

of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change, as modified by Amendment No. 1.

Pursuant to Section 19(b)(2)(B) of the Act,<sup>16</sup> the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposal's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be "designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade," and "to protect investors and the public interest."<sup>17</sup> As noted above, the Exchange is submitting this proposed rule change because the Index for the Fund does not meet the requirements set forth in BZX Rule 14.11(c)(4)(B)(i)(b). In the proposal, the Exchange described certain characteristics of the Index as of November 30, 2016,<sup>18</sup> and stated its belief that the Index is sufficiently broad-based to deter potential manipulation and that the Index securities are sufficiently liquid to deter potential manipulation. However, the Commission notes that the Exchange did not provide, for the continued listing of the Shares, parameters around the extent to which the Index may change from those characteristics. The Commission seeks commenters' views on whether the Exchange's statements and representations support a determination that the listing and trading of the Shares would be consistent with Section 6(b)(5) of the Act, which, among other things, requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest.

#### IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues

identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation.<sup>19</sup>

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by June 7, 2017. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by June 21, 2017. The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in Amendment No. 1,<sup>20</sup> 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](mailto:rule-comments@sec.gov). Please include File Number SR-BatsBZX-2017-07 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-BatsBZX-2017-07. 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

<sup>19</sup> Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94-29 (June 4, 1975), grants 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 Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

<sup>20</sup> See *supra* note 4.

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 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; 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-BatsBZX-2017-07 and should be submitted on or before June 7, 2017. Rebuttal comments should be submitted by June 21, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2017-09932 Filed 5-16-17; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80661; File No. SR-BOX-2017-14]

### Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Qualified Contingent Cross Orders

May 11, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 9, 2017, 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 self-regulatory organization. The Commission is publishing this notice to solicit

<sup>21</sup> 17 CFR 200.30-3(a)(57).

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

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

<sup>16</sup> *Id.*

<sup>17</sup> 15 U.S.C. 78f(b)(5).

<sup>18</sup> See *supra* Section II.C.

comments on the proposed rule from interested persons.

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

The Exchange proposes to adopt Qualified Contingent Cross Orders. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at <http://boxexchange.com>.

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

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

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

##### 1. Purpose

The Exchange is filing this proposal to adopt Qualified Contingent Cross Orders ("QCC Orders"), as described below.

##### Background

The purpose of this filing is to adopt rules related to QCC Orders. The proposed rule change is based on the rules of other options exchanges, including an International Securities Exchange ("ISE") proposal that was previously approved by the Securities and Exchange Commission ("Commission").<sup>3</sup>

The Exchange is currently a party to the Options Order Protection and Locked/Crossed Market Plan ("Linkage Plan"), and has implemented Exchange rules in conjunction with that plan, which are set forth in Rule 15000 of the Exchange's Rules (the "Linkage Rules"). Similar to Regulation NMS under the Act, the Linkage Plan requires, among other things, that the Exchange establish, maintain and enforce written

policies and procedures that are reasonably designed to prevent "Trade-Throughs."<sup>4</sup> A Trade-Through is a transaction in an options series at a price that is inferior to the best price available in the market.<sup>5</sup> The Linkage Plan replaced the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage ("Old Linkage Plan"). The Old Linkage Plan provided a limited Trade-Through exemption for "Block Trades," defined to be trades of 500 or more contracts with a premium value of at least \$150,000.<sup>6</sup> However, as with Regulation NMS, the Linkage Plan does not provide a Block Trade exemption. Since its original adoption by the ISE in 2011, QCC has been offered by multiple options exchanges as a limited substitute for the Block Trade exemption.<sup>7</sup>

##### Proposal Regarding Qualified Contingent Cross Orders

The purpose of the proposed change is to provide market participants with the ability to submit to the Exchange Qualified Contingent Cross Orders, an order type offered by multiple other options exchanges.<sup>8</sup> The proposed operation of Qualified Contingent Cross Orders on the Exchange is substantially similar in all material respects to the operation of such orders on such other exchanges.

The Exchange proposes to adopt Rule paragraph (c)(6) to Rule 7110 to govern the operation of Qualified Contingent Cross Orders. As proposed, a Qualified Contingent Cross Order would be an originating order to buy or sell at least 1,000 standard option contracts, or 10,000 mini-option contracts, that is identified as being part of a qualified contingent trade (as that term is proposed to be defined in IM-7110-2), coupled with a contra-side order or orders totaling an equal number of contracts. As proposed under IM-7110-2, a "qualified contingent trade" is a transaction consisting of two or more component orders, executed as agent or principal, where: (1) At least one component is an NMS stock, as defined in Rule 600 of Regulation NMS under the Act; (2) all components are effected with a product or price contingency that either has been agreed to by all the

respective counterparties or arranged for by a broker-dealer as principal or agent; (3) the execution of one component is contingent upon the execution of all other components at or near the same time; (4) the specific relationship between the component orders (*e.g.*, the spread between the prices of the component orders) is determined by the time the contingent order is placed; (5) the component orders bear a derivative relationship to one another, represent different classes of shares of the same issuer, or involve the securities of participants in mergers or with intentions to merge that have been announced or cancelled; and (6) the transaction is fully hedged (without regard to any prior existing position) as a result of other components of the contingent trade.

