

the terms of the purchase, and the information or materials upon which the Board's determinations were made.

13. Before investing in a Fund in excess of the limits in section 12(d)(1)(A), the Acquiring Fund and the Fund will execute a Participation Agreement stating, without limitation, that their boards of directors or trustees and their investment advisers, or the trustee and Sponsor of an Acquiring Trust, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), an Acquiring Fund will notify the Fund of the investment. At such time, the Acquiring Fund will also transmit to the Fund a list of names of each Acquiring Fund Affiliate and Underwriting Affiliate. The Acquiring Fund will notify the Fund of any changes to the list of names as soon as reasonably practicable after a change occurs. The Fund and the Acquiring Fund will maintain and preserve a copy of the order, the Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

14. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Acquiring Management Company, including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such advisory contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Acquiring Management Company may invest. These findings and their basis will be recorded fully in the minute books of the appropriate Acquiring Management Company.

15. Any sales charges and/or service fees charged with respect to shares of an Acquiring Fund will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

16. No Fund will acquire securities of any investment company or company relying on sections 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission that allows the Fund to purchase shares of a money market fund for short-term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012-23317 Filed 9-20-12; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67870; File No. SR-BOX-2012-012]

### Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Strike Price Intervals in the Short Term Options Program

September 17, 2012.

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 September 11, 2012, 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 is filing with the Commission a proposal to amend Rule 5050 (Series of Options Contracts Open for Trading) and Rule 6090 (Terms of Index Options Contracts) to: modify the Short Term Option Series Program ("STO Program" or "Program") to indicate that the interval between strike prices on STOs<sup>3</sup> shall be \$0.50 or greater where the strike price is less than \$75 and \$1 or greater where the strike price is between \$75 and \$150; indicate that during the expiration week of a non-STO<sup>4</sup> that is selected for the

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

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

<sup>3</sup> Short term options are generally known as "STOs," "weeklies," or "weekly options." STOs are series in an options class that are approved for listing and trading on the Exchange in which the series are opened for trading on any Thursday or Friday that is a business day and that expire on the Friday of the next business week. If a Thursday or Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Thursday or Friday, respectively. See Rules 100(a)(64), 6010(n), IM-5050-6 and IM-6090-2.

<sup>4</sup> A non-STO is an option that is in the same option class as the STO but has a longer expiration

STO Program, the strike price intervals for the non-STO and the STO shall be the same; and indicate that during the week before the expiration week of the non-STO, the non-STO shall be opened for trading in STO intervals in the same manner as the STO. 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 purpose of this proposed rule change is to indicate in Rule 5050 and Rule 6090 and Interpretive Material thereto, that the interval between strike prices on STOs shall be \$0.50 or greater where the strike price is less than \$75 and \$1 or greater where the strike price is between \$75 and \$150 ("STO intervals"). The purpose is also to indicate that during the expiration week of a non-STO that is selected for the STO Program, the strike price intervals for the non-STO and the STO shall be the same; and that during the week before the expiration week of the non-STO, the non-STO shall be opened for trading in STO intervals in the same manner as the STO. The STO Program is codified in IM-5050-6 and IM-6090-2.<sup>5</sup> These provisions state that after an

cycle (e.g. a SLV monthly option as compared to a SLV weekly option).

<sup>5</sup> The Exchange adopted the STO Program at its inception in 2012. See Securities Exchange Act Release No. 66871 (April 27, 2012), 77 FR 26323 (May 3, 2012). In the Matter of Application of BOX Options Exchange LLC for Registration as a National Securities Exchange Findings, Opinion, and Order of the Commission. The STO Program was last expanded in May 2012. See Securities Exchange Act Release No. 66982 (May 14, 2012), 77 FR 29718 (May 18, 2012)(SR-BOX-2012-001)(order approving the expansion of the STO Program)[sic]. Like BOX, other options exchanges have STO

option class has been approved for listing and trading on BOX, BOX may open for trading on any Thursday or Friday that is a business day series of options on that class that expire on the Friday of the following business week that is a business day. The Exchange may select up to thirty currently listed option classes on which Short Term Option Series may be opened. In addition to the thirty-option class limitation, there is also a limitation that no more than twenty series for each expiration date in those classes may be opened for trading.<sup>6</sup> Furthermore, the strike price of each STO has to be fixed with approximately the same number of strike prices being opened above and below the value of the underlying security at about the time that the short term options are initially opened for trading on the Exchange, and with strike prices being within thirty percent (30%) above or below the closing price of the underlying security from the preceding day. In respect of the STO Program, the Exchange does not propose any changes to these additional program limitations; the Exchange proposes only to specify

programs. See Securities Exchange Act Release Nos. 62296 (June 15, 2010), 75 FR 35115 (June 21, 2010)(SR-Phlx-2010-84)(notice of filing and immediate effectiveness permanently establishing STO Program on the Exchange); 65776 (November 17, 2011), 76 FR 72482 (November 23, 2011)(SR-Phlx-2011-131)(order approving expansion of STO Program), 59824 (April 27, 2009), 74 FR 20518 (May 4, 2009)(SR-CBOE-2009-018)(approval order); 62444 (July 2, 2010), 75 FR 39595 (July 9, 2010)(SR-ISE-2010-72)(notice of filing and immediate effectiveness); 62297 (June 15, 2010), 75 FR 35111 (June 21, 2010)(SR-NASDAQ-2010-073)(notice of filing and immediate effectiveness); 62369 (June 23, 2010), 75 FR 37868 (June 30, 2010) (SR-NYSEArca-2010-059)(notice of filing and immediate effectiveness); 62370 (June 23, 2010), 75 FR 37870 (June 30, 2010)(SR-Amex-2010-062)(notice of filing and immediate effectiveness); 62505 (July 15, 2010), 75 FR 42792 (July 22, 2010)(SR-BX-2010-047)(notice of filing and immediate effectiveness); and 62597 (July 29, 2010), 75 FR 47335 (August 5, 2010)(SR-BATS-2010-020)(notice of filing and immediate effectiveness).

<sup>6</sup> BOX may open up to 10 additional series for each option class that participates in the Short Term Option Series Program when deemed necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the exercise price or prices of the series already opened. Any additional strike prices listed by BOX shall be within thirty percent (30%) above or below the current price of the underlying security. BOX may also open additional strike prices of Short Term Option Series that are more than 30% above or below the current price of the underlying security provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate or individual customers or their brokers. Market Makers trading for their own account shall not be considered when determining customer interest under this provision. The opening of the new Short Term Option Series shall not affect the series of options of the same class previously opened. See IM-5050-6(d) and IM-6090-2(d).

that STOs can have interval prices of \$0.50 and \$1.<sup>7</sup>

The principal reason for the proposed interval pricing structure is market demand for weekly options. There is continuing strong retail customer demand for having the ability to execute hedging and trading strategies effectively via STOs,<sup>8</sup> particularly in the current fast and volatile multi-faceted trading and investing environment that extends across numerous markets and platforms.<sup>9</sup> BOX has observed such increased demand for STO classes and/or series, particularly when market moving events such as significant market volatility, corporate events, or large market, sector, or individual issue price swings have occurred. The STO Program is one of the most popular and quickly-expanding options expiration programs.

In the almost two years since the inception of the STO Program among the options exchanges, it has steadily expanded to the point that as of March 20, 2012, STOs represented 9.2% of the total options volume in the United States.<sup>10</sup> The STO volumes become even more significant when the volumes of an STO class are compared to the volumes of the related non-STO options class. As an example, in May and June of 2012, there were 915,949 contracts of SPY STOs traded and 4,614,241 contracts of SPY monthly options traded; and 298,706 contracts of AAPL STOs traded and 802,499 contracts of AAPL monthly options traded on BOX. Industry wide, from the 4th quarter of 2010 to the 4th quarter of 2011, STO volume expanded more than 90%,<sup>11</sup> and the Exchange believes that STO volumes will continue to expand throughout 2012. The Exchange believes that, as such, while STOs are currently one of most popular (high volume)

<sup>7</sup> Currently, STOs have the same interval prices as the relevant non-STOs.

<sup>8</sup> In the last STO Program filing, the Exchange noted that it was seeking an expansion in the number of STO classes to ensure consistency and uniformity among the competing options exchanges that have adopted similar STO Programs and, like the current proposal, to allow execution of more effective trading and hedging strategies on the Exchange. See Securities Exchange Act Release No. 66982 (May 14, 2012), 77 FR 29718 (May 18, 2012)(SR-BOX-2012-001)(order approving expansion of STO Program)[sic].

