

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76367; File No. SR-BOX-2015-35]

### Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Business Continuity and Disaster Recovery Plans (“BC/DR plans”) Testing Requirements for Certain Options Participants in Connection With Regulation Systems Compliance and Integrity (“Regulation SCI”)

November 5, 2015.

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 October 26, 2015, BOX Options Exchange LLC (the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

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

The Exchange proposes to adopt business continuity and disaster recovery plans (“BC/DR plans”) testing requirements for certain Options Participants in connection with Regulation SCI. 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 adopt BOX Rule 2100 (Mandatory Participation in Testing of Backup Systems) to establish business continuity and disaster recovery plans (“BC/DR plans”) testing requirements for certain Options Participants in connection with Regulation SCI.

As adopted by the Commission, Regulation SCI applies to certain self-regulatory organizations (including the Exchange), alternative trading systems (“ATs”), plan processors, and exempt clearing agencies (collectively, “SCI entities”), and will require these SCI entities to comply with requirements with respect to the automated systems central to the performance of their regulated activities. Among the requirements of Regulation SCI is Rule 1001(a)(2)(v), which requires the Exchange and other SCI entities to maintain “[b]usiness continuity and disaster recovery plans that include maintaining backup and recovery capabilities sufficiently resilient and geographically diverse and that are reasonably designed to achieve next business day resumption of trading and two-hour resumption of critical SCI systems following a wide-scale disruption.”<sup>3</sup> The Exchange takes pride in the reliability and availability of its systems. Historically, Exchange systems have been up and available more than 99.9% of the time; yet as a precaution, the Exchange has put extensive time and resources toward planning for system failures and already maintains robust BC/DR plans consistent with the Rule. As set forth below, in connection with Regulation SCI, the Exchange is proposing to require certain Members to participate in testing of the operation of the Exchange’s BC/DR plans.

With respect to an SCI entity’s BC/DR plans, including its backup systems, paragraph (a) of Rule 1004 of Regulation SCI requires each SCI entity to: “[e]stablish standards for the designation of those members or participants that the SCI entity reasonably determines are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of such plans.”<sup>4</sup> Paragraph (b) of Rule 1004 further requires each SCI entity to “[d]esignate members or participants pursuant to the standards established in

paragraph (a) of [Rule 1004] and require participation by such designated members or participants in scheduled functional and performance testing of the operation of such plans, in the manner and frequency specified by the SCI entity, provided that such frequency shall not be less than once every 12 months.”<sup>5</sup> In order to comply with Rule 1004 of Regulation SCI, the Exchange proposes to adopt Rule 2100, governing mandatory participation in testing of Exchange backup systems, as described below.

First, in paragraph (a) of Rule 2100, the Exchange proposes to include language from paragraph (a) of Rule 1004 of Regulation SCI to summarize the Exchange’s obligation pursuant to such rule. Specifically, the Exchange proposes to state that “[p]ursuant to Regulation SCI and with respect to the Exchange’s business continuity and disaster recovery plans, including its backup systems, the Exchange is required to establish standards for the designation of Members that the Exchange reasonably determines are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of such plans.” The Exchange further proposes that paragraph (a) indicate that the “Exchange has established standards and will designate Participants according to those standards” as set forth in the proposed Rule. In addition, the Exchange proposes to make clear that all Members are permitted to connect to the Exchange’s backup systems as well as to participate in testing of such systems. Proposed paragraph (a) is consistent with the Commission’s adoption of Regulation SCI, which encouraged “SCI entities to permit non-designated members or participants to participate in the testing of the SCI entity’s BC/DR plans if they request to do so.”<sup>6</sup>

Second, in paragraph (b) of Rule 2100, the Exchange proposes to specify that it shall designate those BOX Participants that the Exchange reasonably determines are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of the Exchange’s business continuity and disaster recovery plans (“Designated BCP/DR Participants”). Designated BCP/DR Participants will be identified based on criteria determined by the Exchange and announced via Regulatory Circular, which may include the amount of volume transacted by the Participant in

<sup>5</sup> 17 CFR 242.1004(b).

<sup>6</sup> See SCI Adopting Release, supra note 4[*sic*] at 72350.

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

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

<sup>3</sup> 17 CFR 242.1001(a)(2)(v).

<sup>4</sup> 17 CFR 242.1004(a).

a class or on the Exchange in general, operational capacity, trading experience, and historical contribution to fair and orderly markets on the Exchange. Designated BCP/DR Participants will participate in functional and performance testing in the manner and frequency specified by the Exchange, which shall not be less than once every 12 months.

The Exchange notes that it encourages all Participants to connect to the Exchange's backup systems and to participate in testing of such systems. In fact, the Exchange provides connectivity free of charge to all Participants that connect to Exchange backup systems in order to help reduce the economic burden of maintaining connectivity to Exchange backup systems. However, in adopting the requirements of Rule 2100(b) the Exchange intends to subject to the Rule only those Participants that the Exchange believes are necessary to maintain fair and orderly markets at the Exchange.

