

("OMB") has determined that the FASB is included in sequestration anticipated by the Budget Control Act of 2011 ("BCA").<sup>2</sup> So long as sequestration is applicable, we anticipate that the FAF will work with the Commission and Commission staff as appropriate regarding its implementation of sequestration. In that event, the Commission also requests the FAF to provide the Commission with information regarding the FAF's plans for implementation of sequestration, including how it will impact 2013 spending for each of the FAF's program areas and cost categories.

After its review, the Commission determined that the 2013 annual accounting support fee for the FASB is consistent with Section 109 of the Act. Accordingly,

*It is ordered*, pursuant to Section 109 of the Act, that the FASB may act in accordance with this determination of the Commission.

By the Commission.

**Elizabeth M. Murphy,**

*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69259; File No. SR-BOX-2013-17]

### Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 12140 (Imposition of Fines for Minor Rule Violations)

March 29, 2013.

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 March 22, 2013, BOX Options Exchange LLC (the "Exchange" or "BOX") 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 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 amend Rule 12140 (Imposition of Fines for Minor Rule Violations) to correct certain cross references, clarify the calculation and review periods applicable to certain violations, and amend the sanction amounts for trade-through violations. 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 proposes to amend Rule 12140 (Imposition of Fines for Minor Rule Violations) to correct certain cross references, clarify the calculation and review periods applicable to certain violations, and amend the sanction amounts for trade-through violations.

Exchange Rule 12140 provides that in lieu of commencing a disciplinary proceeding, the Exchange may, subject to the certain requirements set forth in the Rule, impose a fine, not to exceed \$5,000, on any Options Participant, or person associated with or employed by an Options Participant, with respect to any Rule violation listed in Rule 12140(d). Any fine imposed pursuant to this Rule that (i) does not exceed \$2,500 and (ii) is not contested, shall be reported on a periodic basis, except as may otherwise be required by Rule 19d-1 under the Act or by any other regulatory authority. Further, the Rule provides that any person against whom a fine is imposed under the Rule shall be served with a written statement setting forth (i) the Rule(s) allegedly violated; (ii) the act or omission constituting each such violation; (iii) the

fine imposed for each violation; and (iv) the date by which such determination becomes final and such fine must be paid or contested as provided below, which date shall be not less than thirty (30) calendar days after the date of service of such written statement.

First, the Exchange proposes to amend Rule 12140(b) to change the date that a determination becomes final and the fine must be paid or contested from thirty to twenty-five (25) calendar days after the date of service of the written notice of an alleged violation. This change is meant to bring the final determination time period in line with the time period to file an answer under Rule 12050. With this change a Participant will have twenty-five (25) days to file an answer, after which the determination will become final and the fine must be paid or contested.

Next, the Exchange proposes to amend Rule 12140(d)(1) to clarify that violations of the Positions Limit Rule will be progressive for the number of cumulative violations within any rolling 24-month period.

The Exchange also proposes to amend Rule 12140(d)(2) to clarify the time period that may be subject to penalty for late focus reports will be 1-30 calendar days, 31 to 60 days, 61-90 days and over 90 days.

The Exchange proposes to amend Rule 12140(d)(5), (6), (11), and (12) to add and correct citations to Rule 8040(a)(7), 8050(e), 8030(e), and 8050(c)(2)-(4) regarding Market Maker obligations. Additionally proposed amendments to Rule 12140(d)(6) clarify the review period for calculating violations of a Market Maker's quoting obligations, and specify additional sanctions that may apply to Market Maker violations of their quoting obligations for consecutive business days within the review period.

The Exchange proposes to add to Rule 12140(d)(8) specific references to Rules 2020, 2040, and 2050 regarding a firm's obligation to timely file amendments to Form U-4, Form U-5, and Form BD. Additionally, the Exchange proposes to specify that a fourth violation, or any violation thereafter, may result in formal disciplinary action against a firm.

The Exchange proposes to add to Rule 12140(d)(9) specific references to the rule provisions related to Contrary Exercise Advice (Rule 9000(c)-(e), 9000(g), and 9000(h)).

The Exchange proposes to amend Rule 12140(d)(10) to add and correct citations to Rule 15020 regarding Locked and Crossed Market Violations.

