

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-NYSEARCA-2017-137 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-NYSEARCA-2017-137. 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 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 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-NYSEARCA-2017-137 and should be submitted on or before January 5, 2018.

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

**Robert W. Errett,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82281; File No. SR-NYSEArca-2013-107]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Liquidity Program Until June 30, 2018

December 11, 2017.

On December 23, 2013, the Securities and Exchange Commission ("Commission") issued an order pursuant to its authority under Rule 612(c) of Regulation NMS ("Sub-Penny Rule")<sup>1</sup> that granted NYSE Arca, Inc. ("Exchange") a limited exemption from the Sub-Penny Rule in connection with the operation of the Exchange's Retail Liquidity Program ("Program").<sup>2</sup> The limited exemption was granted concurrently with the Commission's approval of the Exchange's proposal to adopt the Program for a one-year pilot term.<sup>3</sup> The exemption was granted coterminous with the effectiveness of the pilot Program; both the pilot Program and exemption, as previously extended, are scheduled to expire on December 31, 2017.<sup>4</sup>

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

<sup>1</sup> 17 CFR 242.612(c).

<sup>2</sup> See Securities Exchange Act Release No. 71176 (December 23, 2013), 78 FR 79524 (December 30, 2013) (SR-NYSEArca-2013-107) ("RLP Approval Order").

<sup>3</sup> See *id.*

<sup>4</sup> The Sub-Penny Exemption was originally granted by the Commission concurrently with the approval of the Program. See *id.* On March 19, 2015, the Exchange requested an extension of the exemption for the Program. See letter from Martha Redding, Senior Counsel and Assistant Secretary, to Brent J. Fields, Secretary, Commission, dated March 19, 2015. The pilot period for the Program was extended until September 30, 2015. See Securities Exchange Act Release No. 74572 (Mar. 24, 2015), 80 FR 16705 (Mar. 30, 2015) (SR-NYSEArca-2015-22). On September 17, 2015, the Exchange requested an extension of the exemption for the Program. See letter from Martha Redding, Senior Counsel and Assistant Secretary, to Brent J. Fields, Secretary, Commission, dated September 17, 2015. The pilot period for the Program was extended until March 31, 2016. See Securities Exchange Act Release Nos. 75994 (Sept. 28, 2015), 80 FR 59834 (Oct. 2, 2015) (SR-NYSEArca-2015-84) and 77236 (Feb. 25, 2016), 81 FR 10943 (Mar. 2, 2016) (SR-NYSEArca-2016-30). On March 17, 2016, the Exchange requested another extension of the exemption for the Program. See letter from Martha Redding,

The Exchange now seeks to further extend the exemption until June 30, 2018.<sup>5</sup> The Exchange's request was made in conjunction with an immediately effective filing that extends the operation of the Program through the same date.<sup>6</sup> In its request to extend the exemption, the Exchange notes that participation in the program has increased recently.<sup>7</sup> Accordingly, the Exchange has asked for additional time to allow the Exchange and the Commission to analyze more data concerning the Program, which the Exchange committed to provide to the Commission.<sup>8</sup> For this reason and the reasons stated in the RLP Approval Order originally granting the limited exemption, the Commission finds, pursuant to its authority under Rule 612(c) of Regulation NMS, that extending the exemption is appropriate in the public interest and consistent with the protection of investors.

Therefore, it is hereby ordered that, pursuant to Rule 612(c) of Regulation NMS, the Exchange is granted a limited exemption from Rule 612 of Regulation NMS that allows it to accept and rank orders priced equal to or greater than \$1.00 per share in increments of \$0.001, in connection with the operation of its Retail Liquidity Program, until June 30, 2018.