In addition to paragraphs (a) and (b) described above, the Exchange also proposes to adopt Interpretive Material IM-2100-1, which would provide additional detail regarding the notice that will be provided to Participants that have been designated pursuant to subparagraph (b). As proposed, IM-2100-1 would state that Designated BCP/DR Participants will be identified based on criteria determined by the Exchange, consistent with proposed paragraph (b)(1), and announced via Regulatory Circular. Any changes to the standards by which a market participant might be determined to be a Designated BCP/DR Participant would be applied prospectively with reasonable advance notice as announced via Regulatory Circular. The Exchange would first announce the criteria by which market participants would be determined to be Designated BCP/DR Participants by November 3, 2015. The Exchange believes the proposed notice requirements are necessary to provide Participants with proper advance notice in the event they become subject to proposed Rule 2100(b). The proposed timeframes would also provide Participants with adequate time to become compliant with such Rule due to the necessary infrastructure changes it may take to connect to the Exchange's backup systems for a Participant that is not already connected.

## 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>7</sup> in general, and Section 6(b)(5) of the Act,<sup>8</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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. In particular, the proposal will ensure that the Participants necessary to ensure the maintenance of a fair and orderly market are properly designated consistent with Rule 1004 of Regulation SCI. Specifically, the proposal will adopt criteria with respect to the designation of Participants that are required to participate in the testing of the Exchange's BC/DR plans, as well as appropriate notification regarding such designation. As set forth in the SCI Adopting Release, “SROs have the authority, and legal responsibility, under Section 6 of the Exchange Act, to adopt and enforce rules (including rules to comply with Regulation SCI's requirements relating to BC/DR testing) applicable to their members or participants that are designed to, among other things, 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 of a free and open market and a national market system, and, in general, to protect investors and the public interest.”<sup>9</sup> The Exchange believes that this proposal is consistent with such authority and legal responsibility.

### *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. In this regard and as indicated above, the Exchange notes that the proposal is not a competitive proposal but rather is necessary for the Exchange's compliance with Regulation SCI, and is also consistent with a recent filings submitted by BATS and the CBOE.<sup>10</sup>

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

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> See SCI Adopting Release, supra note 4 at 72350.

<sup>10</sup> See Securities Exchange Act Release Nos. 76162 (October 15, 2015), 80 FR 63849 (October 21, 2015) (SR-BATS-2015-86); 76203 (October 20,

### *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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>12</sup> Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.<sup>13</sup> A proposed rule change filed under Rule 19b-4(f)(6)(iii)<sup>14</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>15</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to incorporate changes required under Regulation SCI, such as establishing standards for designating BC/DR participants, prior to the November 3, 2015 compliance date. Accordingly, the Commission designates the proposed rule change to be operative upon filing.<sup>16</sup>

2015), 80 FR 65263 (October 20, 2015) (SR-CBOE-2015-088).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>13</sup> In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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. The Exchange has satisfied this requirement.

<sup>14</sup> 17 CFR 240.19b-4(f)(6).

<sup>15</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>16</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on

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 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-2015-35 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-BOX-2015-35. 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 official business days between the hours of 10:00 a.m. and 3:00 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

efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-2015-35 and should be submitted on or before December 3, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

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

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**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31897; 812-14507]

### Good Hill Partners LP and Good Hill ETF Trust; Notice of Application

November 6, 2015.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c-1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act.

**APPLICANTS:** Good Hill Partners LP ("Good Hill Partners") and Good Hill ETF Trust (the "Trust").

**SUMMARY OF APPLICATION:** Applicants request an order that permits: (a) Series of certain open-end management investment companies to issue shares ("Shares") redeemable in large aggregations only ("Creation Units"); (b) secondary market transactions in Shares to occur at negotiated market prices; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days from the tender of Shares for redemption; and (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units.

**FILING DATES:** The application was filed on June 30, 2015 and amended on October 16, 2015.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may

request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 1, 2015, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested.

Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Brent J. Fields, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. Applicants, 1599 Post Road East, Westport, CT 06880.

**FOR FURTHER INFORMATION CONTACT:** Kay-Mario Vobis, Senior Counsel, at (202) 551-6728, or Mary Kay Frech, Branch Chief, at (202) 551-6821 (Division of Investment Management, Chief Counsel's Office).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

### Applicants' Representations

1. The Trust, a business trust organized under the laws of Massachusetts, intends to register with the Commission as an open-end management investment company. The applicants are requesting relief not only for the Trust and its initial series, Good Hill Short Duration Actively Managed ETF ("Initial Fund"), but also with respect to future series of the Trust, and to any registered open-end management investment companies or series thereof that may be created in the future and that utilizes active management investment strategies ("Future Funds" and collectively with the Initial Fund, the "Funds").<sup>1</sup> Funds may invest in equity securities or fixed income securities traded in the U.S. or non-U.S. markets or a combination of equity and

<sup>1</sup> All entities that currently intend to rely on the requested order are named as applicants and any Fund that currently intends to rely on the requested order is identified in the application. Any other entity that relies on the requested order in the future will comply with the terms and conditions of the application.

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