

Exchange must continually adjust its fees to remain competitive with other options exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

### 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 Act.<sup>12</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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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-GEMX-2022-06 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-GEMX-2022-06. 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-GEMX-2022-06 and should be submitted on or before June 10, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

J. Matthew DeLesDernier,

Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-94920; File No. SR-BOX-2022-18]

### Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend BOX Rule 7350 To Provide for the New "Liquidity Taker Event Report—Complex Orders"

May 16, 2022.

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 May 6, 2022, BOX Exchange LLC ("BOX" 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 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 BOX Rule 7350 to provide for the new "Liquidity Taker Event Report—Complex Orders." 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://boxoptions.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 currently offers the Liquidity Taker Event Report, which is a Participant<sup>3</sup> specific report and helps Participants to better understand by how much time a particular order missed executing against a specific order resting on the BOX Book.<sup>4</sup> The current Liquidity Taker Event Report is described under BOX Rule 7350(b).<sup>5</sup>

The Exchange now proposes to amend BOX Rule 7350 to provide for the new Liquidity Taker Event Report—Complex

<sup>3</sup> "Participant" means a firm, or organization that is registered with the Exchange pursuant to the Rule 2000 Series for purposes of participating in trading on a facility of the Exchange. See BOX Rule 100(a)(41).

<sup>4</sup> "BOX Book" means the electronic book of orders on each single option series maintained by the BOX Trading Host. See BOX Rule 100(a)(10).

<sup>5</sup> See Securities Exchange Act Release No. 94563 (March 31, 2022), 87 FR 19985 (April 6, 2022) (SR-BOX-2022-10) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt BOX Rule 7350, Reports and Market Data Products, to Provide for the New "Liquidity Taker Event Report").

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>13</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.

Orders” (the “Complex Order Report”) which would be substantially similar to the existing Liquidity Taker Event Report, but would include data concerning a Participant’s Complex Orders.<sup>6</sup> The Exchange also proposes to change the name of the existing Liquidity Taker Event Report to “Liquidity Taker Event Report—Simple Orders” and amend BOX Rule 7350(b) accordingly (the “Liquidity Taker Event Report—Simple Orders” shall be referred to herein as the “Simple Order Report”). This is a competitive filing that is based on a proposals recently submitted by Miami International Securities Exchange, LLC (“MIAX”) and MIAX Emerald, LLC (“MIAX Emerald”) and noticed by the Commission.<sup>7</sup>

The Simple Order Report includes information about incoming orders seeking to remove resting orders from the BOX Book. The proposed Complex Order Report would include the same information about incoming Complex Orders that seek to remove Complex Orders resting on the Complex Order Book.<sup>8</sup> Two other differences between the proposed Complex Order Report and the Simple Order Report are that the proposed Complex Order Report will include the Complex BBO (“cBBO”)<sup>9</sup> in place of the BBO and Complex NBBO (“cNBBO”)<sup>10</sup> in place of the NBBO, as described further below. These are minor differences designed to provide the BBO and NBBO that are relevant to trading Complex Orders. Otherwise, the content and dissemination of the proposed Complex Order Report set forth under amended BOX Rule 7350(c) will be identical to that of the Simple Order Report under BOX Rule 7350(b).

<sup>6</sup> The term “Complex Order” means any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, for the same account, in a ratio that is equal to or greater than one-to-three (3:33) and less than or equal to three-to-one (3:00) and for the purpose of executing a particular investment strategy. See BOX Rule 7240(a)(7).

<sup>7</sup> See Securities Exchange Act Release No. 94136 (February 2, 2022), 87 FR 7223 (February 8, 2022) (SR-EMERALD-2022-02) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Exchange Rule 531, Reports, to Provide for a New “Liquidity Taker Event Report—Complex Orders”). See also Securities Exchange Act Release No. 94135 (February 2, 2022), 87 FR 7217 (February 8, 2022) (SR-MIAX-2022-06). See also MIAX Rule 531(b) and MIAX Emerald Rule 531(b).

<sup>8</sup> The term “Complex Order Book” means the electronic book of Complex Orders maintained by the BOX Trading Host. See BOX Rule 7240(a)(8).

