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## SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-70255; File No. SR-BOX-2013-42)

August 26, 2013

### 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 August 19, 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 to establish fees for the Proprietary Trader Program (S501) Continuing Education Regulatory Element Session on the BOX Market LLC (“BOX”) options facility. While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on August 19, 2013. The text of the

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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).

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>.

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 establish fees for the Proprietary Trader Program (S501) Continuing Education Regulatory Element Session. Specifically, the Exchange is proposing to add subsection C., Continuing Education Fee, to Section VI (Regulatory Fees) in the BOX Fee Schedule and add a \$60 session fee for each individual who is required to have Proprietary Trader ("Series 56") registration.

BOX Rule 2020 (Participant Eligibility and Registration) outlines the registration and qualification requirements (including prerequisite examinations) for Options Participants. Each person associated with a Participant who is included within the definition of Representative<sup>5</sup> may register with the Exchange as a Limited Representative – Proprietary Trader if A) his activities in

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<sup>5</sup> See BOX Rule 100 (a)(56). The term "Representative" means persons associated with a Participant, including assistant officers other than principals, who are engaged in the investment banking or securities business for the Participant including the functions of supervision, solicitation, or conduct of business in securities or who are engaged in the training of persons associated with a Participant for any of these functions.

the investment banking or securities business are limited solely to proprietary trading; and B) he passes an appropriate Qualification Examination for Limited Representative – Proprietary Trader. The appropriate Qualification Examination is the Series 56; and C) he is an associated person of a proprietary trading firm.<sup>6</sup> Interpretive Material 4 to BOX Rule 2040 requires the Regulatory Element of the Continuing Education Requirement for all persons engaged or to be engaged in the options securities business of [sic] Participant who are to function as Principals or Representatives of Members.<sup>7</sup> Recently, the Exchange amended IM-2040-5 to enumerate the different Continuing Education (“CE”) programs offered by the Exchange including the S501 Series 56 Proprietary Trader Continuing Education Program (“S501”).<sup>8</sup> The Exchange is now proposing to outline the necessary fee associated with the Regulation Element of the Series 56.

The Exchange has determined that these changes are necessary to administer the Series 56 CE program. Specifically, the \$60 session fee will be used to fund the CE program administered to Proprietary Traders that have a Series 56 registration<sup>9</sup> and are required to complete the S501.

Because the CE element is separate and different from the CE already administered, the proposed change would put Participants on notice of the associated fees. The proposed fee would allow the Exchange to fund the S501 which is more tailored to the Series 56 registration. Also, the Exchange believes other exchanges will be assessing the same fee for this CE program. The proposed changes are to take effect on August 19, 2013.

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<sup>6</sup> See BOX Rule 2020.

<sup>7</sup> See Interpretive Material 4 to BOX Rule 2040.

<sup>8</sup> See Securities Act [sic] Release No. 34-70224 (August 16, 2013) (SR-BOX-2013-41) (immediately effective rule change to specify the different CE requirements for registered persons based upon their registration with the Exchange).

<sup>9</sup> Both individuals that have successfully passed the Series 56 examination and individuals that have had the examination waived by the Exchange are required to take the S501.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b)(4) and Section 6(b)(5) of the Act.<sup>10</sup> Specifically, the Exchange believes the proposed rule change is consistent with the requirements that the rules of an exchange be 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 regulating, clearing, settling, processing information with respect to, and facilitation [sic] 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>11</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change [sic] is equitable and not unfairly discriminatory as it is allocated to all BOX Participants with a Series 56 registration which is required under BOX Rule 2020. In addition, the fee is reasonable as it is intended to recoup the costs of development and maintenance of the program. In addition, the Exchange believes other exchanges will be assessing the same fee for this CE program. The Exchange believes the proposed rule change will protect investors and the public interest by covering the administration of the program and allow the Exchange to tailor a CE fee for the Series 56. This allows the

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<sup>10</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>11</sup> Id.

Exchange to better prevent fraudulent and manipulative acts and practices because the CE will properly educate Proprietary Traders in the topics of securities laws and other rules and help them to comply with those laws and rules.

Finally, the Exchange also believes the proposed rule change is consistent with Section 6(b)(1) of the Act,<sup>12</sup> which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by the individuals with a series 56 registration with the Act, the rules and regulations thereunder, and the rules of the Exchange. The proposed rule change [sic] is designed to fund the administration of the S501, and, more specifically, to help more closely cover the costs of educating individuals that hold a Series 56 registration. Thus, the proposed changes will help the Exchange to enforce compliance of its Participants with the Act and Exchange rules.

**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. In particular, the proposed rule change will not impose any burden on intermarket competition as it will merely serve to aid the Exchange in fulfilling its obligations as a Self-Regulatory Organization by further funding the administration of the new CE. The proposed rule change will not impose any burden on intramarket competition as all Participants are required to pass a qualification exam as outlined in BOX Rule 2020 and fulfill a CE requirement as outlined in IM-2040-5 to BOX Rule 2040. In addition, the Exchange believes other exchanges will be assessing the same fee for this CE program.

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

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<sup>12</sup> 15 U.S.C. 78f(b)(1).

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>13</sup> and Rule 19b-4(f)(2) thereunder,<sup>14</sup> because it establishes or changes a due, fee, or other charge applicable only to a member.

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-2013-42 on the subject line.

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<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>14</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-2013-42. 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-2013-42 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>15</sup>

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<sup>15</sup> 17 CFR 200.30-3(a)(12).

Kevin M. O'Neill

Deputy Secretary

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