Additionally, as proposed, Qualified Contingent Cross Orders would be allowed to execute automatically on entry without exposure provided the execution: (i) Is not at the same price as a Public Customer<sup>9</sup> Order on the BOX Book;<sup>10</sup> and (ii) is at or between the NBBO.<sup>11</sup> As such, the Exchange also proposes to specify that a Qualified Contingent Cross Order will be rejected if there is an ongoing auction (including PIP, COPIP, Facilitation, and Solicitation auctions) or an exposed order on the option series when the Qualified Contingent Cross Order is received by the Exchange. The proposed Rule would also specify that Qualified Contingent Cross Orders will be cancelled if they cannot be executed. Also, pursuant to the proposed rule, Qualified Contingent Cross Orders may only be entered in the standard increments applicable to the options class under Rule 7050.

The Exchange will track and monitor QCC Orders to determine which is the originating side of the order and which is the contra-side(s) of the order to ensure that Participants are complying with the minimum 1,000 contract size limitation (or 10,000 mini-option contract minimum) on the originating side of the QCC Order. The Exchange will check to see if Participants are aggregating multiple orders to meet the 1,000 contract minimum on the originating side (or 10,000 mini-option contract minimum) of the trade in violation of the requirements of the rule.

<sup>4</sup> See Section 5(a) of the Linkage Plan

<sup>5</sup> See Section 2(21) of the Linkage Plan

<sup>6</sup> See Old Linkage Plan Sections 2(3) and 8(c)(i)(C).

<sup>7</sup> See ISE Rule 715(j), Supplementary Material .01 to ISE Rule 715 and ISE Rule 721(b); *see also* CBOE Rule 6.53(u); NASDAQ PHLX Rule 1080(o); NYSE Arca Rule 6.62(bb), Commentary .02 to NYSE Arca Rule 6.62 and NYSE Arca Rule 6.90.

<sup>8</sup> *See supra*, note 7.

<sup>9</sup> The term "Public Customer" means a person that is not a broker or dealer in securities. *See* Rule 100(a)(51).

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

<sup>11</sup> The NBBO means the national best bid or offer. *See* Rule 100(a)(33).

<sup>3</sup> *See* Securities Exchange Act Release Nos. 63955 (February 24, 2011), 76 FR 11533 (March 2, 2011) (SR-ISE-2010-73) ("ISE Approval"); 79942 (February 2, 2017), 82 FR 9804 (February 8, 2017) (Notice of Filing and Immediate Effectiveness of SR-EDGX-2017-11).

The rule requires that the originating side of the trade consist of one party who is submitting a QCC Order for at least 1,000 contracts (or 10,000 mini-option contracts). The Exchange represents that it will enforce compliance with this portion of the rule by checking to see if a Participant breaks up the originating side of the order in a post trade allocation to different clearing firms, allocating less than 1,000 contracts (or 10,000 mini-option contracts) to a party or multiple parties. For example, a Participant enters a QCC Order into the system for 1,500 contracts and receives an execution. Subsequent to the execution, the Participant allocates the originating side of the order to two different clearing firms on a post trade allocation basis, thereby allocating 500 contracts to one clearing firm and 1,000 contracts to another clearing firm. This type of transaction would not meet the requirements of a QCC Order under the current and proposed rule.

With regard to order entry, a Participant will have to mark the originating side as the first order in the system and the contra-side(s) as the second. The Exchange will monitor order entries to ensure that Participants are properly entering QCC Orders into the system.

The Exchange anticipates implementing the proposed change during the second quarter of 2017. The Exchange will provide notice of the exact implementation date, via Circular, prior to implementing the proposed change.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),<sup>12</sup> in general, and Section 6(b)(5) of the Act,<sup>13</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. Specifically, the proposed change is designed to offer market participants greater flexibility by allowing such market participant to submit QCC Orders to BOX in the same way they are permitted to send QCC Orders to other options exchanges,

thereby promoting just and equitable principles of trade, fostering cooperation and coordination with persons engaged in facilitating transactions in securities, removing impediments to, and perfecting the mechanism of, a free and open market and a national market system.

The proposed rules are consistent with the protection of investors in that they are designed to prevent Trade-Throughs. In addition, the proposed rule change would promote a free and open market by permitting the Exchange to compete with other options exchanges for these types of orders. In this regard, competition would result in benefits to the investing public, whereas a lack of competition would serve to limit the choices that participants have for execution of their options business. As noted above, the proposed operation of Qualified Contingent Cross Orders on the Exchange is substantially similar in all material respects to the operation of such orders on such other exchanges.<sup>14</sup> As such, permitting the Exchange to operate on an even playing field relative to other exchanges removes impediments to and perfects the mechanism for a free and open market and a national market system.