<sup>9</sup> These include, without limitation, options, equities, futures, derivatives, indexes, exchange traded funds ("ETFs"), exchange traded notes ("ETNs"), currencies, and over-the-counter instruments.

<sup>10</sup> The Exchange notes that, in fact, the volume increase in STOs since their inception less than two years ago greatly exceeds the volume increase of any other length option (e.g. monthly, quarterly, or long term) over the same equivalent time period.

<sup>11</sup> During the same time period, monthly options volume decreased by 8%.

expiration lengths of options traded on BOX and other options exchanges, the weekly options will only become more popular as market participants, particularly retail customers, continue to gain knowledge about more effective uses of these products for trading and hedging purposes.

Moreover, the Commission has approved the use of \$0.50 and \$1 strike price intervals on the Exchange as well as in the options industry, particularly at lower price levels (e.g. below \$150). Numerous options products are listed (and traded) on the Exchange at \$0.50 and \$1 strike price intervals. For example, there are a few individual ETF options listed on BOX at \$0.50 strike price intervals.<sup>12</sup> There are approximately 58 options listed on BOX at \$0.50 strike price intervals pursuant to the \$0.50 Strike Program.<sup>13</sup> There are approximately 950 options listed on BOX with \$1 strike price intervals; approximately 135 ETF options, and 820 options pursuant to the \$1 Strike Program.<sup>14</sup> Moreover, the Commission has recently approved certain products to trade at \$0.50 and \$1 strike price intervals on the Chicago Board Options Exchange Incorporated ("CBOE") within exactly the same strike price points that are proposed by the Exchange in this filing, namely \$75 and \$150.<sup>15</sup>

The Exchange believes that the benefits of the ability to trade STOs at \$0.50 and \$1 intervals at lower price levels cannot be underestimated. The proposed intervals would clearly allow traders and investors, and in particular public (retail) investors to more effectively and with greater precision

<sup>12</sup> Exchange Rule 5050(d)(4) provides that the interval between strike prices of series of options on ETFs is permitted to be at such intervals as may have been established on another options exchange prior to the initiation of trading on BOX.

<sup>13</sup> The Exchange notes, however, that the \$0.50 Strike Program has inherent price limitations that make it unsuitable for STO options.

<sup>14</sup> Like the \$0.50 Strike Program, the \$1 Strike Program has inherent limitations that make it unsuitable for STO options. The Exchange is not aware of any material market surveillance issues arising because of the \$0.50 or \$1 strike price intervals.

<sup>15</sup> See Securities Exchange Act Release No. 64189 (April 5, 2011), 76 FR 20066 (April 11, 2011)(SR-CBOE-2011-008)(order granting approval of \$0.50 and \$1 strike price intervals for certain volatility options where the strike prices are less than \$75 and between \$75 and \$150, respectively). In approving the CBOE interval proposal, the Commission stated that the proposal appears to strike a reasonable balance between the Exchange's desire to offer a wider array of investment opportunities and the need to avoid unnecessary proliferation of options series and the corresponding increase in quotes and market fragmentation. The Exchange notes that other options exchanges including NYSE Amex, NYSE Arca, ISE, NOM, and Phlx have made similar rule changes.

consummate trading and hedging strategies on BOX. The Exchange believes that this precision is increasingly necessary, and in fact crucial, as traders and investors engage in trading and hedging strategies across various investment platforms (e.g. equity and ETF, index, derivatives, futures, foreign currency, and even commodities products); particularly when many of these platforms enjoy substantially smaller strike price differentiations (e.g. as low as \$.05).<sup>16</sup>

Weekly options have characteristics that are attractive for certain trading and hedging strategies. Thus, weeklies may be attractive for retail trading strategies that could benefit from the inherent accelerated time decay of weekly options, such as selling (buying) vertical or calendar spreads. And weeklies may be particularly attractive instruments for short-term institutional hedging needs (e.g. sudden price movements against large option positions during expiration week; maintenance or adjustment of complex option positions) as well as for retail hedging needs (e.g. preceding large earnings plays). In every case, trading and hedging is more effective when it can be closely tailored.

The Exchange believes the current wider STO price intervals have negatively impacted investors and traders, particularly retail public customers, who have on several occasions requested of the Exchange, finer, narrower STO intervals. The proposal would fix this.

Following are examples of how inadequately narrow STO intervals negatively impact trading and hedging opportunities.

