

#### 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 Proposed Rule Changes. In particular, the Commission invites the written views of interested persons concerning whether the Proposed Rule Changes are consistent with Section 17A(b)(3)(F)<sup>22</sup> and Rules 17ad-22(e)(2), 17ad-22(e)(3)(i), 17ad-22(e)(18)(iv)(C), and 17ad-25(j)<sup>23</sup> of the Exchange Act, or any other provision of the Exchange 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(g) under the Exchange Act,<sup>24</sup> any request for an opportunity to make an oral presentation.<sup>25</sup>

The Commission asks that commenters address the sufficiency of FICC's statements in support of the Proposed Rule Changes, which are set forth in the Notices of Filing<sup>26</sup> in addition to any other comments they may wish to submit about the Proposed Rule Changes.

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 numbers SR-DTC-2024-003; SR-FICC-2024-006; SR-FICC-2024-003 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 numbers SR-DTC-2024-003; SR-FICC-2024-006; SR-FICC-2024-003. This file number should be included on the

subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the Proposed Rule Changes that are filed with the Commission, and all written communications relating to the Proposed Rule Changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FICC and on FICC's website ([www.dtcc.com/legal/sec-rule-filings](http://www.dtcc.com/legal/sec-rule-filings)).

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to File Numbers SR-DTC-2024-003; SR-FICC-2024-006; SR-FICC-2024-003 and should be submitted on or before July 18, 2024. Rebuttal comments should be submitted by August 1, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>27</sup>

**Vanessa A. Countryman,**

Secretary.

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100398; File No. SR-BOX-2024-16]

#### Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule Relating to BOX Connectivity Fees and Port Fees for Trading on the BOX Options Market LLC Facility ("BOX")

June 21, 2024.

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 June 18, 2024, BOX 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,<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

##### I. Self-Regulatory Organization's Statement of Terms of 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 relating to BOX Connectivity Fees and Port Fees on the BOX Options 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 website at <https://rules.boxexchange.com/rulefilings>.

##### 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

<sup>22</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>23</sup> 17 CFR 240.17ad-22(e)(2), (e)(3)(i), and (e)(18)(iv)(C), and 17 CFR 240.17ad-25(j).

<sup>24</sup> 17 CFR 240.19b-4(g).

<sup>25</sup> Section 19(b)(2) of the Exchange Act 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).

<sup>26</sup> See Notice of Filing, *supra* note 3.

<sup>27</sup> 17 CFR 200.30-3(a)(31).

<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).

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 amend the Fee Schedule for trading on BOX to increase BOX Connectivity Fees for 10 gigabit ("Gb") Connections, Non-10 Gb Connections, Financial Information Exchange ("FIX") Ports, SOLA® Access Information Language ("SAIL") Ports, Drop Copy Ports, and High Speed Vendor Feed ("HSVF") Ports (collectively "Connectivity and Ports"). Specifically, the Exchange proposes to increase its fees for Connectivity and Ports in Sections III.A.2 and III.B of the BOX Fee Schedule.

By way of background, a physical connection is utilized by a Participant or non-Participant to connect to BOX at the datacenters where BOX's servers are located. BOX currently assesses the following physical connectivity fees for Participants and non-Participants on a monthly basis: \$1,000 per connection for a Non-10 Gb Connection and \$5,000 per connection for a 10 Gb Connection. The Exchange proposes to increase the monthly fee for Non-10 Gb Connections from \$1,000 to \$1,200 per connection and from \$5,000 to \$6,000 monthly fee for each 10 Gb Connection. The Exchange notes the proposed fee change better enables BOX to continue to maintain and improve its market technology and services and also notes that the proposed fee amount, even as amended, continues to be in line with, or lower than, amounts assessed by other exchanges for similar connections.<sup>5</sup>

<sup>5</sup> See Cboe EDGX Exchange, Inc. ("Cboe EDGX") Options Fee Schedule (assessing \$2,500/month for a 1Gb physical port and \$8,500/month for a 10Gb physical port). The 1Gb physical port is analogous to the Exchange's Non-10 Gb Connection and the 10Gb physical port is analogous to the Exchange's 10 Gb Connection. See also Cboe Options Fee Schedule (10 Gb Physical Port \$7,000 per month and 1 Gb Physical Port \$1,500 per month). The 1 Gb Physical Port is analogous to the Exchange's Non-10 Gb Connection and the 10 Gb Physical Port is analogous to the Exchange's 10 Gb Connection. See also Nasdaq PHLX LLC ("Nasdaq Phlx") Rules, General 8, Section 1 "Co-Location Services, Connectivity to the Exchange" (Fiber Connection to the Exchange (10Gb Ultra) \$15,825 per month and Fiber Connection to the Exchange (1Gb Ultra) \$2,638 per month). The 1Gb Ultra is analogous to the Exchange's Non-10 Gb Connection and the 10Gb Ultra is analogous to the Exchange's 10 Gb Connection. See also New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago Inc., NYSE National, Inc. Connectivity Fee Schedule (10 Gb LX LCN Circuit \$22,000 per month