<sup>9</sup> The term “cBBO” means the best net bid and offer price for a Complex Order Strategy based on the BBO on the BOX Book for the individual options components of such Strategy. See BOX Rule 7240(a)(1).

<sup>10</sup> The term “cNBBO” means the best net bid and offer price for a Complex Order Strategy based on the NBBO for the individual options components of such Strategy. See BOX Rule 7240(a)(3).

Other than the difference set forth above, the Exchange represents that there are no other differences between Simple Orders and Complex Orders that would necessitate any other changes to the proposed Complex Order Report or render the effects or use of the proposed Complex Order Report as different from the Simple Order Report.

Like the Simple Order Report, the proposed Complex Order Report is an optional product<sup>11</sup> that would be made available to Participants. Currently, the Exchange provides real-time prices and analytics in the marketplace. The Exchange believes the additional data points from the matching engine outlined below may help Participants gain a better understanding about their Complex Order interactions with the Exchange. The Exchange believes the proposed Complex Order Report will provide Participants with an opportunity to learn more about better opportunities to access liquidity and receive better execution rates when trading Complex Orders. Specifically, the proposed Complex Order Report will provide greater visibility into the missed trading executions, which could allow Participants to optimize their trading systems to yield better execution results when trading Complex Orders. The proposed Complex Order Report will increase transparency and democratize information so that all firms that subscribe to the proposed Complex Order Report have access to the same information on an equal basis, even for firms that do not have the appropriate resources to generate a similar report regarding interactions with the Exchange. Like the Simple Order Report, none of the components of the proposed Complex Order Report include real-time market data.

Participants generally would use a liquidity accessing order if there is a high probability that it will execute against an order resting on the Complex Order Book. Like the Simple Order Report, the proposed Complex Order Report would identify by how much time an order that may have been marketable missed an execution. In the case of the proposed Complex Order Report, the incoming order would be a Complex Order submitted to trade against a resting order for a Complex Strategy. The proposed Complex Order Report will provide greater visibility into the missed trading executions, which could allow Participants to optimize their models and trading

systems to yield better execution results when trading Complex Orders.

Like the Simple Order Report, the proposed Complex Order Report will be a Participant specific report and will help Participants to better understand by how much time a particular order, in this case a Complex Order, missed executing against a specific resting order, thus allowing that Participant to determine whether it wants to invest in the necessary resources and technology to mitigate missed executions against certain resting orders on the Exchange’s Complex Order Book. For example, Participant A submits a Complex Order that is posted to the Complex Order Book and then, within 200 microseconds of the entry of Participant A’s Complex Order, Participant B enters a marketable Complex Order to execute against Participant A’s resting Complex Order. Immediately thereafter, Participant C also within 200 microseconds of the entry of Participant A’s Complex Order, sends a marketable Complex Order to execute against Participant A’s resting Complex Order. Because Participant B’s Complex Order is received by the Exchange before the Complex Order for Participant C, Participant B’s Complex Order executes against Participant A’s resting Complex Order. If Participant C were to subscribe to the proposed Complex Order Report, it would be provided the data points necessary for that firm to calculate by how much time they missed executing against Participant A’s resting Complex Order.

Like the Simple Order Report, the Exchange proposes to provide the proposed Complex Order Report on a T+1 basis. As further described below, the proposed Complex Order Report will be specific and tailored to the Participant that is subscribed to the Complex Order Report and any data included in the Complex Order Report that relates to a Participant other than the Participant receiving the Complex Order Report will be anonymized.

Similar to current BOX Rule 7350(b) regarding the Simple Order Report, amended Exchange Rule 7350(c) would provide that the proposed Complex Order Report is a daily report that provides a Participant (“Recipient Participant”) with its liquidity response time details for executions of an order resting on the Complex Order Book, where that Recipient Participant submitted a Complex Order that attempted to execute against such resting Complex Order within a certain timeframe.

<sup>11</sup> The Exchange intends to submit a separate filing with the Commission pursuant to Section 19(b)(1) to propose fees for the proposed Complex Order Report.