If an investor needs to purchase an STO call option in CSCO (03/26/12 closing price \$20.84), the current \$1 strike interval would offer less opportunity and choice for an investor seeking to keep cash expenditures low. For example, an investor wishing to buy an in-the-money call option for less than a \$2.50 investment per call purchase has only two strike prices that meet his criteria from which to choose: the 19 strike and the 20 strike. Such call options with five days until expiration might offer "ask prices" (option premiums) of \$1.75 and \$.75. However, if CSCO had \$0.50 strike prices as proposed, the same investor would have

a selection of March 18.50, 19.00, 19.50, 20.00, and the 20.50 strike call options that may have options premiums from approximately \$2.25 down to approximately \$.25. This expanded range of strikes, and commensurate option premiums, offers far more choice and a considerably lower cost of entry to the investor, thereby garnering the investor more than a 66% options premium savings. Lower intervals increase effective liquidity by offering investors and traders more price points at which they may execute trading and hedging strategies.<sup>17</sup> This allows investors and traders the ability to more effectively execute their strategies at lower cost. Clearly, more efficient pricing is advantageous to all market participants, from retail to institutional investors.

If, on the put side, an investor is interested in purchasing an STO option in LNKD (03/26/12 closing price \$101.38), the current strike interval rules similarly offer less opportunity and less choice for the investor seeking to keep cash expenditures low. For example, an investor wishing to buy an in-the-money put option for less than a \$5.00 investment per put purchase has only one strike price that meets his criteria from which to choose: the 105 strike. This put option with five days until expiration may have an option premium of \$5.00. However, if LNKD had \$1 strike intervals as proposed, the investor would have a selection of March 105, 104, 103, 102, and 101 strike put options that may have options premiums from approximately \$5 down to \$2. This greatly expanded range of strikes allows the investor more choice and lower cost of entry, and may save the investor as much as 60% in options premium payout.<sup>18</sup>

And as yet another example, if an investor is interested in purchasing a complex option spread, narrow strike intervals would offer additional cost savings and choice. With the 105 LNKD puts trading at \$5.00, as stated in the example above, the next strike available to offset the cost of the 105 strike would be the 100 puts trading at an approximately \$1.50 premium. With the current intervals, this would result in a 105–100 put spread costing approximately \$3.50. However, if strike prices were available in \$1 increments,

various cheaper spreads could be obtained within the same 105–100 range of strikes. In that each \$1 increment put spread might trade at approximately \$.30 to \$.80 within this strike range, it is easy to see that \$1 strikes as proposed may result in significant savings for investors trying to execute complex strategies.

Furthermore, the inadequate price intervals for STOs, particularly at the lower price levels proposed by the Exchange, may discourage retail and other customers from executing STO orders when they could be the most advantageous for effective execution of trading and hedging strategies on regulated and transparent exchanges. The Exchange feels that it is essential that such negative, potentially costly and time-consuming impacts on retail investors are eliminated by offering tighter intervals within the STO Program. The changes proposed by the Exchange should allow execution of more trading and hedging strategies on BOX.<sup>19</sup>

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to handle the potential additional traffic associated with trading in the Program at \$0.50 or greater where the strike price is less than \$75 and \$1 or greater where the strike price is between \$75 and \$150. The Exchange believes that BOX Options Participants will not have a capacity issue as a result of this proposal.

The Exchange also proposes language designed to enable a non-STO option class (e.g. monthly option) that is selected for the STO to behave like the STO during the expiration week of the related non-STO.<sup>20</sup> Specifically, the Exchange proposes that notwithstanding any other provision regarding strike prices in the applicable rule (Rule 5050 for non-index options or Rule 6090 for index options), during the expiration

<sup>19</sup> In addition, there is a competitive impact. First, the proposal would enable BOX to provide market participants with an opportunity to execute their strategies (e.g. complex option spreads) wholly on their preferred market, namely BOX. Second, the proposal would diminish the potential for foregone market opportunities on BOX caused by the need to use a more advantageous (that is, interval-precise) platform than STOs currently allow.

<sup>20</sup> The Exchange notes that STOs are not listed and traded during the expiration week of the related non-STOs, which is generally the third week in the month. During this week, those that want or need weekly options must buy (sell) the related non-STOs. The proposal would allow traders and hedgers to have the same benefits during each week in a month, including the one week when STOs are not listed and traded.

