered per contract execution fee for Primary Improvement Orders that is based on each Initiating Participant's monthly ADV in total Primary Improvement

Order contract quantity submitted on BOX.

The Exchange proposes to instead calculate percentage thresholds on a monthly basis by totaling the Initiating Participant's Primary Improvement

<sup>5</sup> For purposes of calculating monthly ADV, BOX counts as a half day any day that the market closes early for a holiday observance.

<sup>6</sup> The OCC provides volume information in two product categories: Equity and ETF volume and index volume, and the information can be filtered to show only Customer, firm, or market maker account type. Equity and ETF Customer volume numbers are available directly from the OCC each morning, or may be transmitted, upon request, free of charge from the Exchange. Equity and ETF Customer volume is a widely followed benchmark of industry volume and is indicative of industry market share. Total Industry equity and ETF option volume is comprised of those equity and ETF option contracts that clear in a respective account type at the OCC (Customer, Market Maker and Firm), including Exchange-Traded Fund Shares,

Trust Issued Receipts, Partnership Units, and Index-Linked Securities such as Exchange-Traded Notes, and does not include contracts overlying a security other than an equity or ETF security. Under the proposed rule change, Total Industry equity and ETF option volume will be that which is reported for the month by OCC in the month in which the credits may apply. For example, November 2015 Total Industry Customer equity and ETF option volume will be used in determining what, if any, credit a Customer on BOX may be eligible for based on the Customer electronic equity and ETF option ADV it transacts on the Exchange in November 2015.

<sup>7</sup> Calculations do not include Flex Options, which are not traded on BOX.

<sup>8</sup> See NASDAQ OMX PHLX, ("PHLX") Pricing Schedule Section A [sic], "Customer Rebate

Program"; Miami International Securities Exchange, LLC ("MIAX") Fee Schedule Section I(a)(iii) "Priority Customer Rebate Program"; BATS Exchange, Inc. ("BATS") BATS Options Exchange Fee Schedule "Quoting Incentive Program ("QIP") Liquidity Rebates"; Chicago Board Options Exchange, Inc. ("CBOE") Fee Schedule "Volume Incentive Program" (page 4); NASDAQ Stock Market LLC ("NOM") Chapter XV, Section 2 NASDAQ Options Market—Fees and Rebates; NYSE Arca, Inc. ("Arca") Options Fees and Charges, "Customer and Professional Customer Monthly Posting Credit Tiers and Qualifications for Executions in Penny Pilot Issues" (page 4); and NYSE Amex, Inc. ("AMEX") NYSE AMEX Options Fee Schedule, "Transaction Fee/Credit—Per Contract."

Order volume submitted to BOX, relative to the total national Customer volume in multiply-listed options classes. While Primary Improvement Orders are submitted by Market Makers and Broker Dealers, the Exchange believes it is appropriate to calculate the percentage thresholds on national Customer volume as Primary Improvement Orders are only submitted as the matching contra order to the PIP or COPIP on the opposite side of a Customer's PIP or COPIP Order.

The Exchange proposes the following qualification thresholds for Initiating Participants:

Tier	Percentage thresholds of national customer volume in multiply-listed options classes (monthly)	Per contract fee (all account types)
1 .....	0.000–0.079 .....	\$0.25
2 .....	0.080–0.159 .....	0.20
3 .....	0.160–0.339 .....	0.12
4 .....	0.340–0.849 .....	0.07
5 .....	Above 0.850 .....	0.03

#### BOX Volume Rebate

The Exchange currently provides a per contract rebate to all PIP and COPIP

Orders of 100 and under contracts that is based on the Participant's monthly ADV in PIP and COPIP Transactions submitted to the Exchange. The Exchange proposes to instead calculate percentage thresholds 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 the following qualification thresholds PIP and COPIP Transactions:

Tier	Percentage thresholds of national customer volume in multiply-listed options classes (monthly)	Per contract rebate (All account types)	
		PIP	COPIP
1 .....	0.000 to 0.159 .....	(\$0.00)	(\$0.00)
2 .....	0.160 to 0.339 .....	(\$0.04)	(\$0.02)
3 .....	0.340 to 0.849 .....	(\$0.11)	(\$0.04)
4 .....	Above 0.850 .....	(\$0.14)	(\$0.06)

The Exchange also proposes to make non-substantive technical changes [sic] to renumber the footnotes within the BOX Fee Schedule.