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

The Exchange does not believe that the proposed rule change to adopt QCC Orders will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposed functionality is open to all market participants. Further, the proposed rule will allow the Exchange to compete with other options exchanges that currently offer QCC Orders, thus alleviating the burden on competition that would arise if such exchanges were permitted to continue offering such functionality and the Exchange was not. For these reasons, the Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, and believes the proposed change will enhance competition.

### *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

(a) This proposed rule change is filed pursuant to paragraph (A) of section 19(b)(3) of the Exchange Act<sup>15</sup> and Rule 19b-4(f)(6) thereunder.<sup>16</sup>

(b) This proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

The Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, prior to the date of filing the proposed rule change as required by Rule 19b-4(f)(6).

The Exchange believes that the proposed rule change does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition. The Exchange's proposal to accept QCC Orders is not a novel concept but rather, is based on the acceptance of such orders on multiple other options exchanges.

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

## IV. Solicitation of Comments

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

### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BOX-2017-14 on the subject line.

<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

<sup>14</sup> See supra, note 7.

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

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

*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-2017-14. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, on official business days between the hours of 10:00 a.m. and 3:00 p.m., located at 100 F Street NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments 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-2017-14 and should be submitted on or before June 7, 2017.

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

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2017-09931 Filed 5-16-17; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80653; File No. SR-BatsEDGA-2017-12]

### Self-Regulatory Organizations; Bats EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees

May 11, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the

“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 5, 2017, Bats EDGA Exchange, Inc. (the “Exchange” or “EDGA”) 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 has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposed rule change 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 filed a proposal to amend the fee schedule applicable to Members<sup>5</sup> and non-Members of the Exchange pursuant to EDGA Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at [www.bats.com](http://www.bats.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### 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 parts of such statements.

##### 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 amend its fee schedule to: (i) Lower the rate for fee code RT; and (ii) add the RMPT/RMPL Tier 2.

<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).

<sup>5</sup> The term “Member” is defined as “any registered broker or dealer that has been admitted to membership in the Exchange.” See Exchange Rule 1.5(n).

#### Fee Code RT

The Exchange proposes to decrease the fee for orders yielding fee code RT, which is appended to orders routed using the ROUT<sup>6</sup> routing strategy, from \$0.00260 to \$0.00250 per share for securities priced at or above \$1.00 per share. The Exchange does not propose to amend the rate for orders yielding fee code RT in securities priced below \$1.00 per share.

#### RMPT/RMPL Tier 2

The Exchange offers one tier under footnote 4, the RMPT/RMPL Tier under which a Member receives a discounted fee of \$0.0008 per share for orders yielding fee codes PT<sup>7</sup> or PX<sup>8</sup> where that Member adds or removes an ADV<sup>9</sup> greater than or equal to 2,000,000 shares using the RMPT or RMPL<sup>10</sup> routing strategy. The Exchange now proposes to add a new tier under footnote 4 to be known as Tier 2 under which a Member would receive a discounted fee of \$0.0006 per share for orders yielding fee codes PT or PX where that Member adds or removes an ADV greater than or equal to 4,000,000 shares using the RMPT or RMPL routing strategy.<sup>11</sup>

<sup>6</sup> ROUT is a routing strategy that checks the System for available shares and then are sent to destinations on the System routing table. See Exchange Rule 11.11(g)(3)(B). The term “System routing table” refers to the proprietary process for determining the specific trading venues to which the System routes orders and the order in which it routes them. See Exchange Rule 11.11(g).

<sup>7</sup> Fee code PT is appended to orders that remove liquidity from the Exchange using RMPT or RMPL routing strategy and is assessed a fee of \$0.0010 per share on securities priced over \$1.00, and there is no fee on securities priced below \$1.00. See the Exchange's fee schedule available at [http://www.bats.com/us/equities/membership/fee\\_schedule/edga/](http://www.bats.com/us/equities/membership/fee_schedule/edga/).

<sup>8</sup> Fee code PX is append to orders that are routed using the RMPL routing strategy to a destination not covered by Fee Code PL, or are routed using the RMPT routing strategy, and is assessed a fee of \$0.0012 per share on securities priced over \$1.00, and a fee of 30% of the total dollar value on securities priced below \$1.00. *Id.*

<sup>9</sup> ADV is generally defined as average daily volume calculated as the number of shares added to, removed from, or routed by, the Exchange, or any combination or subset thereof, per day. *Id.*

<sup>10</sup> The RMPT routing strategy operates similarly to RMPL in that under both Mid-Point Peg Orders check the System for available shares and any remaining shares are then sent to destinations on the System routing table that support midpoint eligible orders. If any shares remain unexecuted after routing, they are posted on the EDGA Book as a Mid-Point Peg Order, unless otherwise instructed by the User. While RMPL and RMPT operate in an identical manner, the trading venues that each routing strategy routes to and the order in which it routes them differ. See Exchange Rule 11.11(g)(13).

<sup>11</sup> As a result of the fee schedule layout change in adding a second tier, the description of which fee codes are appended with footnote 3 will be moved above the table similar to the layout of the table in footnote 4.

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