Senior Counsel and Assistant Secretary, to Brent J. Fields, Secretary, Commission, dated March 17, 2016. The pilot period for the Program was extended until August 31, 2016. See Securities Exchange Act Release No. 77425 (Mar. 23, 2016), 81 FR 17523 (Mar. 29, 2016) (SR-NYSEArca-2016-47). On August 8, 2016, the Exchange requested another extension of the exemption for the Program. See Letter from Martha Redding, Associate General Counsel and Assistant Secretary, to Brent J. Fields, Secretary, Commission, dated August 8, 2016. The pilot period for the Program was extended until December 31, 2016. See Securities Exchange Act Release No. 78601 (Aug. 17, 2016), 81 FR 57632 (Aug. 23, 2016) (SR-NYSEArca-2016-113). On November 28, 2016, the Exchange requested another extension of the exemption for the program. See Letter from Martha Redding, Associate General Counsel and Assistant Secretary, to Brent J. Fields, Secretary, Commission, dated November 28, 2016. The pilot period for the Program was extended until June 30, 2017. See Securities Exchange Act Release No. 79495 (Dec. 7, 2016), 81 FR 90033 (Dec. 13, 2016) (SR-NYSEArca-2016-157). On May 23, 2017, the Exchange requested another extension of the exemption for the program. See Letter from Martha Redding, Associate General Counsel and Assistant Secretary, to Brent J. Fields, Secretary, Commission, dated May 23, 2017. The pilot period for the Program was extended until December 31, 2017. See Securities Exchange Act Release No. 80851 (June 2, 2017), 82 FR 26722 (June 8, 2017) (SR-NYSEArca-2017-63).

<sup>5</sup> See Letter from Martha Redding, Assistant Secretary, NYSE, to Brent J. Fields, Secretary, Commission, dated November 30, 2017 ("NYSE Arca Letter").

<sup>6</sup> See SR-NYSEArca-2017-137.

<sup>7</sup> See NYSE Arca Letter, *supra* note 5, at 3.

<sup>8</sup> See RLP Approval Order, *supra* note 2, 78 FR at 79529.

The limited and temporary exemption extended by this Order 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 Securities Exchange Act of 1934.

Responsibility for compliance with any applicable provisions of the Federal securities laws must rest with the persons relying on the exemptions that are the subject of this Order.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Robert W. Errett,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82267; File No. SR-BOX-2017-16]

### Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing of Amendment No. 2 to a Proposed Rule Change Amending Consolidated Audit Trail Funding Fees

December 11, 2017.

On May 15, 2017, BOX Options Exchange LLC (“Exchange” or “SRO”) filed with the Securities and Exchange Commission (“Commission”), 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> a proposed rule change to adopt a fee schedule to establish the fees for Industry Members related to the National Market System Plan Governing the Consolidated Audit Trail (“CAT NMS Plan”). The proposed rule change was published in the **Federal Register** for comment on May 24, 2017.<sup>3</sup> The Commission received seven comment letters on the proposed rule change,<sup>4</sup> and a response to

comments from the Participants.<sup>5</sup> On June 30, 2017, the Commission temporarily suspended and initiated proceedings to determine whether to approve or disapprove the proposed rule change.<sup>6</sup> The Commission thereafter received seven comment letters,<sup>7</sup> and a response to comments

Patricia L. Cerny and Steven O’Malley, Compliance Consultants, to Brent J. Fields, Secretary, Commission (dated June 12, 2017), available at: <https://www.sec.gov/comments/sr-cboe-2017-040/cboe2017040-1799253-153675.pdf>; Letter from Daniel Zinn, General Counsel, OTC Markets Group Inc., to Eduardo A. Aleman, Assistant Secretary, Commission (dated June 13, 2017), available at: <https://www.sec.gov/comments/sr-finra-2017-011/finra2017011-1801717-153703.pdf>; Letter from Joanna Mallers, Secretary, FIA Principal Traders Group, to Brent J. Fields, Secretary, Commission (dated June 22, 2017), available at: <https://www.sec.gov/comments/sr-cboe-2017-040/cboe2017040-1819670-154195.pdf>; Letter from Stuart J. Kaswell, Executive Vice President and Managing Director, General Counsel, Managed Funds Association, to Brent J. Fields, Secretary, Commission (dated June 23, 2017), available at: <https://www.sec.gov/comments/sr-finra-2017-011/finra2017011-1822454-154283.pdf>; and Letter from Suzanne H. Shatto, Investor, to Commission (dated June 27, 2017), available at: <https://www.sec.gov/comments/sr-batsedgx-2017-22/batsedgx201722-154443.pdf>. The Commission also received a comment letter which is not pertinent to these proposed rule changes. See Letter from Christina Crouch, Smart Ltd., to Brent J. Fields, Secretary, Commission (dated June 5, 2017), available at: <https://www.sec.gov/comments/sr-batsbzx-2017-38/batsbzx201738-1785545-153152.htm>.