## Report Content

The content of the proposed Complex Order Report would be identical to the Simple Order Report, but for two minor differences discussed below. Paragraph (c)(1) of Rule 7350 would describe the content of the proposed Complex Order Report and delineate which information would be provided regarding the resting order,<sup>12</sup> the response that successfully executed against the resting order, and the response submitted by the Recipient Participant that missed executing against the resting order. It is important to note that the content of the proposed Complex Order Report will be specific to the Recipient Participant and the proposed Complex Order Report will not include any information related to any Participant other than the Recipient Participant. The Exchange will restrict all other market participants, including the Recipient Participant, from receiving another market participant's data.

**Resting Order Information.** The content of the proposed Complex Order Report set forth under amended Exchange Rule 7350(c)(1)(i) is identical to the content of the Simple Order Report under Exchange Rule 7350(b)(1)(i). However, as noted above, the content of the proposed Complex Order Report would be limited to incoming Complex Orders that seek to remove liquidity from the Exchange's Complex Order Book.

Exchange Rule 7350(c)(1)(i) would provide that the following information would be included in the proposed Complex Order Report regarding the resting order: (A) The time the resting order was received by the Exchange;<sup>13</sup> (B) symbol;<sup>14</sup> (C) order ID, which is a unique reference number assigned to a new Complex Order at the time of receipt;<sup>15</sup> (D) whether the Recipient Participant is an Affiliate<sup>16</sup> of the

Participant that entered the resting order;<sup>17</sup> (E) Whether the resting order is from a Public Customer or non-Public Customer;<sup>18</sup> (F) side (buy or sell);<sup>19</sup> and (G) displayed price and size of the resting order.<sup>20</sup>

**Execution Information.** Proposed Exchange Rule 7350(c)(1)(ii) would provide that the following information would be included in the proposed Complex Order Report regarding the execution of the resting order: (A) Complex BBO ("cBBO"), as defined in Rule 7240(a)(1), at the time of the execution;<sup>21</sup> (B) the Complex NBBO ("cNBBO"), as defined in Rule 7240(a)(3), at the time of execution;<sup>22</sup> (C) the time the first response that executes against the resting order was received by the Exchange and the size of the execution and type of the response;<sup>23</sup> (D) the time difference between the time the resting order was received by the Exchange and the time the first response that executes against the resting order was received by the

percent or more of a class of voting security or has the power to sell or direct the sale of 25 percent or more of a class of voting securities of the Person; or (iii) in the case of a partnership, has contributed, or has the right to receive upon dissolution, 25 percent or more of the capital of the partnership. See BOX Rule 100(a)(1).

<sup>17</sup> This information is also included in the Simple Order Report. See Exchange Rule 7350(b)(1)(i)(D). The Report will simply indicate whether the Recipient Participant is an Affiliate of the Participant that entered the resting order and not include any other information that may indicate the identity of the Participant that entered the resting order.

<sup>18</sup> This information is also included in the Simple Order Report. See Exchange Rule 7350(b)(1)(i)(E).

<sup>19</sup> This information is also included in the Simple Order Report. See Exchange Rule 7350(b)(1)(i)(F).

<sup>20</sup> This information is also included in the Simple Order Report. See Exchange Rule 7350(b)(1)(i)(G). The Exchange notes that the displayed price and size are also disseminated via the Exchange's proprietary data feeds.

<sup>21</sup> Similar information is included in the Simple Order Report. Exchange Rule 7350(b)(1)(ii)(A) would similarly provide that if the resting order executes against multiple contra-side responses, only the cBBO at the time of the execution against the first response will be included. The Exchange is proposing to include this information to provide context to the Participants regarding what BOX's market looked like at the time the order was submitted.

<sup>22</sup> Similar information is included in the Simple Order Report. See Exchange Rule 7350(b)(1)(ii)(B). Exchange Rule 7350(b)(1)(ii)(B) would similarly provide that if the resting order executes against multiple contra-side responses, only the cNBBO at the time of the execution against the first response will be included. The Exchange is proposing to include this information to provide context to the Participants regarding what the away market looked like at the time the order was submitted.

<sup>23</sup> This information is also included in the Simple Order Report. See Exchange Rule 7350(b)(1)(ii)(C). The Exchange notes that the type of the response provides whether the response was received from a Public Customer or non-Public Customer.

