SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations: The NASDAQ Stock Market LLC; Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to the Listing and Trading of the Shares of the Elkhorn Dorsey Wright Commodity Rotation Portfolio of Elkhorn ETF Trust

April 22, 2016.

I. Introduction

On February 26, 2016, The NASDAQ Stock Market LLC ("Exchange" or "Nasdaq") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[20] and Rule 19b–4 thereunder,[21] a proposed rule change to list and trade shares ("Shares") of the Elkhorn Dorsey Wright Commodity Rotation Portfolio ("Fund"). The proposed rule change was published for comment in the Federal Register on March 16, 2016.[22] The Commission received one comment[23] on April 15, 2016, the Exchange filed Amendment No. 1 to the proposed rule change.[24] This order

24 In Amendment No. 1, which amended and replaced the proposed rule change in its entirety, the Exchange made the following clarifications: (1) The Fund may invest in commercial paper only if it has received the highest rating from at least one nationally recognized statistical rating organization or, if unrated, has been judged by the Adviser (as defined herein) and/or a Sub-Adviser (as defined herein) to be of comparable quality; (2) The Fund and the Subsidiary (as defined herein) will not invest in leveraged or inverse leveraged securities of investment companies; (3) the commodity-linked instruments in which the Fund invests will be listed and traded in the U.S. on registered exchanges; (4) with respect to the futures contracts and exchange-traded options on futures contracts in which the Subsidiary invests, not more than 10% of the weight (to be calculated as the value of the contract divided by the total absolute notional value of the Subsidiary’s futures and options contracts) of the futures and options contracts held by the Subsidiary in the aggregate shall consist of instruments whose principal trading market (a) is not a member of the Intermarket Surveillance Group ("ISG") or (b) is a market with which the Exchange does not have a comprehensive surveillance sharing agreement, provided that, so long as the Exchange may obtain market surveillance information with respect to transactions occurring on the Commodity Exchange pursuant to the ISG memberships of the Chicago Mercantile Exchange, the Chicago Board of...
grants approval of the proposed rule change, as modified by Amendment No. 1 thereto.

II. Exchange’s Description of the Proposed Rule Change

The Exchange proposes to list and trade the Shares of the Fund under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by the Elkhorn ETF Trust (“Trust”), which was established as a Massachusetts business trust on December 12, 2013. Elkhorn Investments, LLC will be the investment adviser (“Adviser”) to the Fund. It is currently anticipated that day-to-day portfolio management for the Fund will be provided by the Adviser. However, the Fund and the Adviser may contract with an investment sub-adviser (“Sub-Adviser”) to provide day-to-day portfolio management for the Fund. ALPS Distributors, Inc. (“Distributor”) will be the principal underwriter and distributor of the Fund’s Shares. The Fund will contract with unaffiliated third parties to provide administrative, custodial and transfer agency services to the Fund. The Exchange represents that the Adviser is not a broker-dealer, although it is affiliated with a broker-dealer, and that it has implemented a firewall with respect to its broker-dealer affiliate regarding access to information

concerning the composition of, and changes to, the portfolio.

The Exchange has made the following representations and statements describing the Fund and the Fund’s investment strategies, including the Fund’s portfolio holdings and investment restrictions.

A. Exchange’s Description of the Fund’s Investments

According to the Exchange, the Fund’s investment objective will be to provide total return which exceeds that of the DWA Commodity Rotation Index (“Benchmark”). The Fund will seek excess return above the Benchmark solely through the active management of a short duration portfolio of highly liquid, high quality bonds.

The Fund will be an actively-managed exchange-traded fund (“ETF”) that seeks to achieve its investment objective by, under normal market conditions, investing in exchange-traded commodity futures contracts, exchange-cleared and non-exchange-cleared swaps, exchange-traded options on futures, and other derivatives, as is permitted by applicable law. The Adviser is not a broker-dealer, although it is affiliated with a broker-dealer,

Trade and the New York Mercantile Exchange, futures and options contracts where principal trading market is the Commodity Exchange shall not be subject to the prohibition in (a); (5) all statements and representations made in the proposed rule change regarding the description of the portfolio, limitations on portfolio holdings or reference assets, or the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange; (6) the issuer has represented to the Exchange that the Trust has obtained certain exemptive relief under the 1940 Act (File No. 812–14262).

