Amendment Nos. 1 and 2, is consistent with Sections 6(b)(4), (5), or (8) [77] or any other provision of the Act, or the rules and regulations thereunder. Although there does not appear to be any issue relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4 under the Act,[78] any request for an opportunity to make an oral presentation.[79]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal, as modified by Amendment Nos. 1 and 2, should be approved or disapproved by August 17, 2016. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by August 31, 2016. In light of the concerns raised by the proposed rule change, as discussed above, the Commission invites additional comment on the proposed rule change, as modified by Amendment Nos. 1 and 2, as the Commission continues its analysis of the proposed rule change's consistency with Sections 6(b)(4), (5) and (8),[80] or any other provision of the Act, or the rules and regulations thereunder. The Commission asks that commenters address the sufficiency and merit of the Exchange's statements in support of the proposed rule change, as modified by Amendment Nos. 1 and 2, in addition to any other comments they may wish to submit about the proposed rule change.

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.* Please include File No. SR–NYSEArca–2016–19 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSEArca–2016–19. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEArca–2016–19, and should be submitted by August 17, 2016. Rebuttal comments should be submitted by August 31, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[81]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–17674 Filed 7–26–16; 8:45 am]

BILLING CODE 8011–01–P

[77] 15 U.S.C. 78f(b)(4), (b)(5) and (b)(8).

[78] 17 CFR 240.19b–4.

[79] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Pub. L. 94–29 (June 4, 1975), grants to the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[80] 15 U.S.C. 78f(b)(4), (b)(5) and (b)(8).

[81] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78390; File No. SR–BOX–2016–33]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule on the BOX Market LLC (''BOX'') Options Facility

July 21, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 13, 2016, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] 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 the Substance of the Proposed Rule Change

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the Fee Schedule to make changes to Section I (Exchange Fees for Non-Auction Transactions) on the BOX Market LLC (''BOX'') options facility. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

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

In its filing with the Commission, the Exchange 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 Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to make changes to Section I (Exchange Fees for Non-Auction Transactions).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

Exchange Fees for Non-Auction Transactions

The Exchange proposes to adjust certain fees for Non-Auction Transactions. Currently, for all non-auction transactions, fees and credits are assessed depending upon three factors: (i) The account type of the Participant submitting the order; (ii) whether the Participant is a liquidity provider or liquidity taker; and (iii) the account type of the contra party. Non-Auction Transactions in Penny Pilot Classes are assessed different fees or credits than Non-Auction Transactions in Non-Penny Pilot Classes.

The current fees for Non-Auction Transactions are:

Account type	Contra party	Penny pilot classes		Non-penny pilot classes	
		Maker fee	Taker fee	Maker fee	Taker fee
Public Customer	Public Customer	$0.00	$0.00	$0.00	$0.00
	Professional Customer/Broker Dealer	0.00	0.00	0.00	0.00
	Market Maker	0.00	0.00	0.00	0.00
Professional Customer or Broker Dealer.	Public Customer	0.60	0.50	0.95	1.07
	Professional Customer/Broker Dealer	0.25	0.40	0.35	0.40
	Market Maker	0.25	0.44	0.35	0.44
Market Maker	Public Customer	0.51	0.50	0.85	1.03
	Professional Customer/Broker Dealer	0.00	0.05	0.00	0.10
	Market Maker	0.00	0.29	0.00	0.29

First, the Exchange proposes to raise the fees assessed for Public Customers that make or take liquidity against all account types in in both Penny and Non-Penny Classes to $0.05 from $0.00.

Next, the Exchange proposes to adjust the fees assessed for Professional Customers and Broker Dealers. In Penny Pilot Classes, the Exchange proposes to adjust the fees assessed for Professional Customers and Broker Dealers that take liquidity from all other Participants. Specifically, the Exchange proposes to lower the fee assessed to Professional Customers and Broker Dealers that take liquidity from Public Customers to $0.45 from $0.50. Further, the Exchange proposes to increase the fees assessed to Professional Customers and Broker Dealers that take liquidity from Professional Customers/Broker Dealers and Market Makers to $0.45 from $0.40 and $0.44, respectively. Additionally, the Exchange proposes to lower the fees assessed for Professional Customers and Broker Dealers making liquidity against Professional Customers and Broker Dealers and Market Makers in Penny Pilot Classes to $0.05 from $0.25. For Non-Penny Pilot Classes, the Exchange proposes to reduce the fees assessed for Professional Customers and Broker Dealers making liquidity against Non-Public Customers to $0.05 from $0.35. The Exchange also proposes to decrease the fees assessed for Professional Customers and Broker Dealers taking liquidity from Public Customers to $0.85 from $1.07. Lastly, with regard to Professional Customers/Broker Dealers taking liquidity from Professional Customers/Broker Dealers and Market Makers in Non-Penny Pilot Classes, the Exchange proposes to increase the fees assessed to $0.60 from $0.40 and $0.44, respectively.