Exchange;<sup>24</sup> and (E) whether the response was entered by the Recipient Participant.<sup>25</sup> If the resting order executes against multiple contra-side responses, only the cBBO and cNBBO at the time of the execution against the first response will be included.

The content of the proposed Complex Order Report set forth under amended Exchange Rule 7350(c)(1)(ii) is identical to the content of the Simple Order Report under Exchange Rule 7350(b)(1)(ii) with two minor differences. The Simple Order Report includes the BBO, which is the Exchange's best bid or offer, and the NBBO, which is the best bid or offer of away exchanges. In their place, the proposed Complex Order Report would include the Complex BBO and Complex NBBO. The Exchange is providing the Complex BBO and Complex NBBO because both are relevant and tailored to a Participant that is entering a Complex Order to remove liquidity as part of a Complex Strategy and, therefore, more germane to the purpose of the Complex Order Report.

**Recipient Participant's Response Information.** The content of the proposed Complex Order Report set forth under proposed Rule 7350(c)(1)(iii) is identical to the content of the Simple Order Report under Rule 7350(b)(1)(iii). Proposed Rule 7350(c)(1)(iii) would provide that the following information would be included in the Complex Order Report regarding Complex Order(s) sent by the Recipient Participant: (A) Recipient Participant ID;<sup>26</sup> (B) the time difference between the time the first response that executes against the resting order was received by the Exchange and the time of each Complex Order sent by the Recipient Participant, regardless of whether it executed or not;<sup>27</sup> (C) Time difference between the time the resting order was received by the Exchange and the time the response submitted by the Recipient Participant was received by the Exchange;<sup>28</sup> (D) size and type of each Complex Order submitted by the Recipient Participant;<sup>29</sup> and (E) response ID, which is a unique reference

<sup>24</sup> The time difference would be provided in nanoseconds. This information is also included in the Simple Order Report. See Exchange Rule 7350(b)(1)(ii)(D).

<sup>25</sup> This information is also included in the Simple Order Report. See Exchange Rule 7350(b)(1)(ii)(E).

<sup>26</sup> This information is also included in the Simple Order Report. See Exchange Rule 7350(b)(1)(iii)(A).

<sup>27</sup> This information is also included in the Simple Order Report. See Exchange Rule 7350(b)(1)(iii)(B).

<sup>28</sup> This information is also included in the Simple Order Report. See Exchange Rule 7350(b)(1)(iii)(C).

<sup>29</sup> This information is also included in the Simple Order Report. See Exchange Rule 7350(b)(1)(iii)(D).

<sup>12</sup> Like the Simple Order Report, only displayed orders will be included in the proposed Complex Order Report. The Exchange notes that it does not currently offer any nondisplayed order types on its options trading platform.

<sup>13</sup> This information is also included in the Simple Order Report. See Exchange Rule 7350(b)(1)(i)(A).

<sup>14</sup> This information is also included in the Simple Order Report. See Exchange Rule 7350(b)(1)(i)(B).

<sup>15</sup> This information is also included in the Simple Order Report. See Exchange Rule 7350(b)(1)(i)(C).

<sup>16</sup> The term "Affiliate" means, with respect to any Person, any other Person controlling, controlled by or under common control with, such Person. As used in this definition, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise with respect to such Person. A Person is presumed to control any other Person, if that Person: (i) Is a director, general partner, or officer exercising executive responsibility (or having similar status or performing similar functions); (ii) directly or indirectly has the right to vote 25

number attached to the response by the Recipient Participant.<sup>30</sup>

#### Timeframe for Data Included in Report

The timeframe for data to be included the proposed Complex Order Report set forth under proposed Exchange Rule 7350(c)(2) is identical to the timeframe for data included in the Simple Order Report under Exchange Rule 7350(b)(2). Paragraph (c)(2) of Exchange Rule 7350 would provide that the Complex Order Report would include the data set forth under Exchange Rule 7350(c)(1) described above for executions and contra-side responses that occurred within 200 microseconds of the time the resting order was received by the Exchange. The Exchange believes 200 microseconds is the appropriate timeframe because it understands most Participants that would be interested in subscribing to the proposed Complex Order Report would submit their incoming liquidity removing Complex Orders within 200 microseconds of the time a contra-side Complex Order is posted to the Complex Order Book.