<sup>5</sup> See Letter from CAT NMS Plan Participants to Brent J. Fields, Secretary, Commission (dated June 29, 2017), available at: <https://www.sec.gov/comments/sr-batsbyx-2017-11/batsbyx201711-1832632-154584.pdf>.

<sup>6</sup> See Securities Exchange Act Release No. 81067 (June 30, 2017), 82 FR 31656 (July 7, 2017).

<sup>7</sup> See Letter from W. Hardy Callcott, Partner, Sidley Austin LLP, to Brent J. Fields, Secretary, Commission (dated July 27, 2017), available at: <https://www.sec.gov/comments/sr-batsbyx-2017-11/batsbyx201711-2148338-157737.pdf>; Letter from Kevin Coleman, General Counsel and Chief Compliance Officer, Belvedere Trading LLC, to Brent J. Fields, Secretary, Commission (dated July 28, 2017), available at: <https://www.sec.gov/comments/sr-batsbyx-2017-11/batsbyx201711-2148360-157740.pdf>; Letter from Joanna Mallers, Secretary, FIA Principal Traders Group, to Brent J. Fields, Secretary, Commission (dated July 28, 2017), available at: <https://www.sec.gov/comments/sr-batsbyx-2017-11/batsbyx201711-2151228-157745.pdf>; Letter from Theodore R. Lazo, Managing Director and Associate General Counsel, SIFMA, to Brent J. Fields, Secretary, Commission (dated July 28, 2017), available at: <https://www.sec.gov/comments/sr-batsbyx-2017-11/batsbyx201711-2150977-157744.pdf>; Letter from Stuart J. Kaswell, Executive Vice President and Managing Director, General Counsel, Managed Funds Association, to Brent J. Fields, Secretary, Commission (dated July 28, 2017), available at: <https://www.sec.gov/comments/sr-batsbyx-2017-11/batsbyx201711-2150818-157743.pdf>; Letter from John Kinahan, Chief Executive Officer, Group One Trading, L.P., to Brent J. Fields, Secretary, Commission (dated August 10, 2017), available at: <https://www.sec.gov/comments/sr-finra-2017-011/finra2017011-2214568-160619.pdf>; Letter from Joseph Molluso, Executive Vice President and CFO, Virtu Financial, to Brent J. Fields, Secretary, Commission (dated August 18, 2017), available at: <https://www.sec.gov/comments/sr-finra-2017-011/finra2017011-2238648-160830.pdf>.

from the Participants.<sup>8</sup> On November 7, 2017, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>9</sup> On November 9, 2017, the Commission extended the time period within which to approve the proposed rule change or disapprove the proposed rule change to January 14, 2018.<sup>10</sup> On December 7, 2017, the Exchange filed Amendment No. 2 to the proposed rule change, as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments from interested persons on Amendment No. 2.

#### 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 amend the fees for Industry Members related to the CAT NMS Plan. 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>.

#### 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

BOX Options Exchange LLC, Cboe BYX Exchange, Inc., Cboe BZX

<sup>8</sup> See Letter from Michael Simon, Chair, CAT NMS Plan Operating Committee, to Brent J. Fields, Secretary, Commission (dated November 2, 2017), available at <https://www.sec.gov/comments/sr-batsbyx-2017-11/batsbyx201711-2674608-161412.pdf>.

<sup>9</sup> Amendment No. 1 to the proposed rule change replaced and superseded the Original Proposal in its entirety. See Securities Exchange Act Release No. 82266 (December 11, 2017).

<sup>10</sup> See Securities Exchange Act Release No. 82049 (November 9, 2017), 82 FR 53549 (November 16, 2017).

<sup>9</sup> 17 CFR 200.30-3(a)(83).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 80721 (May 18, 2017), 82 FR 23864 (May 24, 2017) (“Original Proposal”).

<sup>4</sup> Since the CAT NMS Plan Participants’ proposed rule changes to adopt fees to be charged to Industry Members to fund the consolidated audit trail are substantively identical, the Commission is considering all comments received on the proposed rule changes regardless of the comment file to which they were submitted. See text accompanying note 11 *infra*, for a list of the CAT NMS Plan Participants. See Letter from Theodore R. Lazo, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, to Brent J. Fields, Secretary, Commission (dated June 6, 2017), available at: <https://www.sec.gov/comments/sr-batsbzx-2017-38/batsbzx201738-1788188-153228.pdf>; Letter from