

Government and other entities, as well as proposals that may not yet be feasible with the current state of technology but might become feasible in the next decade.

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Deputy General Counsel.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-96723; File No. SR-BOX-2023-03]

### Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish a New Service and Related Fees for Use of the BOX Options Market LLC (“BOX”) Trade Management System

January 20, 2023.

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 January 6, 2023, BOX 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 Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders [the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to establish a new service and related fees for use of the BOX Options Market LLC (“BOX”) Trade Management System. 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 <https://rules.boxexchange.com/rulefilings>.

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

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

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

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

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The purpose of the proposed rule change is to establish a new service and related fees for the use of BOX’s Trade Management System (“TMS”).

TMS is a system licensed by BOX that allows users to query trades, correct trades, and/or allocate trades to the appropriate accounts and sub-accounts for clearing (collectively known as “trade information”). After a trade is executed, a Participant may need to update or correct the trade information before the trade is submitted to the Options Clearing Corporation (“OCC”) for clearing. Currently, TMS is accessed only by the BOX Market Operations Center (“MOC”). If a Participant wishes to make any corrections or updates to trade information, they must contact the MOC or produce a detailed file for automated processing by BOX.

Participants have requested that BOX allow them to access TMS directly so that they may correct their trade information themselves without interacting with the MOC or submitting a detailed file. The Exchange believes that providing direct access to TMS to Participants will allow them to more efficiently manage their back office clearing operations and assist them in providing accurate clearing information to the OCC. As such, the Exchange now proposes to make TMS available to BOX Participants, which will allow Participants the ability to correct certain OCC-required trade information. Specifically, TMS will allow Participants to correct a trade’s account number, sub-account number, Clearing Member Trade Assignment (“CMTA”) clearing firm, Clearing Participant Give-Up, quantity, account type, and other information connected to trades.

The Exchange also proposes to establish a subscription fee of \$350 per

month, per user for the use of TMS.<sup>5</sup> The Exchange notes that use of TMS is completely voluntary and the subscription fee will be charged to all Participants equally based on the number of users requested. The Exchange also notes that Participants who do not wish to use TMS will still be able to make any corrections or updates to trade information by contacting the MOC or producing a detailed file for automated processing by BOX.<sup>6</sup>

The Exchange notes that other options exchanges make similar tools available to firms where the firm, not Exchange personnel, may correct trade information that is submitted to the OCC.<sup>7</sup> The Exchange further notes that another exchange charges its participants a monthly fee per user for a similar product.<sup>8</sup>

###### 2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of section 6(b) of the Act,<sup>9</sup> in general, and sections 6(b)(4) and section 6(b)(5) of the Act,<sup>10</sup> in particular, because 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, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange notes that offering the use of TMS to BOX Participants is consistent with the Act in that the use of TMS is completely voluntary and the subscription fees will be imposed on all

<sup>5</sup> For example, Firm A is a BOX Participant who wishes to access TMS for two separate users. Under this proposal, Firm A would be assessed a fee of \$700 per month for their use of TMS (two users at \$350 equals \$700).

<sup>6</sup> The Exchange notes that other exchanges charge for performing certain post-trade adjustments on behalf of permit holders. See NYSE Arca Options Fees and Charges, Service Fees and NYSE American Options Fee Schedule, Section VIII (charging \$5.00 per trade adjusted for Post-Trade Adjustments that do not affect the contractual terms of a trade, the Service Fee would only apply when the Exchange performs Post-Trade Adjustments on behalf of ATP or OTP Holders when such Post-Trade Adjustments could otherwise have been self-executed. ATP or OTP Holders may continue to make these Post-Trade Adjustments on their own without incurring the Service Fee).

<sup>7</sup> See e.g., the Nasdaq Options Maintenance Tool, the Cboe Options Clearing Editor, the MIAA Member Firm Portal, and the NYSE Pillar Trade Ops Portal.

<sup>8</sup> The Nasdaq Stock Market LLC (“Nasdaq”) charges \$200 per month, per user. See Nasdaq Rules Options 7 Pricing Schedule, Section 6 Nasdaq Options Maintenance Tool.

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(4) and (5).

Participants equally based on the number of users requested. Further, the Exchange believes that the proposed fee discussed herein is equitable and not unfairly discriminatory because the use of TMS is voluntary and subscription fees will be charged to all Participants equally based on the number of users provisioned to use TMS. As noted above, Participants use of TMS is an optional alternative to the current processes of (1) requesting transactions to be updated by the MOC or (2) producing a detailed file for automated processing by BOX. The Exchange believes that providing TMS to Participants will allow Participants to more efficiently manage their back office clearing operations and assist them in providing accurate clearing information to the OCC. The Exchange notes that trade information in TMS is specific to each Participant and their trades, allowing them to conveniently verify, update, and/or correct transaction information as needed.

Further, the Exchange believes that the proposed fee is reasonable and appropriate as it will cover the costs associated with establishing the use of TMS for Participants that request it and administering the service to those Participants. Further, the Exchange notes that the proposed fee is nominal and is not designed to provide a revenue stream to BOX but rather to offset the costs associated with allowing Participants to access and use TMS. Specifically, the Exchange notes that the proposed fee is intended to cover the costs of establishing the service, and monitoring and supporting the access and use of TMS by Participants, among other things. As such, the Exchange believes the proposed fee is reasonable and appropriate.