#### Scope of Data Included in the Report

The scope of data to be included [sic] the proposed Complex Order Report set forth under proposed Exchange Rule 7350(c)(3) is identical to the scope of data included in the Simple Order Report under Exchange Rule 7350(b)(3). Paragraph (c)(3) of Exchange Rule 7350 would provide that the Complex Order Report will only include trading data related to the Recipient Participant and, subject to the proposed paragraph (4) of Exchange Rule 7350(c) described below, will not include any other Participant's trading data other than that listed in paragraphs (1)(i) and (ii) of Exchange Rule 7350(c), described above. Like the Simple Order Report, the proposed Complex Order Report will not include information related to any Participant other than the Recipient Participant.

#### Historical Data

Proposed paragraph (c)(4) of Exchange Rule 7350 would specify that the Complex Order Report will contain historical data from the prior trading day and will be available after the end of the trading day, generally on a T+1 basis. This is identical to the timeframe for when the Simple Order Report is made available.<sup>31</sup>

#### 2. Statutory Basis

The Exchange believes that the proposal is consistent with the

<sup>30</sup> This information is also included in the Simple Order Report. See Exchange Rule 7350(a)(1)(iii)(E).

<sup>31</sup> See Exchange Rule 7350(b)(4).

requirements of Section 6(b) of the Act,<sup>32</sup> in general, and Section 6(b)(5) of the Act.<sup>33</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>34</sup> requirements that the rules of an exchange be 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 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. This proposal is in keeping with those principles in that it promotes increased transparency through the dissemination of the optional Complex Order Report to those interested in subscribing to receive the data. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>35</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed Report is similar to reports previously adopted by MIAX and MIAX Emerald.<sup>36</sup>

But for three differences, the description of the proposed Complex Order Report under Exchange Rule 7350(c) is identical to that of the Simple Order Report under Exchange Rule 7350(b). The first difference concerns the content of the proposed Complex Order Report, which would be limited to incoming Complex Orders that seek to remove liquidity from the Exchange's Complex Order Book. The Simple Order Report includes information about incoming orders seeking to remove liquidity from the BOX Book. This difference is immaterial because both reports include basically the same information and seek to serve the same purpose, to provide the Recipient Participant with the same type of data necessary for them to evaluate their own trading behavior and order interactions on the Exchange; however, the Simple Order Report contains data relevant to the BOX Book while the proposed Complex Order Report contains data relevant to the Complex Order Book.

The other two differences are that the Simple Order Report includes the BBO, which is the Exchange's best bid or

offer, and the NBBO, which is the best bid or offer of away exchanges. In their place, the proposed Complex Order Report would include the cBBO and cNBBO. The Exchange is providing the cBBO and cNBBO because both are relevant and tailored to a Participant that is entering a Complex Order to remove liquidity as part of a Complex Strategy and, therefore, more germane to the purpose of the Complex Order Report. The Exchange believes these differences are appropriate because providing the cBBO in place of the BBO and the cNBBO in place of the NBBO are more germane to the purpose of the proposed Complex Order Report.

Like the Simple Order Report, the Exchange believes the proposed Complex Order Report will serve to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protect investors and the public interest by providing Participants access to information regarding their trading activity that they may utilize to evaluate their own Complex Order trading behavior and order interactions. Also, like the Simple Order Report, the proposed Complex Order Report is designed for Participants that are interested in gaining insight into latency in connection with Complex Orders that failed to execute against an order resting on the Exchange's Complex Order Book by providing those Participants data to analyze by how much time their Complex Order may have missed an execution against a contra-side order resting on the Complex Order Book. The Exchange believes that providing this optional latency data to interested Participants is consistent with facilitating transactions in securities, removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest because it provides greater visibility into the latency of Participants' incoming orders that they may use to optimize their models and trading systems in an effort to yield better execution results by calculating by how much time their order may have missed an execution. This would, in turn, benefit other market participants who may experience better executions on the Exchange because those that use the proposed Complex Order Report may recalibrate their trading models and then increase their trading on the Exchange and volume of liquidity removing orders. This could lead to an increase in

<sup>32</sup> 15 U.S.C. 78f(b).