<sup>16</sup> As an example, per the CME Web site, strike prices for options on futures may be at an interval of \$.05, \$.10, and \$.25 per specified parameters. See [http://www.cmegroup.com/trading/equity-index/files/EQUITY\\_FLEX\\_Options.pdf](http://www.cmegroup.com/trading/equity-index/files/EQUITY_FLEX_Options.pdf) (options on S&P 500 and NASDAQ-100 contracts) and [http://www.cmegroup.com/rulebook/files/S\\_5734\\_x11-05-18x\\_Change\\_in\\_Listing\\_Rules\\_for\\_Goldx\\_Silverx\\_Copper\\_Options.pdf](http://www.cmegroup.com/rulebook/files/S_5734_x11-05-18x_Change_in_Listing_Rules_for_Goldx_Silverx_Copper_Options.pdf) (options on metals contracts).

<sup>17</sup> Moreover, lower strike intervals provide additional price points for liquidity providers. This allows the liquidity providers to improve theoretical pricing as well as hedging capabilities, thereby enabling them to increase the size and quality of their markets.

<sup>18</sup> This premium savings may be very significant for an investor that is buying a large number of option contracts. See *supra* note 14 and related text.

week of a non-STO that is selected for an STO, the strike price intervals for the non-STO shall be the same as the strike price intervals permitted for the STO. Thus, during the non-STO expiration week, the strike price intervals for the non-STO shall be \$0.50 or greater where the strike price is less than \$75 and \$1 or greater where the strike price is between \$75 and \$150. The Exchange also proposes that notwithstanding any other provision regarding strike prices in the applicable rule (Rule 5050 or Rule 6090), during the week before the expiration week of a non-STO that is selected for an STO, the BOX shall open the non-STO for trading in \$0.50 and \$1 strike price intervals in the same manner as permitted for STOs. Thus, a non-STO may be opened in STO intervals on a Thursday or Friday that is business day before the STO expiration week.<sup>21</sup> If BOX is not open for business on the respective Thursday or Friday, however, the non-STO may be opened in STO intervals on the first business day immediately prior to that respective Thursday or Friday.<sup>22</sup>

These changes are proposed to ensure conformity between STOs and non-STOs that are in the same options class (e.g. weekly and monthly SPY options). The Exchange believes that, as discussed, these changes are necessary to give investors and traders the ability to maximize trading and hedging opportunities while minimizing costs; and that a lack of such conforming changes would be counter-productive for market participants.

The Exchange believes that the STO Program has provided investors with greater trading opportunities and flexibility and the ability to more closely tailor their investment and risk management strategies and decisions. Furthermore, BOX has had to reject trading requests because of the limitations imposed by the Program. For these reasons, the Exchange requests an expansion of the strike price intervals in

the Program, as well as conformity of the relevant non-STO process, to provide investors with better weekly option choices for investment, trading, and risk management purposes.

Finally, the Exchange proposes a technical, non-substantive change to Rule 5050(a) to correct cross references to the Interpretive Material for the Quarterly Options Series Program and Short Term Option Series Program which are codified in IM-5050-4 and IM-5050-6, respectively.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act of 1934<sup>23</sup> (the "Act") in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>24</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 system, and, in general to protect investors and the public interest. This will be effectuated by the following rule changes: STO strike price intervals of \$0.50 or greater where the strike price is less than \$75 and \$1 or greater where the strike price is between \$75 and \$150; during the expiration week of the non-STO, the strike price intervals for the non-STO will be the same as for the STO; and during the week before the non-STO expiration week, the timing for opening the non-STO in STO strike price intervals will be the same as for the STO. The Exchange believes that the proposed changes will result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment and hedging decisions, while ensuring conformity between STOs and related non-STOs.

## 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 Exchange Act. To the contrary, the Exchange believes the proposal is pro-competitive. First, the proposal would enable the Exchange to provide market participants with an opportunity to execute their strategies wholly on their preferred market, namely BOX. And second, the proposal would diminish the potential for foregone market opportunities on BOX caused by the need to use a more

advantageous (that is, interval-precise) platform than STOs currently allow.

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

The Exchange has 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 proposed rule change is filed pursuant to paragraph (A) of section 19(b)(3) of the Exchange Act<sup>25</sup> and Rule 19b-4(f)(6) thereunder.<sup>26</sup> The proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange asked the Commission to waive the 30-day operative delay period for non-controversial proposed rule changes to allow the proposed rule change to be operative upon filing.<sup>27</sup> The Commission believes such waiver is in the interest of investors because the proposed rule change presents no novel issues, and waiver will allow the Exchange to remain competitive with other exchanges. Therefore, the Commission grants such waiver and designates the proposal operative upon filing.<sup>28</sup>

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.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing,

<sup>25</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>26</sup> 17 CFR 240.19b-4(f)(6).

