

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

The Exchange neither solicited nor received comments on the proposed rule change.

**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) of the Act<sup>10</sup> and paragraph (f) of Rule 19b-4<sup>11</sup> thereunder. 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. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change 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-CBOE-2016-008 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-CBOE-2016-008. 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 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-CBOE-2016-008 and should be submitted on or before March 8, 2016.

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

**Brent J. Fields,**

*Secretary.*

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**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-77089; File No. 4-694]**

**Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d-2; Order Approving and Declaring Effective a Proposed Plan for the Allocation of Regulatory Responsibilities Between the Financial Industry Regulatory Authority, Inc. and the National Stock Exchange, Inc.**

February 9, 2016.

On December 23, 2015, the National Stock Exchange, Inc. ("NSX") and the Financial Industry Regulatory Authority, Inc. ("FINRA") (together with NSX, the "Parties") filed with the Securities and Exchange Commission ("Commission" or "SEC") a plan for the allocation of regulatory responsibilities, dated December 22, 2015 ("17d-2 Plan" or the "Plan"). The Plan was published for comment on January 14, 2016.<sup>1</sup> The Commission received no comments on the Plan. This order approves and declares effective the Plan.

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

<sup>1</sup> See Securities Exchange Act Release No. 76856 (January 8, 2016), 81 FR 1971.

**I. Introduction**

Section 19(g)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>2</sup> among other things, requires every self-regulatory organization ("SRO") registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d) or Section 19(g)(2) of the Act.<sup>3</sup> Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO ("common members"). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act<sup>4</sup> was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.<sup>5</sup> With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d-1 and Rule 17d-2 under the Act.<sup>6</sup> Rule 17d-1 authorizes the Commission to name a single SRO as the designated examining authority ("DEA") to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.<sup>7</sup> When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d-1 deals only with an SRO's obligations to enforce member compliance with financial responsibility requirements. Rule 17d-1 does not relieve an SRO from its

<sup>2</sup> 15 U.S.C. 78s(g)(1).

<sup>3</sup> 15 U.S.C. 78q(d) and 15 U.S.C. 78s(g)(2), respectively.

<sup>4</sup> 15 U.S.C. 78q(d)(1).

<sup>5</sup> See Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94-75, 94th Cong., 1st Session 32 (1975).

<sup>6</sup> 17 CFR 240.17d-1 and 17 CFR 240.17d-2, respectively.

<sup>7</sup> See Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

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

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

obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d-2 under the Act.<sup>8</sup> Rule 17d-2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d-2, the Commission may declare such a plan effective if, after providing for appropriate notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors; to foster cooperation and coordination among the SROs; to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system; and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d-2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

## II. Proposed Plan

The proposed 17d-2 Plan is intended to reduce regulatory duplication for firms that are common members of both NSX and FINRA.<sup>9</sup> Pursuant to the proposed 17d-2 Plan, FINRA would assume certain examination and enforcement responsibilities for common members with respect to certain applicable laws, rules, and regulations.

The text of the Plan delineates the proposed regulatory responsibilities with respect to the Parties. Included in the proposed Plan is an exhibit (the "National Stock Exchange ("NSX") Rules Certification for 17d-2 Agreement with FINRA," referred to herein as the "Certification") that lists every NSX rule, and select federal securities laws, rules, and regulations, for which FINRA would bear responsibility under the Plan for overseeing and enforcing with respect to NSX members that are also

members of FINRA and the associated persons therewith ("Dual Members").