The Exchange represents that the Trust is registered under the Investment Company Act of 1940 (“1940 Act”), See Registration Statement on Form N–A for the Trust dated February 18, 2016 (File Nos. 333–201473 and 811–22926) (“Registration Statement”). The Exchange further states that the Trust has obtained certain exemptive relief under the 1940 Act (File No. 812–14262).
of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. government agencies or instrumentalities; certificates of deposit issued against funds deposited in a bank or savings and loan association; bankers’ acceptances, which are short-term credit instruments used to finance commercial transactions; repurchase agreements, which involve purchases of debt securities; bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; and commercial paper, which are short-term unsecured promissory notes (collectively, “Short-Term Debt Instruments”).

The Fund will not invest in leveraged or inverse leveraged commodity-linked instruments or securities of investment companies.

21 The Exchange states that the Subsidiary will not be directly subject to its investor protections, except in compliance with the 1940 Act or any applicable exemptive relief. In addition, the Exchange represents that, with respect to the futures contracts and exchange-traded options on futures contracts, the Subsidiary will have the same investment objective as the Fund, but

 unlike the Fund, it may invest without limitation in Commodities.

In addition to investing in Commodities, the Subsidiary, like the Fund, may invest in Other Investments (e.g., as investments or to serve as margin or collateral or otherwise support the Subsidiary’s positions in Commodities). The Subsidiary’s investments will provide the Fund with exposure to domestic and international markets.

C. Exchange’s Description of Investment Restrictions

While the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund’s investments will be consistent with the Fund’s investment objective and will not be used to seek performance that is the multiple or inverse multiple (i.e., 2X and –3X) of an index. In addition, the Fund may not invest more than 25% of the value of its total assets in securities of issuers in any one industry or group of industries. This restriction will not apply to obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities, or securities of other investment companies.

The Subsidiary’s shares will be offered only to the Fund and the Fund will not sell shares of the Subsidiary to other investors. The Fund and the Subsidiary will not invest in any non-U.S. equity securities (other than shares of the Subsidiary). The Fund will not purchase securities of open-end or closed-end investment companies except in compliance with the 1940 Act or any applicable exemptive relief. In addition, the Exchange represents that, with respect to the futures contracts and exchange-traded options on futures contracts, the Subsidiary will have the same investment objective as the Fund, but
contracts in which the Subsidiary invests, not more than 10% of the weight (to be calculated as the value of the contract divided by the total absolute notional value of the Subsidiary’s futures and options contracts) of the futures and options contracts held by the Subsidiary in the aggregate shall consist of instruments whose principal trading market is (a) not a member of ISG or (b) is a market with which the Exchange does not have a comprehensive surveillance sharing agreement; provided that, so long as the Exchange may obtain market surveillance information with respect to transactions occurring on the Commodity Exchange pursuant to the ISG memberships of the Chicago Mercantile Exchange, the Chicago Board of Trade, and the New York Mercantile Exchange, futures and options contracts whose principal trading market is the Commodity Exchange will not be subject to the limitation in (a) above. Investments in non-exchange-cleared swaps (through the Subsidiary) will not represent more than 20% of the Fund’s net assets.

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including securities deemed illiquid by the Adviser. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund’s net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

III. Discussion and Commission’s Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of Section 6 of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act, which requires, among other things, that the Exchange’s rules 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 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.