<sup>27</sup> As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

<sup>28</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>21</sup> The proposed opening timing is consistent with the principle that BOX may add a new series of options until five business days prior to expiration. See Rule 5050 and Rule 6090.

<sup>22</sup> The STO opening process is set forth in IM-5050-6 and IM-6090-2: After an option class has been approved for listing and trading on BOX, BOX may open for trading on any Thursday or Friday that is a business day ("Short Term Option Opening Date"). If BOX is not open for business on the Friday of the following business week that is a business day ("Short Term Option Expiration Date"). If BOX is not open for business on the respective Thursday or Friday, the Short Term Option Opening Date will be the first business day immediately prior to that respective Thursday or Friday. Similarly, if BOX is not open for business on the Friday of the following business week, the Short Term Option Expiration Date will be the first business day immediately prior to that Friday.

<sup>23</sup> 15 U.S.C. 78f(b).

<sup>24</sup> 15 U.S.C. 78f(b)(5).

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-2012-012 on the subject line.

#### *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-2012-012. 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, on business days between the hours of 10 a.m. and 3 p.m., located at 100 F Street NE., Washington, DC 20549. 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-2012-012 and should be submitted on or before October 12, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>29</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

[FR Doc. 2012-23288 Filed 9-20-12; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67871; File No. SR-BOX-2012-003]

### Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change To Amend the Price Improvement Period

September 17, 2012.

On July 25, 2012, BOX Options Exchange LLC ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 ("Act"),<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> a proposed rule change to amend Rule 7150 (the Price Improvement Period ("PIP")) with respect to the execution of quotes and orders that are on the BOX Book prior to the start of a PIP. The proposed rule change was published for comment in the *Federal Register* on August 9, 2012.<sup>4</sup> The Commission received one comment letter on the proposal.<sup>5</sup>

Section 19(b)(2) of the Act<sup>6</sup> provides that within forty-five days of the publication of notice of the filing of a proposed rule change, or within such longer period up to ninety days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is September 23, 2012. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the Exchange's proposal with respect to the execution of quotes and orders that are on the BOX Book prior to the start of a PIP, and to consider the comment letter that has been submitted in connection with the proposed rule change.

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> See Securities Exchange Act Release No. 67592 (August 3, 2012), 77 FR 47681.

<sup>5</sup> See Letter to Elizabeth M. Murphy, Secretary, Commission, from Kurt Eckert, Principal, Wolverine Trading, LLC, dated August 30, 2012.

<sup>6</sup> 15 U.S.C. 78s(b)(2).

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>7</sup> designates November 7, 2012, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

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## SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA-2012-0023]

### Social Security Ruling (SSR), 12-1p; Title II: Determining Whether Work Performed in Self-Employment by Persons Who Are Blind Is Substantial Gainful Activity and Treatment of Income Resulting From the Randolph-Sheppard Act and Similar Programs

**AGENCY:** Social Security Administration.

**ACTION:** Notice of Social Security Ruling.

**SUMMARY:** We are giving notice of SSR 12-1p. This SSR explains our policy for evaluating whether work performed by self-employed persons who are blind is substantial gainful activity (SGA) under the disability program in title II of the Social Security Act (Act). In addition, this ruling clarifies that we do not count the income resulting from the Randolph-Sheppard Act and similar programs as earnings when we determine whether blind persons are engaging in SGA.

**DATES:** *Effective Date:* September 21, 2012.

#### **FOR FURTHER INFORMATION CONTACT:**

Andrea Stoneham, Office of Program Development and Research, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-6286, or, if you are deaf or hard of hearing, you may call our TTY number, 1-800-325-0778. You may also visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

**SUPPLEMENTARY INFORMATION:** Although 5 U.S.C. 552(a)(1) and (a)(2) do not require us to publish this SSR, we are doing so in accordance with 20 CFR 402.35(b)(1).

SSRs make available to the public precedential decisions relating to the Federal old-age, survivors, disability,

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>8</sup> 17 CFR 200.30-3(a)(31).

<sup>29</sup> 17 CFR 200.30-3(a)(12).