Specifically, under the 17d-2 Plan, FINRA would assume examination and enforcement responsibility relating to compliance by Dual Members with the rules of NSX that are substantially similar to the applicable rules of FINRA,<sup>10</sup> as well as any provisions of the federal securities laws and the rules and regulations thereunder delineated in the Certification ("Common Rules"). In the event that a Dual Member is the subject of an investigation relating to a transaction on NSX, the plan acknowledges that NSX may, in its discretion, exercise concurrent jurisdiction and responsibility for such matter.<sup>11</sup>

Under the Plan, NSX would retain full responsibility for surveillance and enforcement with respect to trading activities or practices involving NSX's own marketplace, including, without limitation, registration pursuant to its applicable rules of associated persons (*i.e.*, registration rules that are not Common Rules); its duties as a DEA pursuant to Rule 17d-1 under the Act; and any NSX rules that are not Common Rules.<sup>12</sup>

## III. Discussion

The Commission finds that the proposed Plan is consistent with the factors set forth in Section 17(d) of the Act<sup>13</sup> and Rule 17d-2(c) thereunder<sup>14</sup> in that the proposed Plan is necessary or appropriate in the public interest and for the protection of investors, fosters cooperation and coordination among SROs, and removes impediments to and fosters the development of the national market system. In particular, the Commission believes that the proposed Plan should reduce unnecessary regulatory duplication by allocating to FINRA certain examination and enforcement responsibilities for common members that would otherwise be performed by NSX and FINRA. Accordingly, the proposed Plan promotes efficiency by reducing costs to common members. Furthermore, because NSX and FINRA will

coordinate their regulatory functions in accordance with the Plan, the Plan should promote investor protection.

The Commission notes that, under the Plan, NSX and FINRA have allocated regulatory responsibility for those NSX rules, set forth in the Certification, that are substantially similar to the applicable FINRA rules in that examination for compliance with such provisions and rules would not require FINRA to develop one or more new examination standards, modules, procedures, or criteria in order to analyze the application of the rule, or a common member's activity, conduct, or output in relation to such rule. In addition, under the Plan, FINRA would assume regulatory responsibility for certain provisions of the federal securities laws and the rules and regulations thereunder that are set forth in the Certification. The Common Rules covered by the Plan are specifically listed in the Certification, as may be amended by the Parties from time to time.

According to the Plan, NSX will review the Certification, at least annually, or more frequently if required by changes in either the rules of NSX or FINRA, and, if necessary, submit to FINRA an updated list of Common Rules to add NSX rules not included on the then-current list of Common Rules that are substantially similar to FINRA rules; delete NSX rules included in the then-current list of Common Rules that are no longer substantially similar to FINRA rules; and confirm that the remaining rules on the list of Common Rules continue to be NSX rules that are substantially similar to FINRA rules.<sup>15</sup> FINRA will then confirm in writing whether the rules listed in any updated list are Common Rules as defined in the Plan. Under the Plan, NSX will also provide FINRA with a current list of common members and shall update the list no less frequently than once each quarter.<sup>16</sup> The Commission believes that these provisions are designed to provide for continuing communication between the Parties to ensure the continued accuracy of the scope of the proposed allocation of regulatory responsibility.

The Commission is hereby declaring effective a Plan that, among other things, allocates regulatory responsibility to FINRA for the oversight and enforcement of all NSX rules that are substantially similar to the rules of FINRA for common members of NSX and FINRA. Therefore, modifications to the Certification need not be filed with the Commission as an

<sup>8</sup> See Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

<sup>9</sup> The proposed 17d-2 Plan refers to these common members as "Dual Members." See Paragraph 1(c) of the proposed 17d-2 Plan. On December 14, 2015, the Commission approved a proposal from NSX to resume its status as a fully operational securities exchange and to recommence trading operations. See Securities Exchange Act Release No. 76640 (December 14, 2015), 80 FR 79122 (December 18, 2015) (SR-NSX-2015-05) (approval order).

<sup>10</sup> See paragraph 1(b) of the proposed 17d-2 Plan (defining Common Rules). See also paragraph 1(f) of the proposed 17d-2 Plan (defining Regulatory Responsibilities). Paragraph 2 of the Plan provides that annually, or more frequently as required by changes in either NSX rules or FINRA rules, the parties shall review and update, if necessary, the list of Common Rules. Further, paragraph 3 of the Plan provides that NSX shall furnish FINRA with a list of Dual Members, and shall update the list no less frequently than once each calendar quarter.

<sup>11</sup> See paragraph 6 of the proposed 17d-2 Plan.

<sup>12</sup> See paragraph 2 of the proposed 17d-2 Plan.