The Commission also finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act, which sets forth the finding of Congress that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Quotation and last-sale information for the Shares will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association plans for the Shares. An estimated value, defined in Nasdaq Rule 5735(c)(3) as the “Intraday Indicative Value,” that reflects an estimated intraday value of the Fund’s portfolio (including the Subsidiary’s portfolio), will be disseminated. The Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service, will be based upon the current value for the components of the Disclosed Portfolio and will be disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Regular Market Session.

In approving this proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(d). 25 15 U.S.C. 78b(b)(5). 26 15 U.S.C. 78k–1(a)(1)(C)(iii). 27 Currently, the NASDAQ OMX Global Index Data Service (“GIDS”) is the NASDAQ OMX global index data feed service, offering real-time updates, daily summary messages, and access to widely followed indexes and Intraday Indicative Values for ETFs. According to the Exchange, GIDS provides investment professionals with the daily information needed to track or trade Nasdaq indexes, listed ETFs, or third-party partner indexes and ETFs. 28 See Nasdaq Rule 4120(b)(4) (describing the three pricing methodologies that utilize actual market transactions, broker-supplied valuations, or other methodologies designed to identify the market value for such instruments. Short-Term Debt Instruments (other than certificates of deposits, bank time deposits, and repurchase agreements), corporate debt obligations, other cash equivalents, and money market instruments (other than money market mutual funds) with maturities of more than 60 days will typically be priced based on valuations provided by independent, third-party pricing agents. Such values will generally reflect the last reported sales price if the instrument is actively traded. The third-party pricing agents may also value debt instruments at an evaluated bid price by employing methodologies that utilize actual market transactions, broker-supplied valuations, or other methodologies designed to identify the market value for such instruments. Short-Term Debt Instruments (other than certificates of deposits, bank time deposits, and repurchase agreements), corporate debt obligations, other cash equivalents, and money market instruments (other than money market mutual funds) with maturities of 60 days or less may be valued on the basis of amortized cost, which approximates market value. If such prices are not available, the instrument will be valued based on values supplied by independent brokers or by fair value pricing. Certificates of deposit and bank time deposits will typically be valued at cost. Repurchase agreements will typically be valued as follows: Overnight

The Fund’s NAV will be determined as of the close of trading (normally 4:00 p.m., E.T.) on each day the New York Stock Exchange is open for business.
Additionally, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers’ computer screens and other electronic services. The previous day’s closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Intra-day executable price quotations on the securities and other assets held by the Fund and the Subsidiary will be available from major broker-dealer firms or on the exchange on which they are traded, as applicable. Intra-day price information on the securities and other assets held by the Fund and the Subsidiary will also be available through subscription services, such as Bloomberg and Thomson Reuters, which can be accessed by authorized participants and other investors.32 The Fund’s Web site will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Commission notes that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily, and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. Trading in the Shares also will be subject to Nasdaq Rules 4120 and 4121, including the trading pauses under Nasdaq Rules 4120(a)(11) and (12). Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities, Commodities, and other assets constituting the Disclosed Portfolio of the Fund and the Subsidiary; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. The Exchange states that it has a general policy prohibiting the dissemination of material, non-public information by its employees. The Exchange also represents that the Adviser is affiliated with a broker-dealer, and the Adviser has implemented a firewall with respect to its broker-dealer affiliate regarding

32 More specifically, pricing information for exchange-traded commodity futures contracts, exchange-traded options on futures contracts, exchange-traded commodity-linked instruments, and exchange-traded investment companies (other than exchange-traded commodity-linked instruments) held by the Fund and the Subsidiary from other markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and in the Exchange-Traded Instruments held by the Fund and the Subsidiary from other markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. Moreover, FINRA, on behalf of the Exchange,34 will be able to access, as needed, trade information for certain

33 See supra note 7 and accompanying text. An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 ("Advisers Act"). As a result, the Adviser and any Sub-Adviser and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

34 For a list of the current members of ISG, see www.isgportal.org. The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. According to the Exchange, FINRA surveys trading on the Exchange pursuant to a regulatory services agreement, and the Exchange is responsible for FINRA’s performance under this regulatory services agreement.
fixed income securities held by the Fund reported to FINRA’s TRACE.

