

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-70735; File No. SR-BOX-2013-49)

October 22, 2013

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Fee Schedule to Include the Series 56 Examination Fee Information

Pursuant to Section 19(b)(1) under 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 October 16, 2013, BOX Options Exchange LLC (the “Exchange”) 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 Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend the Fee Schedule on the BOX Market LLC (“BOX”) options facility to include the Series 56 examination fee information. 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://boxexchange.com>.

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

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

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

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

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

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

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

1. Purpose

The Exchange recently amended the Fee Schedule for trading on BOX to establish fees for the Proprietary Trader Program (S501) Continuing Education Regulatory Element Session.<sup>5</sup> The Exchange now proposes to make a clarifying change to specify the fee for the corresponding Proprietary Trader Qualification Examination ("Series 56") on the Fee Schedule.

Specifically, the Exchange proposes to add the \$195.00 fee per person, per Series 56 examination to the Fee Schedule. This fee reflects both the cost of the examination and the costs incurred in maintaining and developing the examination and continuing education program to ensure their content is and continues to be adequate in testing the competence and knowledge generally applicable to proprietary trading. The \$60.00 per person, per session fee for the S501 continuing education requirement is already contained within the Fee Schedule and the Exchange believes including both fees in the Fee Schedule would clarify the full cost

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<sup>5</sup> See Securities Exchange Act Release No. 70255 (August 26, 2013), 78 FR 53812 (August 30, 2013) (Notice of Filing and Immediate Effectiveness of SR-BOX-2013-42).

of the exam to Participants. The Series 56 examination is administered by the Financial Industry Regulatory Authority (“FINRA”) on behalf of the Exchange.<sup>6</sup>

The Exchange permits each person associated with a Participant who is included within the definition of Representative to register as a Limited Representative—Proprietary Trader if his activities in the investment banking or securities business are limited solely to proprietary trading; and he passes the appropriate Qualification Examination for Limited Representative—Proprietary Trader, the Series 56; and he is an associated person of a proprietary trading firm.<sup>7</sup>

The Exchange’s Fee Schedule does not currently set forth the fees applicable for the Series 7 and its continuing education program (S101) as these programs are within FINRA’s jurisdiction and collected by FINRA from its members. On the contrary, the Series 56 and its continuing education requirements apply to Participants that are not required by Section 15(b)(8) of the Act<sup>8</sup> to become a FINRA member. Therefore, the Exchange believes including these fees in the Fee Schedule will clarify the costs related to this exam and its continuing education.

Additionally, the Exchange proposes to make clarifying changes to the fee schedule to make certain that the differences between these two related fees, the Series 56 examination fee and the S501 continuing education fee, are clear.

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<sup>6</sup> Participants would continue to submit the exam fee, as well as the fee for continuing education, to FINRA; the Exchange will not invoice or collect these fees.

<sup>7</sup> See Exchange Rule 2020(b)(2)(i). Under Exchange Rule 2020(e)(2) a proprietary trading firm is a Participant that trades its own capital, that does not have customers, and that is not a member of the Financial Industry Regulatory Authority. In addition, to qualify for this definition, the funds used by a proprietary trading firm must be exclusively firm funds, all trading must be in the firm's accounts, and traders must be owners of, employees of, or contractors to the firm.

<sup>8</sup> 15 U.S.C. 78o(b)(8).

## 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 is proposing to include additional information about a relevant fee for the sake of clarity. On behalf of the exchanges, FINRA incurs costs in maintaining and developing the examination and continuing education program to ensure their content is and continues to be adequate in testing the competence and knowledge generally applicable to proprietary trading. The Exchange believes the Series 56 examination fee is reasonable as it is designed to allow FINRA to cover its cost of administering the Series 56 exam program on behalf of the Exchange. The fee for the Series 56 exam is greater than the fee for continuing education because the exam fee is also designed to cover the costs associated with developing not just the Series 56 exam, but also the related S501 continuing education program. The Exchange also believes this fee is reasonable because it understands that other exchanges will be assessing an identical fee to be collected by FINRA for the Series 56 exam. In addition, the Exchange believes this fee is equitably allocated and not unfairly discriminatory as it will apply uniformly to all Participants who chose to take the Series 56 examination.

### 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 proposed

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

change is designed to provide greater specificity and clarity within the Fee Schedule with respect to the fees related to the Series 56 exam and does not impose any burden on intermarket competition because other exchanges will be assessing an identical fee for the Series 56 exam.

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 Effectiveness

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act<sup>10</sup> and Rule 19b-4(f)(2) thereunder,<sup>11</sup> because it establishes or changes a due, or fee. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BOX-2013-49 on the subject line.

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-BOX-2013-49. This file number should be included on the subject line if e-mail 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 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-2013-49 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

Kevin M. O'Neill  
Deputy Secretary

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