



8011-01p
SECURITIES AND EXCHANGE COMMISSION
Release No. 34-66976

May 11, 2012

Order Granting Application of BOX Options Exchange, LLC for a Limited Exemption from Exchange Act Rule 10b-10(a)(2)(i)(A) pursuant to Rule 10b-10(f)

I. Introduction

By letter dated May 11, 2012 (“the Application”), BOX Options Exchange LLC (the “Exchange”) requests a limited exemption from the requirements of Rule 10b-10(a)(2)(i)(A) under the Securities Exchange Act of 1934 (“Exchange Act”) on behalf of its Options Participants that execute trades as agent for their customers (“Participants”)¹ on BOX Market LLC, an options trading facility of the Exchange under Section 3(a)(2) of the Exchange Act (“BOX”). As discussed in the Application, BOX will operate a fully automated electronic book (“BOX Book”) for orders to buy or sell securities (“orders”) with a continuous, automated matching function which will provide for strict price-time priority execution (“Trading System”).² The BOX Book and the Exchange Rules provide for post trade anonymity through settlement for trades executed on BOX.³

II. Background⁴

¹ Unless otherwise defined in this order, defined terms used have the same meaning as described in the Exchange Rules.

² See Exchange Rule 7130. The Exchange notes that executions through the Price Improvement Period (“PIP”) as set forth in Exchange Rule 7150 are an exception to the strict price-time priority execution that occurs on the BOX Book.

³ As explained in the Application, the Exchange does not request an exemption from Rule 10b-10(a)(2)(i)(A) for when it reveals the identity of a Participant or a Participant’s clearing firm: (i) for regulatory purposes or to comply with an order of a court or arbitrator; or (ii) when a Clearing Corporation or Clearing Participant (such as the Options Clearing Corporation) ceases to act for a Participant or the Participant’s clearing firm, and determines not to guarantee the settlement of the Participant’s trades.

⁴ Background information is derived from the Application.

a. The Exchange

The Exchange is registered as a national securities exchange under Section 6 of the Exchange Act.⁵ The Participants of the Exchange consist of broker-dealers registered with the Exchange, as Participants, for the purposes of participating in options trading. Participants are entitled to enter orders in, and receive executions through, the BOX Book or otherwise.

BOX, an options trading facility of the Exchange under Section 3(a)(2) of the Exchange Act, will operate the BOX Book for orders with a continuous, automated matching function, in compliance with the Exchange's rules and Regulation NMS under the Exchange Act ("Regulation NMS").⁶ Liquidity will be derived from orders to buy and orders to sell submitted to BOX electronically by Participants from remote locations.

The BOX Book and the Exchange rules provide for strict price-time priority execution.⁷ Under Exchange Rule 7130, orders will be prioritized on a strict price-time basis, first by price and then by time. Incoming orders will be first matched for execution against orders in the BOX Book. Orders that cannot be executed are eligible for routing to away trading centers.⁸ All trades will be executed through the Trading System on an

⁵ The Exchange received approval of its application for registration as a national securities exchange on April 27, 2012. See Securities Exchange Act Release No. 66871 (April 27, 2012). Exchange rules cited herein were approved as part of that application.

⁶ See 17 CFR 242.600 et seq.

⁷ See supra note 2. According to the Exchange, executions through the PIP, as set forth in Exchange Rules 7130 and 7150, are an exception to the price-time priority execution that occurs on the BOX Book.

⁸ See Exchange Rule 15030. The Exchange understands that the exemptive relief would not apply to any situation in which the Trading System routes an order to all away trading centers for execution, as such executions would be governed by the rules of the away trading center.

anonymous basis, except for Directed Orders.⁹ The transaction reports produced by the Trading System will indicate the details of transactions executed in the Trading System, but shall not reveal contra party identities. Transactions executed in the Trading System will also be cleared and settled anonymously.¹⁰

The BOX Book's matching system algorithm permits orders originated by a Participant to execute against other orders from the same Participant on the same basis as orders from other Participants. In the BOX Book's handling of displayed orders, which is based on strict price-time priority, a Participant could receive an execution against itself, and under the Exchange's Rules, the Participant would not know that it was the contra-side of the trade at the time of execution. BOX does, however, permit a Participant to prevent its incoming orders from being executed against its own trading interest. Specifically, Participants have the ability to use Participant match trade prevention. A Participant may direct that its Market Maker or Principal Orders entered on BOX not execute against its own Market Maker quotes or orders, or its Principal Orders that are resting on the BOX Book. In such a case, the quantity of the incoming order that would otherwise trade against the quote/order from the same Participant will be cancelled back to the entering party.¹¹

b. Rule 10b-10

Rule 10b-10 under the Exchange Act generally requires broker-dealers effecting a customer transaction in securities (other than U.S. savings bonds or municipal

⁹ See Exchange Rule 8040(d)(1). Directed Orders on BOX are not anonymous. The identity of the Participant sending the Directed Order is provided to the Market Maker recipient. As explained in the Application, Directed Orders would not be subject to the requested relief.

¹⁰ See Exchange Rule 7130(a)(6).

¹¹ See Exchange Rule 7130(a)(4).

securities)¹² to provide a written notification to its customer, at or before completion of a securities transaction, that discloses information specific to the transaction. In particular, under Rule 10b-10(a)(2) (i)(A), when a broker-dealer acts as agent for a customer, some other person, or for both the customer and some other person, the broker-dealer must disclose “[t]he name of the person from whom the security was purchased, or to whom it was sold, for such customer or the fact that the information will be furnished upon written request of such customer” (the “Contra-Party Identity Requirement”).

III. Relief Sought

As explained in the Application, trades are executed with total anonymity on BOX, where the identity of the actual contra-party is not revealed when the trade is executed, except with respect to Directed Orders.¹³ Because of this, Participants will not know the identity of the party to whom they sold securities or from whom they purchased securities. Without this information, Participants would not be able to comply with the Contra-Party Identity Requirement of Rule 10b-10. To permit Participants to utilize BOX without violating Rule 10b-10, the Exchange, on behalf of such Participants, is seeking an exemption under Rule 10b-10(f), from the Contra-Party Identity Requirement of Rule 10b-10 when Participants execute transactions on BOX, as described in the Application.

IV. Conclusion

Based on the facts and representations contained in the Application, we find that it is appropriate and in the public interest and consistent with the protection of investors to

¹² Municipal securities are subject to the transaction confirmations requirements under Rule G-15 of the Municipal Securities Rulemaking Board.

¹³ See supra note 9.

grant the Exchange, on behalf of its Participants, a limited exemption from the Contra-Party Identity Requirement in Rule 10b-10(a)(2)(i)(A).

IT IS HEREBY ORDERED, pursuant to Rule 10b-10(f) of the Exchange Act, that Exchange Participants, based on the representations and facts contained in the Application, are exempt from the requirements of Rule 10b-10(a)(2)(i)(A) of the Exchange Act, to the extent that Participants execute trades for their customers on the Exchange using the BOX Trading System. This exemption is limited to trades that Participants execute on BOX using the post trade anonymity feature described in the Application.¹⁴

The foregoing exemption is subject to modification or revocation if at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Exchange Act.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Kevin M. O'Neill
Deputy Secretary

[FR Doc. 2012-11931 Filed 05/16/2012 at 8:45 am; Publication Date: 05/17/2012]

¹⁴ This exemption does not apply: (a) to orders routed to an away trading center for execution; (b) to Directed Orders; (c) under the situation described in note 3 supra; or (d) to the situation described in note 13 of the Application.

¹⁵ 17 CFR 200.30-3(32).