<sup>33</sup> 15 U.S.C. 78f(b)(5).

<sup>34</sup> 15 U.S.C. 78f(b)(5).

<sup>35</sup> *Id.*

<sup>36</sup> See *supra* note 7.

incoming liquidity removing orders resulting in higher execution rates for Participants who primarily place resting orders on the Complex Order Book. The proposed Complex Order Report may benefit other market participants who would receive greater fill rates, thereby facilitating transactions in securities and perfecting the mechanism of the national market system.

The Exchange believes this proposal promotes just and equitable principles of trade because it would provide latency information in a systematized way and standardized format to any Participant that chooses to subscribe to the proposed Complex Order Report. As a result, the proposal would also remove impediments to and perfect the mechanism of a free and open market and a national market system by making latency information for liquidity-seeking orders available in a more equalized manner. The proposal further promotes just and equitable principles of trade by increasing transparency, particularly for Recipient Participants that may not have the expertise to generate the same information on their own. The proposed Complex Order Report may better enable Recipient Participants to increase the fill rates for their liquidity-seeking Complex Orders. At the same time, as is also discussed above, the Complex Order Report promotes just and equitable principles of trade and protects investors and the public interest because it is designed to prevent a Recipient Participant from learning other Participants' sensitive trading information. The Complex Order Report would not be a real-time market data product, as it would provide only historical trading data for the previous trading day, generally on a T+1 basis. In addition, the data in the Complex Order Report regarding incoming orders that failed to execute would be specific to the Recipient Participant's Complex Orders, and other information in the proposed Complex Order Report regarding resting orders and executions would be anonymized if it relates to a Participant other than the Recipient Participant.

The Complex Order Report generally contains three buckets of information. The first two buckets include information about the resting order and the execution of the resting order. Some

of this information is available from other public sources or derivable from other public sources, such as OPRA and the Exchange's proprietary data feed, or is similar to information included in a report offered by another exchange. For example, OPRA provides bids, offers, and consolidated last sale and quotation information for options trading on all national securities exchanges, including the Exchange. In addition, the Exchange offers the High-Speed Vendor Feed ("HSVF") which broadcasts BOX's real-time trading and statistical information (comprised of trades, quotes, market depth, complex order strategies, bulletins, summaries, auctions, and other statistics).<sup>37</sup>

The first bucket of information contained in the Complex Order Report for the resting order includes the time the resting order was received by the Exchange, the symbol, unique reference number assigned at the time of receipt, side (buy or sell), and the displayed price and size of the resting order. Further, the symbol, whether the resting order is from a Public Customer or non-Public Customer, side (buy or sell), and displayed price and size are also available either via OPRA or the Exchange's HSVF.<sup>38</sup> The first bucket of information also indicates whether the Recipient Participant is an Affiliate of the Participant that entered the resting order. This data field will not indicate the identity of the Participant that entered the resting order and would simply allow the Recipient Participant to better understand the scenarios in which it may execute against the orders of its Affiliates.<sup>39</sup>

The second bucket of information contained in the proposed Complex Order Report regards the execution of the resting order and includes the cBBO and cNBBO at the time of execution. These data points are also available via the Exchange's HSVF. The second

<sup>37</sup> See current BOX Rule 7130(a)(2). The Exchange notes that the cBBO and cNBBO are provided in BOX's HSVF. BOX makes the HSVF available to all market participants pursuant to current Rule 7130(a)(2).

<sup>38</sup> The Exchange also notes that the proposed information in the first bucket is identical to the information provided in the Simple Order Report. See BOX Rule 7350(b)(1)(i).

<sup>39</sup> The Exchange surveils to monitor for aberrant behavior related to internalized trades and identify potential wash sales.

bucket of information will also indicate whether the response was entered by the Recipient Participant. This data point is simply provided as a convenience. If not entered by the Recipient Participant, this data point will be left blank so as not to include any identifying information about other Participant activity. The second bucket of information also includes the size, time and type of first response that executes against the resting order; as well as the time difference between the time the resting order and first response that executes against the resting order are received by the Exchange. These data points would assist the Recipient Participant in analyzing by how much time their order may have missed an execution against a contra-side order resting on the Complex Order Book.