Finally, the Exchange proposes to amend Rule 12140(d)(13) regarding Trade-Through Violations. The

<sup>2</sup> See "OMB Report Pursuant to the Sequestration Transparency Act of 2012" (P.L. 112-155), page 222 of 224 at: [http://www.whitehouse.gov/sites/default/files/omb/assets/legislative\\_reports/stareport.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/stareport.pdf).

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

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

Exchange proposes to add and correct citations to Rule 15010 regarding trade-throughs, and to clarify that for purposes of calculating the number of violations during a period subject to sanctions, a violation shall occur when an Options Participant engages in a pattern or practice of trading through better prices available on other exchanges. In addition, the Exchange proposes to extend the period of time used in calculating the number of trade-through violations from a twelve-month rolling period to a twenty-four month rolling period, and increase the sanction amounts that an Options Participant will be subject to under this rule. An initial trade-through violation will now have a sanction of \$500, the second violation will have a sanction of \$1,000, the third violation will have a sanction of \$2,500, and any subsequent violations will have a sanction of \$5,000 or Formal Disciplinary Action. These changes are based on the rules of the Chicago Board Option Exchange, Inc. ("CBOE").<sup>3</sup>

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),<sup>4</sup> in general, and 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 foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the Exchange believes the proposed change is consistent with Section 6(b) of the Act, which further requires that the Exchange enforce compliance with, and provide appropriate discipline for violations of, Commission and Exchange rules. Finally, the Exchange believes that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, because Rule 12140 strengthens the Exchange's ability to carry out its oversight and enforcement responsibilities as an SRO in cases where full disciplinary proceedings may be unsuitable in view of the minor nature of the particular violation.

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

Because the proposed rule change does not impose any new or additional burden on BOX Options Participants, and only corrects and clarifies certain information in Rule 12140 with regard to the Exchange Minor Rule Violation Plan, 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.

### *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

This proposed rule change is filed for immediate effectiveness pursuant to paragraph (A) of section 19(b)(3) of the Exchange Act<sup>6</sup> and Rule 19b-4(f)(6) thereunder.<sup>7</sup> The Exchange asserts that this proposed rule change does not (i) significantly affect the protection of investors or the public interest, (ii) impose any significant burden on competition, and, (iii) 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.

Because the proposed rule change does not impose any new or additional burden on BOX Options Participants, and only corrects and clarifies certain information in Rule 12140 with regard to the Exchange Minor Rule Violation Plan, the Exchange believes this rule filing qualifies as a "non-controversial" rule change under Rule 19b-4(f)(6) of the Act and requests that the Commission make the proposed change effective and operative upon filing.<sup>8</sup>

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-2013-17 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-2013-17. 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-BOX-

<sup>3</sup> See CBOE Rule 17.50(g)(12).

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

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

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(6).

<sup>8</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.

2013–17 and should be submitted on or before April 26, 2013.

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

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

[FR Doc. 2013–07940 Filed 4–4–13; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69262; File No. SR–FINRA–2013–019]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to FINRA Rule 0180 (Application of Rules to Security-Based Swaps)

April 1, 2013.

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 March 18, 2013, Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a “non-controversial” rule change under paragraph (f)(6) of Rule 19b–4 under the Act,<sup>3</sup> which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

FINRA is proposing to extend the expiration date of FINRA Rule 0180 (Application of Rules to Security-Based Swaps) to February 11, 2014. FINRA Rule 0180 temporarily limits, with certain exceptions, the application of FINRA rules with respect to security-based swaps.

The text of the proposed rule change is available on FINRA’s Web site at <http://www.finra.org>, at the principal office of FINRA 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, FINRA 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. FINRA 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

On July 1, 2011, the SEC issued an Order granting temporary exemptive relief (the “Temporary Exemptions”) from compliance with certain provisions of the Exchange Act in connection with the revision, pursuant to Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”),<sup>4</sup> of the Exchange Act definition of “security” to encompass security-based swaps.<sup>5</sup> In tandem with the Commission’s action, on July 8, 2011, FINRA filed for immediate effectiveness FINRA Rule 0180,<sup>6</sup> which, with certain exceptions, is intended to temporarily limit the application of FINRA rules<sup>7</sup> with

respect to security-based swaps, thereby helping to avoid undue market disruptions resulting from the change to the definition of “security” under the Act.<sup>8</sup>