The Exchange then proposes to adjust the fees assessed for Market Makers in Non-Auction Transactions. First, the Exchange proposes to decrease the fees assessed on Market Makers making liquidity against a Public Customer to $0.27 from $0.51. With regard to Market Makers taking liquidity against Public Customers in Penny Pilot Classes, the Exchange proposes to decrease the fee to $0.43 from $0.50. Further, the Exchange proposes to increase the fee for Market Makers taking liquidity against Professional Customers and Broker Dealers in Penny Pilot Classes to $0.29 from $0.05. Lastly, the Exchange proposes to adjust the fees assessed to Market Makers in Non-Penny Pilot Classes. Specifically, the Exchange proposes to decrease the fee assessed to a Market Maker when making liquidity from a Public Customer in Non-Penny Pilot Classes to $0.65 from $0.85. In Non-Penny Pilot Classes, the Exchange proposes to decrease the fee assessed to Market Makers taking liquidity from a Public Customer to $0.80 from $1.03. Lastly, the Exchange proposes to increase the fees assessed to Market Makers taking liquidity from Professional Customers/Broker Dealers and Market Makers in Non-Penny Pilot Classes, to $0.40 from $0.10 and $0.29, respectively.

The fees for Non-Auction Transactions will be as follows:

Account type	Contra party	Penny pilot classes		Non-penny pilot classes	
		Maker fee	Taker fee	Maker fee	Taker fee
Public Customer	Public Customer	$0.05	$0.05	$0.05	$0.05
	Professional Customer/Broker Dealer	0.05	0.05	0.05	0.05
	Market Maker	0.05	0.05	0.05	0.05
Professional Customer or Broker Dealer.	Public Customer	0.60	0.45	0.95	0.85
	Professional Customer/Broker Dealer	0.05	0.45	0.05	0.60
	Market Maker	0.05	0.45	0.05	0.60
Market Maker	Public Customer	0.27	0.43	0.65	0.80
	Professional Customer/Broker Dealer	0.00	0.29	0.00	0.40
	Market Maker	0.00	0.29	0.00	0.40

Tiered Volume Rebate for Non-Auction Transactions

The Exchange proposes to amend Section I.A.1. of the BOX Fee Schedule, Tiered Volume Rebate for Non-Auction Transactions. Specifically, the Exchange proposes to specify that transactions in which a Public Customer is a contra party will be considered exempt from the Tiered Volume Rebate for Market Makers in Non-Auction Transactions.[5] Additionally, the Exchange proposes to adjust certain rebates for Customers and Market Makers in Non-Auction Transactions. Specifically, for the Tiered Volume Rebate for Market Makers in Non-Auction Transactions, the Exchange proposes to increase the maker rebate in Tier 3 to $0.07 from $0.05, and also increase the maker rebate in Tier 4 to $0.15 from $0.10.

The Exchange also proposes to adjust the rebates in the Tiered Volume Rebate for Public Customers in Non Auction Transactions. The current Tiered Volume Rebate for Public Customers in Non-Auction Transactions is as follows:

Tier	Percentage thresholds of national customer volume in multiply-listed options classes (monthly)	Per contact rebate			
		Penny pilot classes		Non-penny pilot classes	
		Maker	Taker	Maker	Taker
1	0.000%–0.129%	$0.00	$0.00	$0.00	$0.00
2	0.130%–0.339%	(0.15)	(0.15)	(0.40)	(0.40)
3	0.340%–0.549%	(0.25)	(0.25)	(0.50)	(0.50)
4	0.550% and Above	(0.40)	(0.40)	(0.90)	(0.70)