The third bucket of information is about the Recipient Participant's response(s) and the time their response(s) is received by the Exchange. This includes the time difference between the time the first response that executes against the resting order was received by the Exchange and the time of each response sent by the Recipient Participant, regardless of whether it executed or not. Also included is the time difference between the time the resting order was received by the Exchange and the time the response submitted by the Recipient Participant was received by the Exchange. As stated above, these data points would assist the Recipient Participant in analyzing by how much time their order may have missed an execution against a contra-side order resting on the Complex Order Book. This bucket would also include the size and type of each response submitted by the Recipient Participant, the Recipient Participant identifier, and a response reference number which is selected by the Recipient Participant. Each of these data points are unique to the Recipient Participant and should already be known by Recipient Participant even if not included in the proposed Report.<sup>40</sup>

<sup>40</sup> The Exchange notes that the proposed information in the third bucket is identical to the information provided in the Simple Order Report. See BOX Rule 7350(b)(1)(iii).

The Exchange notes one additional data point included in the third bucket of information that is not included in the information provided in MIAX Emerald's Complex Order Liquidity Taker Event Report. Specifically, the Exchange proposes to include the time difference between the time the resting order was received by the Exchange and the time the response submitted by the Recipient Participant was received by the Exchange.<sup>41</sup> As discussed herein, the Exchange believes that providing this information is reasonable and appropriate as this data point is being derived from information already provided in the Complex Order Report that is identical to information already provided in the MIAX Emerald Complex Order Liquidity Taker Event Report. Specifically, Participants can take the sum of the time difference between the time the resting order was received by the Exchange and the time the first response that executes against the resting order was received by the Exchange<sup>42</sup> and the time difference between the first response that executes against the resting order was received by the Exchange and the time of each response sent by the Recipient Participant, regardless of whether it executed or not.<sup>43</sup> By summing these values, the Participant could derive the time difference between the time the resting order was received by the Exchange and the time the response submitted by the Recipient Participant was received by the Exchange, regardless of whether it executed or not. This time difference would be provided in nanoseconds. Further, the Exchange believes providing this additional information in the proposed Complex Order Report is reasonable and appropriate as it will provide greater visibility into the missed trading execution, which will allow Participants to optimize their trading systems to yield better execution results.

The Exchange proposes to provide the Complex Order Report on a voluntary basis and no Participant will be required to subscribe to the Complex Order Report. The Exchange notes that there is no rule or regulation that requires the Exchange to produce, or that a Participant elect to receive, the Complex Order Report. It is entirely a business decision of each Participant to subscribe to the Complex Order Report. The Exchange proposes to offer the Complex Order Report as a convenience to Participants to provide them with additional information regarding trading

activity on the Exchange on a delayed basis after the close of regular trading hours. A Participant that chooses to subscribe to the Complex Order Report may discontinue receiving the Complex Order Report at any time if that Participant determines that the information contained in the Complex Order Report is no longer useful.

In summary, the proposed Complex Order Report will help to protect a free and open market by providing additional data (offered on an optional basis) to the marketplace and by providing investors with greater opportunities to understand by how much time a particular order missed executing against a specific order resting on the Complex Order Book. This, in turn, could allow Participants to optimize their models and trading systems to yield better execution results when trading Complex Orders. Additionally, the proposal would not permit unfair discrimination because the proposed Complex Order Report will be available to all Exchange Participants.

#### *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.

#### *Inter-Market Competition*

The proposed Complex Order Report will allow the Exchange to provide a new option for Participants to receive historical latency related data. The proposed Complex Order Report will also further enhance inter-market competition between exchanges by allowing the Exchange to expand its product offerings. The latency information that would be provided in the proposed Complex Order Report would enhance competition between exchanges that offer complex order functionality because it would allow Recipient Participants to recalibrate their models and trading strategies to improve their overall trading experience on the Exchange. This may improve the Exchange's overall trading environment resulting in increased liquidity and order flow on the Exchange. In response, other exchanges may similarly seek ways to provide latency related data in an effort to improve their own market quality. The Exchange notes that the rule change is being proposed as a competitive response to filings submitted by MIAX and MIAX Emerald