The Commission, noting the need to avoid a potential unnecessary disruption to the security-based swap market in the absence of an extension of the Temporary Exemptions, and the need for additional time to consider the potential impact of the revision of the Exchange Act definition of “security” in light of recent Commission rulemaking efforts under Title VII of the Dodd-Frank Act, has issued an Order extending the expiration date of the Temporary Exemptions until February 11, 2014.<sup>9</sup> The Commission noted that extending the Temporary Exemptions would facilitate a coordinated consideration of these issues with the relief provided pursuant to FINRA Rule 0180. FINRA, in establishing FINRA Rule 0180, noted its intent to align the rule’s expiration date with the expiration of the Temporary Exemptions.<sup>10</sup> FINRA believes it is appropriate and in the public interest, in light of the

incorporated from NYSE (“Incorporated NYSE Rules”). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE. The FINRA Rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, see *Information Notice*, March 12, 2008 (Rulebook Consolidation Process).

<sup>8</sup> In its Exemptive Release, the Commission noted that the relief is targeted and does not include, for instance, relief from the Act’s antifraud and anti-manipulation provisions. FINRA has noted that FINRA Rule 0180 is similarly targeted. For instance, paragraph (a) of FINRA Rule 0180 provides that FINRA rules shall not apply to members’ activities and positions with respect to security-based swaps, except for FINRA Rules 2010 (Standards of Commercial Honor and Principles of Trade), 2020 (Use of Manipulative, Deceptive or Other Fraudulent Devices), 3310 (Anti-Money Laundering Compliance Program) and 4240 (Margin Requirements for Credit Default Swaps). See also paragraphs (b) and (c) of FINRA Rule 0180 (addressing the applicability of additional rules) and FINRA Rule 0180 Notice of Filing.

<sup>9</sup> See Securities Exchange Act Release No. 68864 (February 7, 2013), 78 FR 10218 (February 13, 2013) (Order Extending Temporary Exemptions Under the Securities Exchange Act of 1934 in Connection With the Revision of the Definition of “Security” to Encompass Security-Based Swaps, and Request for Comment) (“Temporary Exemptions Extension Release”). See also Securities Exchange Act Release No. 68753 (January 29, 2013), 78 FR 7654 (February 4, 2013) (Extension of Exemptions for Security-Based Swaps) (extending the expiration dates in interim final rules that provide exemptions under the Securities Act of 1933 (the “Securities Act”), the Exchange Act, and the Trust Indenture Act of 1939 for those security-based swaps that prior to July 16, 2011 were security-based swap agreements and are defined as “securities” under the Securities Act and the Exchange Act as of July 16, 2011 due solely to the provisions of Title VII of the Dodd-Frank Act).

<sup>10</sup> See FINRA Rule 0180 Notice of Filing.

<sup>4</sup> Public Law 111–203, 124 Stat. 1376 (2010).

<sup>5</sup> See Securities Exchange Act Release No. 64795 (July 1, 2011), 76 FR 39927 (July 7, 2011) (Order Granting Temporary Exemptions Under the Securities Exchange Act of 1934 in Connection With the Pending Revision of the Definition of “Security” To Encompass Security-Based Swaps, and Request for Comment) (the “Exemptive Release”). The term “security-based swap” is defined in Section 761 of the Dodd-Frank Act. See also Securities Exchange Act Release No. 67453 (July 18, 2012), 77 FR 48208 (August 13, 2012) (Further Definition of “Swap,” “Security-Based Swap,” and “Security-Based Swap Agreement”; Mixed Swaps; Security-Based Swap Agreement Recordkeeping).

<sup>6</sup> See Securities Exchange Act Release No. 64884 (July 14, 2011), 76 FR 42755 (July 19, 2011) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR–FINRA–2011–033) (“FINRA Rule 0180 Notice of Filing”). See also Securities Exchange Act Release No. 66156 (January 13, 2012), 77 FR 3027 (January 20, 2012) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR–FINRA–2012–004) (extending the expiration date of FINRA Rule 0180 to January 17, 2013); Securities Exchange Act Release No. 68471 (December 19, 2012), 77 FR 76113 (December 26, 2012) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR–FINRA–2012–056) (extending the expiration date of FINRA Rule 0180 to July 17, 2013).

<sup>7</sup> The current FINRA rulebook consists of: (1) FINRA Rules; (2) NASD Rules; and (3) rules

<sup>9</sup> 17 CFR 200.30–3(a)(12).

<sup>11</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> 17 CFR 240.19b–4(f)(6).