

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-71480; File No. SR-BOX-2014-07)

February 5, 2014

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

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 January 23, 2014, 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 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 remove the reference to the Nasdaq 100 Index (NDX) as well as to modify language in the footnotes. 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, Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule for trading on BOX to remove the reference to the Nasdaq 100 Index (NDX) and to modify language in the footnotes.

Because the Exchange has delisted the Nasdaq 100 Index (NDX)<sup>5</sup>, the Exchange proposes to remove the reference to NDX from the BOX Fee Schedule. Currently, Section I Exchange Fees of the BOX Fee Schedule provides for a surcharge to be applied to options on any index traded on BOX; which includes a \$0.22 per contract surcharge for options on NDX. The Exchange has since delisted options on NDX and they are no longer traded on BOX. As such, no related surcharge will apply, and the Exchange is proposing to remove the reference to the BOX Fee Schedule.

In addition, the Exchange is proposing to amend the language in footnotes 6 and 7 in Sections I.A. and I.B. of the Fee Schedule. The Exchange recently added these footnotes to permit the Exchange to adjust the average daily volume calculation for any trading day on which

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<sup>5</sup> See Securities Exchange Act Release No. 71084 (December 16, 2013), 78 FR 77185 (December 20, 2013) (SR-BOX-2013-58) (Notice of Filing and Immediate Effectiveness).

the Exchange is closed for trading due to an early closing or a market-wide trading halt.<sup>6</sup> The Exchange proposes to modify the language in these footnotes to state “For purposes of calculating monthly ADV, BOX will count as a half day any day that the market closes early for a holiday observance.” The Exchange believes this proposed change will reduce investor confusion by clarifying when the Exchange will make adjustments to the monthly Average Daily Volume (“ADV”) calculation.

Specifically, all days where the Exchange closes early for holiday observance will be counted as a half day in the monthly ADV calculation. While Participants are always aware in advance of early close days, these are typically low volume days and the Exchange believes counting these days as a full day for purposes of the ADV calculation would not be fair to Participants. This will clarify that the Exchange will not make any adjustments to the ADV calculation on days where trading in all securities was halted for a period of time. While certain exchanges remove these days from their ADV calculations,<sup>7</sup> the Exchange believes that the timing and impact of trading halts can vary substantially, and removing these days entirely from the ADV calculation is not always appropriate. Since trading halts occur very rarely, the Exchange believes it is reasonable to always include these days in the ADV calculation and that doing so will reduce investor confusion about what instances qualify for the ADV adjustment.

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<sup>6</sup> See Securities Exchange Act Release No. 71025 (December 6, 2013), 78 FR 75644 (December 12, 2013) (SR-BOX-2013-55) (Notice of Filing and Immediate Effectiveness).

<sup>7</sup> NASDAQ OMX PHLX, LLC (“PHLX”), NASDAQ Options Market (“NOM”) and the International Securities Exchange, LLC (“ISE”) all exclude days from their respective ADV calculations if there a trading halt in all securities or the exchange is honoring a market-wide trading halt declared by another market.

## 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>8</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. In particular, this proposed change removes from the BOX Fee Schedule a reference to a fee that is no longer applicable since options on NDX have been delisted and are no longer traded on BOX. Additionally, the proposed modification to the language in footnotes 6 and 7 will provide greater clarity to the Exchange's procedures for making adjustments in calculating monthly ADV on days when the market closes early for holiday observances thereby reducing investor confusion.

### 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 changes are not designed to address any competitive issue but rather would remove the reference to NDX that is no longer applicable because options on NDX have been delisted and are no longer traded on BOX and would provide clarification to the Exchange's procedures for making adjustments in calculating monthly ADV on days when the market closes early for holiday observances.

### 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.

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<sup>8</sup> 15 U.S.C. 78f(b)(4) and (5).

### 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>9</sup> and Rule 19b-4(f)(2) thereunder,<sup>10</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-2014-07 on the subject line.

#### Paper comments:

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

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>10</sup> 17 CFR 240.19b-4(f)(2).

All submissions should refer to File Number SR-BOX-2014-07. 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-2014-07 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>11</sup>

Kevin M. O'Neill  
Deputy Secretary

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