that were recently noticed by the Commission.<sup>44</sup>

#### *Intra-Market Competition*

The Exchange does not believe the proposed Complex Order Report will have an inappropriate burden on intra-market competition between Recipient Participants and other Participants who choose not to receive the Complex Order Report. As discussed above, the first two buckets of information included in the Complex Order Report contain information about the resting order and the execution of the resting order, both of which are generally available to Participants that choose not to receive the Complex Order Report from other sources, such as by deriving these data points from OPRA or obtaining them from the Exchange's HSVF. The third bucket of information is about the Recipient Participant's response and the time their response is received by the Exchange, information which the Recipient Participant would be able to obtain without receiving the Complex Order Report. Additionally, some Participants may already be able to derive a substantial amount of the same data that is provided by some of the components based on their own executions and algorithms.

In sum, if the proposed Complex Order Report is unattractive to Participants, Participants will opt not to receive it. Additionally, the proposal would not permit unfair discrimination because the proposed Report will be available to all Exchange Participants. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Participants or competing order execution venues to maintain their competitive standing in the financial markets.

#### *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**

Because the foregoing 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 from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section

<sup>41</sup> See Proposed Rule 7350(c)(1)(iii)(C).

<sup>42</sup> See Proposed Rule 7350(c)(1)(ii)(D).

<sup>43</sup> See proposed Rule 7350(b)(1)(iii)(B).

<sup>44</sup> See supra note 7.

19(b)(3)(A)(iii) of the Act<sup>45</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>46</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>47</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>48</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. The Exchange states that waiver of the 30-day operative delay would benefit investors by enabling the Exchange to make latency information for liquidity-seeking Complex Orders available to Exchange Participants in a more equalized and timely manner, allow the Exchange to compete with other exchanges that currently offer substantially similar reports for complex orders,<sup>49</sup> and provide the Exchange with an opportunity to attract additional order flow from Participants that find value in the proposed report. The Commission finds that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. As discussed above, the Exchange states that the proposed reports could provide Participants that subscribe to the reports with increased visibility into missed executions against orders resting on the Exchange's Complex Order Book, thereby allowing Participants to determine whether to invest in the resources and technology needed to mitigate missed executions. The Exchange notes that all firms that choose to subscribe to the proposed reports, which are optional, will have access to the same information on an equal basis, including firms that lack the resources to generate similar reports regarding interactions with the Exchange. In addition, the proposal does not raise new or novel regulatory issues because other options exchanges currently offer substantially similar reports for complex orders.<sup>50</sup> For these reasons, the Commission designates the proposal operative upon filing.<sup>51</sup>

<sup>45</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>46</sup> 17 CFR 240.19b-4(f)(6). 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>47</sup> 17 CFR 240.19b-4(f)(6).

<sup>48</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>49</sup> See *supra* note 7.

<sup>50</sup> See *supra* note 7.

<sup>51</sup> For purposes only of accelerating the operative date of this proposal, the Commission has

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-2022-18 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-BOX-2022-18. 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

considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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-2022-18, and should be submitted on or before June 10, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>52</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-188, OMB Control No. 3235-0212]

**Submission for OMB Review;  
Comment Request; Extension: Rule 12b-1**

*Upon Written Request, Copies Available*

*From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension of the previously approved collection of information discussed below.

Rule 12b-1 under the Investment Company Act of 1940 (17 CFR 270.12b-1) permits a registered open-end investment company ("fund") to bear expenses associated with the distribution of its shares, provided that the fund complies with certain requirements, including, among other things, that it adopt a written plan ("rule 12b-1 plan") and that it preserves in writing any agreements relating to the rule 12b-1 plan. The rule in part requires that (i) the adoption or material amendment of a rule 12b-1 plan be approved by the fund's directors, including its independent directors, and, in certain circumstances, its shareholders; (ii) the board review quarterly reports of amounts spent under the rule 12b-1 plan; and (iii) the board, including the independent directors, consider continuation of the rule 12b-1 plan and any related

<sup>52</sup> 17 CFR 200.30-3(a)(12).