<sup>13</sup> 15 U.S.C. 78q(d).

<sup>14</sup> 17 CFR 240.17d-2(c).

<sup>15</sup> See paragraph 2 of the Plan.

<sup>16</sup> See paragraph 3 of the Plan.

amendment to the Plan, provided that the Parties are only adding to, deleting from, or confirming changes to NSX rules in the Certification in conformance with the definition of Common Rules provided in the Plan. However, should the Parties decide to add a NSX rule to the Certification that is not substantially similar to a FINRA rule; delete a NSX rule from the Certification that is substantially similar to a FINRA rule; or leave on the Certification a NSX rule that is no longer substantially similar to a FINRA rule, then such a change would constitute an amendment to the Plan, which must be filed with the Commission pursuant to Rule 17d-2 under the Act.<sup>17</sup>

**IV. Conclusion**

This Order gives effect to the Plan filed with the Commission in File No. 4-694. The Parties shall notify all members affected by the Plan of their rights and obligations under the Plan.

*It is therefore ordered*, pursuant to Section 17(d) of the Act, that the Plan in File No. 4-694, between FINRA and NSX, filed pursuant to Rule 17d-2 under the Act, is approved and declared effective.

*It is further ordered* that NSX is relieved of those responsibilities allocated to FINRA under the Plan in File No. 4-694.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Brent J. Fields,**  
*Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-77092; File No. SR-BOX-2016-03]

**Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Add Rule 7310 (Drill-Through Protection) To Implement a New Price Protection Feature**

February 9, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 27, 2016, BOX Options Exchange LLC (the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

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

The Exchange proposes to add Rule 7310 (Drill-through Protection) to implement a new price protection feature. 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 self-regulatory organization 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 self-regulatory organization 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 is proposing to adopt a mechanism that will prevent BOX from experiencing dramatic price swings. Specifically, the Exchange proposes to add Rule 7310 (Drill-through Protection) to implement a new price protection feature on BOX. The new price protection feature is designed to prevent orders and quotes from drilling through and executing at multiple price points. This circumstance can exist if, for example, a Market Order,<sup>3</sup> or aggressively priced Limit Order<sup>4</sup> or quote is entered that is larger than the total volume of contracts quoted at the top-of-book across all U.S. options exchanges.<sup>5</sup> Currently, without any protections in place, this could result in options executing at prices that have little or no relation to the theoretical price of the option.

For example, in a thinly traded option:

**AWAY EXCHANGES**

Exchange	Bid size	Bid price	Offer price	Offer size
Away Exchange #1 .....	5	\$2.00	\$2.05	5
Away Exchange #2 .....	5	2.00	2.10	5
Away Exchange #3 .....	5	2.00	2.10	5
Away Exchange #4 .....	5	2.00	2.15	5

<sup>17</sup> The Commission also notes that the addition to or deletion from the Certification of any federal securities laws, rules, and regulations for which FINRA would bear responsibility under the Plan for examining, and enforcing compliance by, common members, also would constitute an amendment to the Plan.

<sup>18</sup> 17 CFR 200.30-3(a)(34).

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

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

<sup>3</sup> Market Orders submitted to BOX are executed at the best price obtainable for the total quantity available when the order reaches the BOX market. Any remaining quantity is executed at the next best price available for the total quantity available. This process continues until the Market Order is fully executed. Prior to execution at each price level, Market Orders are filtered pursuant to the procedures set forth in Rule 7130(b) to avoid trading through the NBBO. See Rule 7110(c)(3).

<sup>4</sup> Limit Orders entered into the BOX Book are executed at the price stated or better. Any residual

volume left after part of a Limit Order has traded is retained in the BOX Book until it is withdrawn or traded (unless a designation described in Rule 7110(d) is added which prevents the untraded part of a limit order from being retained). All Limit Orders (with the exception of those with a Good ‘Til Cancelled (“GTC”) designation as described in Rule 7110(d)(1)) are automatically withdrawn by the Trading Host at market close.

<sup>5</sup> There are currently 12 options exchanges.