#### 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>9</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.

The Exchange believes that revising the qualification thresholds for all volume based fees and rebates in the BOX Fee Schedule is reasonable, equitable and not unfairly discriminatory. The Exchange notes that it is not proposing to adjust the actual fees or rebates assessed or the market participant categories that the fees and rebates apply to. The Exchange believes that the proposed percentages are reasonable as they are generally equivalent to the fixed volume thresholds currently in place on the Exchange. The tiered fee and rebate structures in place within the BOX Fee Schedule are equitable and not unfairly discriminatory as they are designed to attract order flow to the Exchange, which will benefit all market participants by providing more trading opportunities.

The Exchange believes that using a percentage based threshold rather than a fixed threshold is reasonable because it will allow the threshold to account for fluctuating industry volume. Further, the Exchange notes that other options exchanges have adopted similar methodology in determining thresholds for their volume incentive programs.<sup>10</sup>

Finally, as stated above the Exchange believes it is reasonable to calculate the percentage thresholds for Initiating Participant's on total national Customer volume in multiply-listed options classes. Primary Improvement Orders are only submitted as the matching contra order to the PIP or COPIP on the opposite side of a Customer's PIP or COPIP Order. Because of this, the Exchange believes that calculating the percentage thresholds on total national Firm or Market Maker volume in multiply-listed options classes would not accurately account for fluctuations in industry volume and it is more appropriate to use total national Customer volume.

#### 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 revise the qualification thresholds in its volume based tiers to allow for more fluctuation in industry volume. The

Exchange believes that the volume based rebates and fees increase intermarket and intramarket competition by incentivizing 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.

#### 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>11</sup> and Rule 19b-4(f)(2) thereunder,<sup>12</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

<sup>9</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>10</sup> See supra, note 8.

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>12</sup> 17 CFR 240.19b-4(f)(2).

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-2015-36 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-2015-36. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BOX-2015-36, and should be submitted on or before December 11, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

[FR Doc. 2015-29603 Filed 11-19-15; 8:45 am]

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76442; File No. SR-CBOE-2015-101]

#### **Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule**

November 16, 2015.

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 2, 2015, Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend its Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

the most significant aspects of such statements.

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

##### **1. Purpose**

The Exchange proposes to amend its Fees Schedule, effective November 2, 2015. Specifically, the Exchange proposes to increase the Customer Priority Surcharge fee assessed to contracts executed in VIX volatility index options ("VIX options") and weekly S&P 500 options ("SPXW options"). Currently, the VIX Customer Priority Surcharge ("VIX Surcharge") is assessed on all Customer (C) VIX contracts executed electronically that are Maker and not Market Turner. Additionally, the VIX Surcharge is only assessed on such contracts that have a premium of \$0.11 or greater. The Exchange proposes to increase the VIX Surcharge from \$0.10 per contract to \$0.20 per contract on such contracts that have a premium of \$0.11 or greater. The SPXW Customer Priority Surcharge ("SPXW Surcharge") is currently assessed on all Customer (C) SPXW contracts executed electronically.<sup>3</sup> The Exchange also proposes to increase the SPXW Surcharge from \$0.05 per contract to \$0.10 per contract.

The Exchange also proposes to amend the Fees Schedule with respect to the Qualified Contingent Cross ("QCC") Orders Rate Table. By way of background, the Fees Schedule currently provides for a "QCC Rate Table" which sets forth a transaction fee and credit for QCC transactions. In addition, the "Notes" section of the QCC Rate Table includes the definition of a QCC transaction. Specifically the "Notes" section currently provides that "A QCC transaction is comprised of an 'initiating order' to buy (sell) at least 1,000 contracts, coupled with a contra-side order to sell (buy) an equal number of contracts . . ." The Exchange notes that it recently amended its QCC rules to expand the availability of QCC orders by permitting multiple contra-parties on a QCC order.<sup>4</sup> As such, the definition of QCC Orders in CBOE Rule 6.53 has been amended. The Exchange proposes to similarly amend the Fees Schedule to

<sup>3</sup> The SPXW Surcharge is not assessed to contracts executed by a floor broker using a PAR terminal or orders in SPXW options in SPXW electronic book that are executed during opening rotation on the final settlement day of VIX options and futures which have the expiration that contribute to the VIX settlement calculation.

<sup>4</sup> See Securities Exchange Act Release No. 75756 (August 25, 2015), 80 FR 168 (August 31, 2015) (SR-CBOE-2015-073).

<sup>13</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.