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to Nasdaq’s existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including:

(1) The Shares will be subject to Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares.
(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.
(3) The Exchange represents that its surveillance procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. Trading in the Shares will be subject to the existing trading surveillance administered by both Nasdaq and FINRA, on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.
(4) FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and in the Exchange-Traded Instruments held by the Fund and the Subsidiary with other markets and other entities that are members of the ISG and FINRA may obtain trading information regarding trading in the Shares and in the Exchange-Traded Instruments held by the Fund and the Subsidiary from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and in the Exchange-Traded Instruments held by the Fund and the Subsidiary from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA’s TRACE.
(5) With respect to the futures contracts and exchange-traded options on futures contracts in which the Subsidiary invests, not more than 10% of the weight (to be calculated as the value of the contract divided by the total absolute notional value of the Subsidiary’s futures and options contracts) of the futures and options contracts held by the Subsidiary in the aggregate shall consist of instruments whose principal trading market (a) is not a member of ISG or (b) is a market with which the Exchange does not have a comprehensive surveillance sharing agreement, provided, that so long as the Exchange may obtain market surveillance information with respect to transactions occurring on the Commodity Exchange pursuant to the ISG memberships of the Chicago Mercantile Exchange, the Chicago Board of Trade and the New York Mercantile Exchange, futures and options contracts whose principal trading market is the Commodity Exchange shall not be subject to the prohibition in (a) above.
(6) Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (a) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (b) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (c) how and by whom information regarding the Intraday Indicative Value and the Dislosed Portfolio is disseminated; (d) the risks involved in trading the Shares during the Pre-Market and Post-Market Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (e) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.
(7) For initial and/or continued listing, the Fund and the Subsidiary must be in compliance with Rule 10A–3 under the Act.36
(8) The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including securities deemed illiquid by the Adviser.
(9) The Fund and the Subsidiary will not invest in any non-U.S. equity securities (other than shares of the Subsidiary).
(10) The Fund will invest in Commodities through investments in the Subsidiary and will not invest directly in physical commodities. The Fund’s investment in the Subsidiary may not exceed 25% of the Fund’s total assets.
(11) Investments in non-exchange-cleared swaps (through the Subsidiary) will not represent more than 20% of the Fund’s net assets.
(12) The exchange-traded investment companies and commodity-linked instruments in which the Fund invests will be listed and traded in the U.S. on registered exchanges.
(13) The Fund and the Subsidiary will not invest in leveraged or inverse leveraged (e.g., 2X or −3X) commodity-linked instruments or securities of investment companies.
(14) At least 75% of corporate debt obligations will have a minimum principal amount outstanding of $100 million or more.
(15) While the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund’s investments will be consistent with the Fund’s investment objective and will not be used to seek performance that is the multiple or inverse multiple (i.e., 2X and −3X) of an index.

A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.

The Exchange represents that all statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange. In addition, the issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements.37 If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series.

This approval order is based on all of the Exchange’s representations, including those set forth above, in the


37 The Commission notes that certain other proposals for the listing and trading of Managed Fund Shares include a representation that the exchange will “surveil” for compliance with the continued listing requirements. See, e.g., Securities Exchange Act Release No. 77499 (April 1, 2016), 81 FR 20428 (April 7, 2016) (Notice of Filing of Amendment No. 2, and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2, to List and Trade Shares of the SPDR DoubleLine Short Duration Total Return Tactical ETF of the SSgA Active Trust), available at: http://www.sec.gov/rules/sro/bats/2016/34-77499.pdf. In the context of this representation, it is the Commission’s view that “monitor” and “surveil” both mean ongoing oversight of the Fund’s compliance with the continued listing requirements. Therefore, the Commission does not view “monitor” as a more or less stringent obligation than “surveil” with respect to the continued listing requirements.
Notice, and in Amendment No. 1 to the proposed rule change. The Commission notes that a commenter has expressed support for the proposal. The Commission further notes that the Fund and the Shares must comply with the requirements of Nasdaq Rule 5735, including those set forth in this proposed rule change, as modified by Amendment No. 1 thereto, to be listed and traded on the Exchange on an initial and continuing basis.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1 thereto, is consistent with Section 6(b)(5) of the Act and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change, as modified by Amendment No. 1 thereto, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.