Specifically, the Exchange proposes to reduce each of the maker and taker rebates in Tiers 2 through 4 of the Tiered Volume Rebate structure for Public Customers in both Penny Pilot Classes and Non-Penny Pilot Classes. The new per contract rebate for Public Customers in Non-Auction Transactions as set forth in Section I.A.1. of the BOX Fee Schedule will be as follows:

Tier	Percentage thresholds of national customer volume in multiply-listed options classes (monthly)	Per contact rebate			
		Penny pilot classes		Non-penny pilot classes	
		Maker	Taker	Maker	Taker
1	0.000%–0.129%	$0.00	$0.00	$0.00	$0.00
2	0.130%–0.339%	(0.05)	(0.05)	(0.20)	(0.20)
3	0.340%–0.549%	(0.15)	(0.15)	(0.30)	(0.30)
4	0.550% and Above	(0.25)	(0.25)	(0.50)	(0.50)

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(4) and 6(b)(5)of the Act,[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The proposed changes will allow the Exchange to be competitive with other exchanges and to apply fees and credits in a manner that is equitable among all BOX Participants. Further, the Exchange operates within a highly competitive market in which market participants can readily direct order flow to any other competing exchange if they determine fees at a particular exchange to be excessive.

Non-Auction Transactions

The Exchange believes it is equitable, reasonable and not unfairly discriminatory to assess fees according to the account type of the Participant originating the order and the contra party. This fee structure has been in place on the Exchange since 2014 and the Exchange is simply adjusting certain fees within the structure.[7] The result of this structure is that a Participant does not know the fee it will be charged when submitting certain orders. Therefore, the Participant must recognize that it could be charged the highest applicable fee on the Exchange's schedule, which may, instead, be lowered depending upon how the order interacts.

The Exchange believes raising the non-auction transaction fees for Public Customers making or taking liquidity in Penny and Non-Penny Pilot Classes to $0.05 from $0.00 is reasonable, equitable and not unfairly discriminatory. While the Exchange proposes to slightly raise the fees assessed to Public Customers for Non-Auction Transactions, the Public Customers may still receive the benefit of a volume based rebate, which in turn could offset the proposed $0.05 fee.[8] Further, the Exchange notes that a higher fee of $0.07 was assessed for Public Customers in Non-Auction transactions on BOX in the past.[9]

The Exchange believes that the proposed fees for Professional

[5] As is the case today, Non-Auction Transactions that are not a result of a Market Maker quote will continue to be exempt from the Market Maker tiered volume rebate.

[6] 15 U.S.C. 78f(b)(4) and (5).

[7] *See* Securities Exchange Release No. 73547 (November 6, 2014), 79 FR 67520 (November 13, 2014)(Notice of Filing and Immediate Effectiveness SR–BOX–2014–25).

[8] The Exchange notes that on a monthly basis, most Public Customers on the Exchange reach one of these volume based rebate tiers.

[9] *See* Securities Exchange Release No. 66979 (May 14, 2012), 77 FR 29740 (May 18, 2012) (Notice of Filing and Immediate Effectiveness SR–BOX–2012–002).

Customers and Broker Dealers in Non-Auction Transactions are reasonable. Under the proposed fee structure, a Professional Customer or Broker Dealer making liquidity and interacting with a Professional Customer, Broker Dealer or Market Marker will now be charged a fee of $0.05 in both Penny and Non-Penny Pilot Classes. If the Professional Customer or Broker Dealer is instead taking liquidity in the Penny Pilot, it will be charged $0.45 against any other Participant. If the Professional Customer or Broker Dealer is taking liquidity in the Non-Penny Pilot, it will be charged $0.85 if it interacts with a Public Customer or $0.60 if it interacts with a Professional Customer, Broker Dealer or a Market Maker. The Exchange believes that reducing the fee for making liquidity will promote liquidity on the Exchange, ultimately benefitting all Participants trading on BOX. Further, the Exchange believes the proposed fees are reasonable as they are in line with the current fees assessed by another competing exchange.[10]

The Exchange believes that charging Professional Customers and Broker Dealers higher fees than Public Customers for most of their Non-Auction Transactions is equitable and not unfairly discriminatory. Professional Customers, while Public Customers by virtue of not being Broker Dealers, generally engage in trading activity more similar to Broker Dealer proprietary trading accounts. The Exchange believes that the higher level of trading activity from these Participants will draw a greater amount of BOX system resources, which the Exchange aims to recover its costs by assessing Professional Customers and Broker Dealers higher fees for transactions.

The Exchange notes that Professional Customers or Broker Dealers will now be charged the same rate as Public Customers when making liquidity against Professional Customers, Broker Dealers, and Market Makers in both Penny and Non-Penny Pilot Classes. The Exchange believes it is equitable and not unfairly discriminatory to assess the same low rate for these transactions on both Public Customers and Professional Customers/Broker Dealers to promote liquidity on the Exchange, ultimately benefitting all Participants trading on BOX. Further, the Exchange notes that Public Customers have the ability to achieve a rebate for their Non-Auction transactions, and Professional Customer or Broker Dealers do not.

The Exchange believes that the proposed fees for Market Makers in Non-Auction Transactions are reasonable. With the proposed fee changes, a Market Maker making liquidity will now be charged a lower fee of $0.27 (Penny Pilot) and $0.65 (Non-Penny Pilot) for interacting with a Public Customer. Further, a Market Maker taking liquidity against a Public Customer will now be charged a lower fee of $0.43 in Penny Pilot Classes and a lower fee of $0.80 in Non-Penny Pilot Classes. If a Market Maker is taking liquidity in Penny and Non-Penny Pilot Classes and interacts with a Professional Customer, Broker Dealer or a Market Maker, they will now be charged a fee of $0.29 in Penny Pilot Classes and $0.40 in Non-Penny Pilot Classes. The Exchange believes the fees listed above are reasonable and appropriate as they are in line with what is currently charged by the industry.[11]

Further, the Exchange believes it is equitable and not unfairly discriminatory to charge the Market Maker less for making or taking liquidity than Professional Customers or Broker Dealers. Specifically, Market Makers have certain obligations that other Participants do not and can ultimately provide more value by directing liquidity to the Exchange, which the Exchange believes will benefit all Participants trading on BOX.

Additionally, the Exchange believes that charging Market Makers who interact with Professional Customers/Broker Dealers and Market Makers in Penny and Non-Penny Pilot Classes less than Public Customers is reasonable. As discussed above, Market Makers have certain obligations that Public Customers do not and can provide value by directing more liquidity to the Exchange. The Exchange believes that charging Market Makers no fee for adding liquidity against Professional Customers, Broker Dealers and Market Makers will promote liquidity on the Exchange, ultimately benefitting all market participants. Further, the Exchange believes that charging Market Makers less than Public Customers when adding liquidity is reasonable, as other exchanges in the industry also treat Market Makers more favorably than a Public Customer for adding liquidity.[12] Finally, the Exchange notes that Public Customers have the ability to obtain a higher per contract rebate than Market Makers under the Tiered Volume Rebates for Non-Auction Transactions.[13]

The Exchange believes it is reasonable, equitable and not unfairly discriminatory for Professional Customers, Broker Dealers and Market Makers to be charged higher fees when interacting with Public Customers than interacting with other Participants on BOX. The Exchange believes they are reasonable as they are in a similar range with the fees in the options industry.[14] Further, as stated above, the Exchange believes charging a higher fee for interactions with a Public Customer when compared to interactions with other Participants is equitable and not unfairly discriminatory because it allows the Exchange to incentivize Public Customer order flow by offering low fees and rebate potential to Public Customers in Non-Auction Transactions. The Exchange believes that providing these incentives for Non-Auction Transactions by Public Customers will benefit all Participants trading on the Exchange by attracting this Public Customer order flow.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory that Professional Customers, Broker Dealers and Market Makers be charged a higher fee for certain orders removing liquidity, when compared to the fee they receive for orders that add liquidity. Charging a lower fee for orders that add liquidity will promote liquidity on the Exchange and ultimately benefit all participants on BOX. Further, the concept of incentivizing orders that add liquidity over orders that remove liquidity is commonly accepted within the industry as part of the ''Make/Take'' liquidity model.

Finally, the Exchange also believes it is reasonable to charge Professional Customers and Broker Dealers and Market Makers less for certain

[10] *See* International Securities Exchange (''ISE'') Schedule of Fees, Section I. On ISE, Professional Customer and Broker Dealers in Penny Pilot Classes are charged a fee of $0.10 when making liquidity and a $0.45 fee when taking liquidity. *See also* NYSE Arca Options (''Arca'') Fees and Charges page 4. On Arca a Firm or Broker Dealer is charged $0.50 when making liquidity and $1.08 when taking liquidity in Non-Penny Pilot Issues, and $0.50 for taking liquidity in Penny Pilot Issues.

[11] *Id.* On ISE and Arca, the general range for Market Maker fees is between $0.10 and $1.08.

[12] *See* Arca Fees and Charges page 4. On Arca, a Market Maker making liquidity in Penny Pilot Classes receives a rebate of $0.28 where a Public Customer making liquidity in Penny Pilot Classes receives a lower rebate of $0.25. *See also* C2 Options Exchange. Incorporated (''C2'') Fee Schedule Section 1. Similar to Arca, Market Makers on C2 who are making liquidity in Penny Pilot Classes receive a rebate of $0.40 where Public Customers making liquidity in Penny Pilot Classes receive a lower rebate of $0.37.

[13] Under the proposed Tiered Volume Rebates in Section I.A.1 Public Customers can receive a maximum per contract rebate of up to $0.25 for Penny Pilot Classes and $0.50 in Non-Penny Pilot Classes. Market Makers can only receive a maximum rebate of $0.15, regardless of class.

[14] *See supra* note 6 [sic].

executions in Penny Pilot issues compared to Non-Penny Pilot issues because these classes are typically more actively traded; assessing lower fees will further incentivize order flow in Penny Pilot issues on the Exchange, ultimately benefiting all Participants trading on BOX.

Tiered Volume Rebate for Non-Auction Transactions

BOX believes it is reasonable, equitable and not unfairly discriminatory to adjust certain rebates in the volume based thresholds for Market Makers and Public Customers in all Non-Auction Transactions. The volume thresholds and applicable rebates are meant to incentivize Public Customers and Market Makers to direct order flow to the Exchange to obtain the benefit of the rebate, which will in turn benefit all market participants by increasing liquidity on the Exchange. Other exchanges employ similar incentive programs; [15] and the Exchange believes that the proposed changes to the volume thresholds and rebates are reasonable and competitive when compared to incentive structures at other exchanges.

With regard to the Public Customer Tiered Volume Rebate for Non-Auction Transactions, the Exchange believes it is reasonable to offer a higher per contract rebate for transactions in Non-Penny Pilot Classes compared to Penny Pilot Classes because Non-Penny Pilot Classes are typically less actively traded and have wider spreads. The Exchange believes that offering a higher rebate will incentivize Public Customer order flow in Non-Penny Pilot issues on the Exchange, ultimately benefitting all Participants trading on BOX.

The Exchange believes it is reasonable to increase the rebates in Tiers 3 and 4 of the Tiered Volume Rebate for Market Makers making liquidity in Non-Auction Transactions. The rebates are meant to incentivize Market Makers to direct order flow to the Exchange to obtain the benefit of the rebate, which will in turn benefit all market participants by increasing liquidity on the Exchange.

The Exchange continues to believe it is equitable and not unfairly discriminatory to only have these rebate structures for Public Customers and Market Makers in Non-Auction transactions. The practice of incentivizing increased Public Customer and Market Maker order flow is common in the options markets. While the Exchange proposes to decrease the Public Customer rebates in Penny and Non-Penny Pilot Classes, the Exchange believes that Public Customers will still benefit from the opportunity to obtain a rebate. As discussed above, most Public Customers currently achieve a volume based rebate in their Non-Auction transactions, which will offset any exchange fees they are assessed in Section I.A of the BOX Fee Schedule. Additionally, the Exchange believes that Market Makers can provide high volumes of liquidity and lowering certain Market Maker Non-Auction Transaction fees and raising certain maker rebates in the Tiered Volume Rebates for Market Makers in Non-Auction Transactions will potentially help attract a higher level of Market Maker order flow and create liquidity, which the Exchange believes will ultimately benefit all Participants trading on BOX.

Lastly, the Exchange believes that exempting transactions where a Public Customer is a contra party from the Market Maker Tiered Volume Rebate is reasonable, equitable and not unfairly discriminatory. BOX provides these volume based rebates to incentivize Market Makers to direct order flow to the Exchange to obtain the benefit of the rebate, which will in turn benefit all market participants by increasing liquidity on the Exchange. The Exchange believes by providing a rebate to transactions that do not have a Public Customer as the contra party will further encourage Market Makers to quote. Further, the Exchange believes that Public Customer interaction does not need further encouragement within the BOX fee schedule.

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.

The Exchange believes that the proposed adjustments to fees in the Non-Auction Transactions fee structure will not impose a burden on competition among various Exchange Participants. Rather, BOX believes that the changes will result in the Participants being charged appropriately for these transactions and are designed to enhance competition in Non-Auction transactions on BOX. Submitting an order is entirely voluntary and Participants can determine which type of order they wish to submit, if any, to the Exchange. Further, the Exchange believes that this proposal will enhance competition between exchanges because it is designed to allow the Exchange to better compete with other exchanges for order flow.

The Exchange believes that amending the proposed rebate structure for Customer and Market Maker Non-Auction Transactions will not impose a burden on competition among various Exchange Participants. The Exchange believes that the proposed changes will result in Customers and Market Makers being rebated appropriately for these transactions. Further, the Exchange believes that this proposal will enhance competition between exchanges because it is designed to allow the Exchange to better compete with other exchanges for order flow.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing exchanges. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

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 Exchange Act [16] and Rule 19b–4(f)(2) thereunder,[17] because it establishes or changes a due, or fee.

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

[15] *See* Section B of the PHLX Pricing Schedule entitled ''Customer Rebate Program;'' ISE Gemini's Qualifying Tier Thresholds (page 6 of the ISE Gemini Fee Schedule); and CBOE's Volume Incentive Program (VIP). CBOE's Volume Incentive Program (''VIP'') pays certain tiered rebates to Trading Permit Holders for electronically executed multiply-listed option orders which include AIM orders.

[16] 15 U.S.C. 78s(b)(3)(A)(ii).

[17] 17 CFR 240.19b–4(f)(2).

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.* Please include File Number SR–BOX–2016–33 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–2016–33. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2016–33, and should be submitted on or before August 17,2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–17676 Filed 7–26–16; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78385; File No. SR–NASDAQ–2016–103]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, to List and Trade Exchange-Traded Managed Funds

July 21, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 13, 2016, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On July 14, 2016, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the original filing in its entirety. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1 thereto, from interested persons.

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

The Exchange proposes to list and trade under Nasdaq Rule 5745 (Exchange-Traded Managed Fund Shares (''NextShares'')) the common shares (''Shares'') of the exchange-traded managed funds described herein (each, a ''Fund,'' and collectively, the ''Funds'').

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 Exchange 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 Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

1. Purpose

The Exchange proposes to list and trade the Shares of each Fund under Nasdaq Rule 5745, which governs the listing and trading of exchange-traded managed fund shares, as defined in Nasdaq Rule 5745(c)(1), on the Exchange.[3] Each Fund listed below will be advised by an investment adviser registered under the Investment Advisers Act of 1940 (''Adviser''), as described below. Each Fund will be actively managed and will pursue various principal investment strategies, as noted below.[4]

Ivy NextShares™

Ivy NextShares™ (the ''Trust'') is registered with the Commission as an open-end investment company and has filed a registration statement on Form N–1A (''Registration Statement'') with the Commission.[5] Each of the following Funds is a series of the Trust.[6]

Ivy Investment Management Company (''IICO'' or the ''Adviser'') will be the adviser to the Funds. IICO is not a registered broker-dealer, although it is affiliated with a broker-dealer. IICO has implemented a fire wall with respect to its affiliated broker-dealer regarding access to information concerning the composition and/or changes to each Fund's portfolio.[7] In the future event

[3] The Commission approved Nasdaq Rule 5745 in Securities Exchange Act Release No. 34–73562 (Nov. 7, 2014), 79 FR 68309 (Nov. 14, 2014) (SR–NASDAQ–2014–020).

[4] Additional information regarding the Funds will be available on one of two free public Web sites (*www.ivyinvestments.com* or *www.nextshares.com,* as indicated more fully below), as well as in the Registration Statement for the Funds.

[5] *See* Registration Statement on Form N–1A for the Trust dated April 18, 2016 (File Nos. 333–210814 and 811–23155).

[6] The Commission has issued an order granting the Trust and certain affiliates exemptive relief under the Investment Company Act. *See* Investment Company Act Release No. 31816 (Sept. 9, 2015) (File No. 812–14526).

[7] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and its 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

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