As noted herein, Participants have requested this functionality and each Participant may choose whether the value added is worth the cost of the subscription. The Exchange believes offering TMS to BOX Participants is consistent with the Act because TMS provides Participants with the ability to directly update their transactions, at their convenience, and immediately verify the results of their modifications. Using TMS is purely a matter of convenience and is wholly voluntary by the Participant. The Exchange again notes that another exchange charges a monthly fee per user for a similar tool.<sup>11</sup>

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

The proposed rule change would allow the Exchange to establish a new

service and related fees for the use of BOX's TMS on a voluntary basis. The Exchange notes that the subscription fee will be charged to all Participants equally based on the number of users requested. Any Participants who do not wish to use TMS will still be able to make any corrections or updates to trade information by contacting the MOC or producing a detailed file for automated processing by BOX. Further, the Exchange notes that another exchange offers a similar service and charges a monthly fee per user for a similar tool.<sup>12</sup> As such, the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket 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**

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 19(b)(3)(A) of the Act<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>15</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>16</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of

investors and the public interest. According to the Exchange, providing immediate access to BOX's TMS will offer BOX Participants the option to more efficiently manage their back office clearing operations and will assist them in providing accurate clearing information to the OCC. Moreover, other exchanges offer similar services to their members. Accordingly, the proposal does not raise novel issues. For these reasons, the Commission designates that the proposed rule change to be operative immediately upon filing.<sup>17</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BOX-2023-03 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-2023-03. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule

<sup>12</sup> See *supra*, note 8.

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and 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. The Exchange has satisfied this requirement.

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

<sup>16</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>17</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>11</sup> See *supra*, note 8.

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-BOX-2023-03 and should be submitted on or before February 16, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Sherry R. Haywood,**  
Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-96722; File No. SR-ICEEU-2023-001]

### Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to Clearing Fees for ICE Futures Europe Gilt Futures and Options and Euribor Options Contracts

January 20, 2023.

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 January 9, 2023, ICE Clear Europe Limited ("ICE Clear Europe" or the "Clearing House") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes described in

Items I, II and III below, which Items have been prepared primarily by ICE Clear Europe. ICE Clear Europe filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> such that the proposed rule change was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

ICE Clear Europe Limited ("ICE Clear Europe" or the "Clearing House") proposes changes to certain of its clearing fees for ICE Futures Europe Gilt Futures and Options and Euribor Options contracts.<sup>5</sup>

#### II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe 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. ICE Clear Europe has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

*(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

##### (a) Purpose

ICE Clear Europe is proposing to increase certain clearing fees for ICE Futures Europe ("IFEU") Gilt Futures and Options and Euribor Options contracts. The fee changes are intended to provide revenue to support the further development of IFEU's Gilt markets and bring fees related to these contracts in line with the fees of other government bond futures and options traded on other Exchanges. For Euribor options, the changes would be made to align fees with existing ICE Clear Europe clearing fees for the underlying

Euribor futures.<sup>6</sup> The amendments do not otherwise change the terms and conditions of the relevant contract.

Fees with respect to the Gilt contracts have not been changed since 2017. The fee increases are intended to align fees for the Gilt contracts more closely with those of government bond futures and options traded on other exchanges. In addition, there is only limited open interest in certain Gilt contracts (particularly the short, medium and ultra-long contracts). The proposed fee increases (together with planned increases in trading fees at IFEU) are intended to provide revenue to support additional business development activity with respect to these contracts, including funding liquidity provider and other incentives that may be adopted in the future. In ICE Clear Europe's experience with similar contracts, such incentives will likely be needed in order to generate additional market activity and liquidity in contacts with limited existing open interest.

With respect to Euribor options, the Clearing House proposes to increase the clearing fees to align with the underlying Euribor futures contracts. ICE Clear Europe believes that the changes will eliminate an unnecessary distinction between the cost of trading futures and options. ICE Clear Europe notes that clearing fees with respect to these contracts have not changed since ICE Clear Europe commenced clearing them in 2014.

The fee tables below set forth the proposed clearing fee changes. The proposed new fees are intended to come into effect on February 1, 2023, subject to regulatory approval. ICE Clear Europe intends, together with IFEU, to publish a Circular to inform market participants of the changes in advance of such proposed effective date.

#### Gilt Futures and Options Proposed Exchange and Clearing Fees

Below is a table showing the existing and proposed clearing fees and a table showing the proposed amended Exchange and Clearing fees.

<sup>6</sup> IFEU is contemporaneously increasing certain trading fees relating to these contracts, and is expected to announce such increases by circular in advance of implementation.

<sup>7</sup> Clearing fees applicable to deliveries would be unchanged. Fee information for deliveries is included in the table for completeness.

<sup>8</sup> Clearing fees applicable to futures contracts and futures/basis block transactions would be unchanged. Fee information for these contracts is included for completeness.

<sup>18</sup> 17 CFR 200.30-3(a)(12).

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

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

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

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

<sup>5</sup> Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules.