

FB SPX Surcharge is intended to be assessed on those Floor Brokers who regularly conduct open outcry transactions in SPX or SPX Weeklys (*i.e.*, Floor Brokers who are engaging in regular SPX trades), since those Floor Brokers are engaging in transactions for which executing SPX trades is the primary purpose of such transactions (or are signing up to do so). Floor Brokers who only engage in SPX transactions through the execution of Multi-Class Spread Orders with an SPX component are not engaging in such transactions with primary purpose of executing an SPX order, but instead are just executing an SPX order as part of a larger Multi-Class Spread Order. Additionally, all Floor Brokers who only engage in SPX transactions through the execution of Multi-Class Spread Orders with an SPX component will have the opportunity to be excluded from the FB SPX Surcharge.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burdens on competition that are not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because the proposed rule change provides Floor Brokers not engaged in regular SPX trades with an opportunity to be excluded from the FB SPX Surcharge, which is intended to be assessed on those Floor Brokers who engage in transactions for which executing SPX trades is the primary purpose of such transactions (or are signing up to do so). The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change only affects trading on the Exchange's trading floor. To the extent that the proposed changes make Cboe Options a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become Cboe Options market participants.

#### *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 of Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and paragraph (f) of Rule 19b-4<sup>8</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-2018-015 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-2018-015. 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-CBOE-2018-015 and should be submitted on or before March 6, 2018.

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

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2018-02859 Filed 2-12-18; 8:45 am]

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-82655; File No. SR-BOX-2018-03]

### **Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule To Amend the BOX Volume Rebate**

February 7, 2018.

Pursuant to Section 19(b)(1) of 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 31, 2018, BOX Options Exchange LLC (the "Exchange") filed with the Securities and Exchange Commission ("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.

<sup>9</sup> 17 CFR 200.30-3(a)(12).

<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).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f).

### **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. While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on February 1, 2018. 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**

The Exchange proposes to amend the Fee Schedule for trading on BOX. Specifically, the Exchange proposes to amend the BOX Volume Rebate ("BVR") in Section I.B.2 of the Fee Schedule (Electronic Transaction Fees).

Under the current BVR, the Exchange offers a tiered per contract rebate for all Public Customer PIP Orders and COPIP orders of 100 contracts and under that do not trade solely with their contra order. Percentage thresholds are calculated on a monthly basis by totaling the Participant's PIP and COPIP volume submitted to BOX, relative to the total national Customer volume in multiply-listed options classes. Further, Public Customer PIP Orders of 100 and under contracts that trade solely with their contra order receive a \$0.03 per contract rebate, regardless of tier.

The Exchange now proposes to increase the BVR contract threshold necessary to qualify for the tiered contract rebate for all Public Customer PIP Orders and COPIP Orders to 250 contracts and under that do not trade solely with their contra order. The

calculation of the percentage threshold will remain based on a Participant's PIP and COPIP volume submitted to BOX, relative to the total national Customer volume in multiply-listed options classes. The Exchange also proposes to increase the BVR contract threshold for Public Customer PIP Orders that trade solely with their contra order to 250 contracts and under. These orders will continue to receive a \$0.03 per contract rebate, regardless of tier.

##### **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>5</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.

The Exchange believes the proposed amendments to the BVR in Section I.B.2 are reasonable, equitable and not unfairly discriminatory. The BVR was adopted to attract Public Customer order flow to the Exchange by offering these Participants incentives to submit their PIP and COPIP Orders to the Exchange. Other Exchanges employ similar incentive programs.<sup>6</sup> The Exchange believes it is reasonable and appropriate to provide incentives for Public Customers, which will result in greater liquidity and ultimately benefit all Participants trading on the Exchange. Further, the Exchange continues to believe that exempting Non-Public Customer PIP and COPIP Orders from the BVR is reasonable as specific incentives for Public Customer volume is common within the options industry.<sup>7</sup>

As mentioned above, the BVR is intended to incentivize Public Customers to direct order flow to the Exchange. As such, the Exchange believes it is reasonable to increase the threshold eligibility for Public Customer PIP and COPIP Orders to 250 contracts and under. Increasing the BVR will result in greater liquidity and ultimately benefit all Participants trading on the Exchange. Further, the Exchange believes that the proposed change is equitable and not unfairly

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

<sup>6</sup> See Section B of the Phlx Pricing Schedule entitled "Customer Rebate Program" and CBOE's Volume Incentive Program ("VIP"). CBOE's Volume Incentive Program ("VIP") pays certain tiered rebates to Trading Permit Holders for electronically executed multiply-listed option orders which include AIM orders.

<sup>7</sup> *Id.*

discriminatory as it will apply to all Public Customers uniformly.

#### *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 Exchange does not believe that the proposed change burdens competition and will instead help promote competition by continuing to providing incentives for market participants to submit customer order flow to BOX and thus, create a greater opportunity for price improvement.

#### *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.

### **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>8</sup> and Rule 19b-4(f)(2) thereunder,<sup>9</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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BOX-2018-03 on the subject line.

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

*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-BOX-2018-03. 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 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. 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-BOX-2018-03, and should be submitted on or before March 6, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-82649; File No. SR-Phlx-2018-15]

**Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delete Cross-Reference to Rule 124(d) From Rule 1092**

February 7, 2018.

Pursuant to Section 19(b)(1) of 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 February 5, 2018, Nasdaq PHLX LLC ("Phlx" or "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 Exchange. 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 proposes to amend Rule 1092, Nullification and Adjustment of Options Transactions including Obvious Errors, by deleting a cross-reference to Rule 124(d).

The text of the proposed rule change is available on the Exchange's website at <http://nasdaqphlx.cchwallstreet.com/>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

**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

Exchange Rule 1092 provides rules and procedures with respect to the nullification and adjustment of options transactions including obvious errors. Rule 1092(l) governs appeals to the Exchange Review Council of nullification and adjustment decisions by Options Exchange Officials.<sup>3</sup> It provides that a party affected by a determination made under Rule 1092 may request the Exchange Review Council to review that determination "in accordance with Exchange Rule 124(d)." However, Rule 124, Disputes-Options, section (d) applies by its terms *only* to appeals to the Exchange Review Council of Options Exchange Official decisions regarding trading disputes occurring on, and relating to, the trading floor. In fact, Rule 124(a) specifically states that Rule 124 shall not apply to options transactions that are the result of an obvious error or catastrophic error as defined in Rule 1092, and that options transactions that are the result of an obvious error or catastrophic error shall be subject to the provisions and procedures set forth in Rule 1092.

The cross-reference to Rule 124(d) in Rule 1092 is therefore incorrect and inappropriate, and needlessly confusing. Moreover, it is unnecessary as Rule 1092 itself provides the necessary process for requesting and obtaining an appeal by the Exchange Review Council of nullification and adjustment decisions. The Exchange therefore proposes to remove the cross-reference.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>4</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>5</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market

<sup>3</sup> An Options Exchange Official is an Exchange staff member or contract employee designated as such by the Chief Regulatory Officer. A list of individual Options Exchange Officials is displayed on the Exchange website. The Chief Regulatory Officer maintains the list of Options Exchange Officials and updates the website each time a name is added to, or deleted from, the list of Options Exchange Officials. In the event no Options Exchange Official is available to rule on a particular matter, the Chief Regulatory Officer or his/her designee rules on the matter.

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

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

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

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

<sup>10</sup> 17 CFR 200.30-3(a)(12).