Brent J. Fields,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To (i) Amend BOX Rule 7280 (Bulk Cancellation of Trading Interest) To Adopt a Kill Switch and (ii) Amend BOX Rule 7110 (Order Entry) to Modify the Circumstances That Will Prevent a Session Order From Being Cancelled

April 22, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”), 1 and Rule 19b–4 thereunder, notice is hereby given that on April 11, 2016, BOX Options Exchange LLC (“BOX” or 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 solicits comments on the proposed rule from interested persons.

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

The Exchange proposes to (i) amend BOX Rule 7280 (Bulk Cancellation of Trading Interest) to adopt a Kill Switch and (ii) amend BOX Rule 7110 (Order Entry) to modify the circumstances that will prevent a Session Order from being cancelled.

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 is proposing enhancements to the risk controls on the Exchange. Specifically, the Exchange is proposing to amend BOX Rule 7280 (Bulk Cancellation of Trading Interest) to adopt a Kill Switch and to also amend BOX Rule 7110 (Order Entry) to modify the circumstances that will prevent a Session Order from being cancelled.

Kill Switch

The Exchange proposes to amend Rule 7280 (Bulk Cancellation of Trading Interest) to add new section (b) to adopt the Kill Switch. The Kill Switch will be an optional tool that enables Participants to initiate a message to the BOX system to remove a Participant’s quotes and/or cancel the Participant’s orders. When submitting a request to the system to remove/cancel quotes and/or orders, a Participant must provide the Options Participant identification number (“Participant ID”). Additionally, the Participant may, but is not required to, specify a specific underlying security, class, or account type when requesting the system to remove/cancel quotes and/or orders. The system will send an automated message to the Participant when a Kill Switch request has been processed by the system. A Participant may also call the MOC directly to request initiation of the Kill Switch if the Participant is not able to send the message to the BOX system directly.

When submitting a message to the system to initiate the Kill Switch, Participants may specify a lock-out instruction. The lock-out instruction prevents the entering of any additional orders and/or quotes from the specific Participant ID until re-entry has been enabled. If a lock-out is requested, all orders and quotes that originate from the Participant ID will be canceled, regardless of any other instructions in the message or any additional messages sent to the system. The Participant ID will remain locked-out until the Participant makes a verbal request to the MOC to re-enable the Participant ID.

Session Orders

The Exchange currently offers a Session Order designation. An order with a Session Order designation will remain active in the BOX trading system until one of the following events (“Triggering Event”) occurs: (1) The connection between the Participant and BOX that was used to enter the order is interrupted; (2) there is a disconnection between internal BOX components used to process orders, causing a component to lose its connection to the Participant or the Trading Host while in possession of the Session Order; (3) a component of the Trading Host experiences a system error in which it is unable to process open orders while in possession of the Session Order.

Currently, a Session Order will not be cancelled and shall remain active if the order is not allowed to be cancelled pursuant to another Exchange Rule or it is not being processed under certain Exchange Rules when the Triggering Event occurs. Specifically, the Session Order will not be cancelled when: (1) the order is being exposed to the BOX market pursuant to Rule 7130(b); (2) the order is a Directed Order to which theBOX system used by BOX for the trading of options contracts.  

3 The term “MOC” or “Market Operations Center” means the BOX Market Operations Center, which provides market support for Options Participants during the trading day.

4 See Rule 7110(e)(1)(ii).

5 The term “Trading Host” means the automated trading system used by BOX for the trading of options contracts.