Further, BOX currently provides four types of ports, including: (i) the FIX Port, which allows Participants to electronically send orders in all products traded on BOX; (ii) the SAIL Port, which allows Market Makers to submit electronic quotes and orders and other Participants to submit orders to BOX; (iii) the Drop Copy Port, which provides a real-time feed containing trade execution, trade correction, trade cancellation and trade allocation for regular and complex orders on BOX for Participants; and (iv) the HSVF Port, which provides a BOX market data feed for both Participants and non-Participants. The Exchange notes that Participants must connect to a minimum of one port via FIX or SAIL and that there is no minimum or maximum number of ports required for the Drop Copy Port or the HSVF Port.

Current FIX Port fees are as follows:

FIX ports	BOX monthly port fees
1st FIX Port .....	\$500 per port per month.
FIX Ports 2 through 5 .....	\$250 per port per month.
Additional FIX Ports over 5.	\$150 per port per month.

Current SAIL Port fees are as follows:

SAIL ports	BOX monthly port fees
Market Making .....	\$1,000 per month for all Ports.
Order Entry .....	\$500 per month per port (1-5 Ports). \$150 per month for each additional Port.

The Exchange proposes to increase FIX Port fees as follows:

FIX ports	BOX monthly port fees
1st FIX Port .....	\$600 per port per month.
FIX Ports 2 through 5 .....	\$300 per port per month.
Additional FIX Ports over 5.	\$180 per port per month.

The Exchange proposes to increase SAIL Port fees as follows:

SAIL ports	BOX monthly port fees
Market Making .....	\$1,200 per month for all Ports.
Order Entry .....	\$600 per month per port (1-5 Ports). \$180 per month for each additional Port.

and IP Network Access 1 Gb Circuit \$2,500 per month). The IP Network Access 1 Gb Circuit is analogous to the Exchange's Non-10 Gb Connection and the 10 Gb LX LCN Circuit is analogous to the Exchange's 10 Gb Connection. See also MIAX Options Fee Schedule, Section 5a) (Primary/Secondary Facility 10 Gigabit ULL Per Connection \$13,500 per month and Primary/Secondary Facility 1 Gigabit Per Connection \$1,400 per month). The 1 Gigabit is analogous to the Exchange's Non-10 Gb Connection and the 10 Gigabit ULL is analogous to the Exchange's 10 Gb Connection.

The Exchange also proposes to increase Drop Copy Ports, currently \$500 per month, to \$600 per month for each month a Participant is credentialed to use a Drop Copy Port. Drop Copy Port fees will remain capped at \$2,000 per month.

The Exchange proposes lastly to increase HSVF Port fees, currently \$1,500 per month, to \$1,800 per month for each month a Participant or non-Participant is credentialed to use the HSVF Port.

The Exchange notes that since these fees were initiated 6 years ago,<sup>6</sup> there has been notable inflation. Particularly, the dollar has had an average inflation rate of 3.69% per year between 2018 and today, producing a cumulative price increase of approximately 24.3% inflation since the connectivity and port fees were initiated.<sup>7</sup> The Exchange again notes that the proposed fee amounts, even as amended, continue to be in line with, or lower than, amounts assessed by other exchanges for similar ports.<sup>8</sup>

<sup>6</sup> The 10 Gb and Non-10 Gb Connection fees were initially effective on July 19, 2018. See Securities Exchange Act Release No. 83728 (July 27, 2018), 83 FR 37853 (August 2, 2018) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule on BOX Market LLC ("BOX") Options Facility To Establish BOX Connectivity Fees for Participants and Non-Participants Who Connect to the BOX Network). These fees were suspended on September 17, 2018 and became effective again on October 31, 2019. HSVF port fees were increased on January 31, 2018. See Securities Exchange Act Release No. 82654 (February 7, 2018), 83 FR 6284 (February 13, 2018) (SR-BOX-2018-04) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Section VI. (Technology Fees) of the BOX Fee Schedule). SAIL, FIX, and Drop Copy port fees were established on April 27, 2018. See Securities Exchange Act Release No. 83197 (May 9, 2018), 83 FR 22567 (May 15, 2018) (SR-BOX-2018-15) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule on the BOX Market LLC ("BOX") Options Facility To Amend Connectivity Fees and Establish Port Fees).

<sup>7</sup> See <https://www.officialdata.org/us/inflation/2010?amount=1> (calculated from 2018 to April 18, 2024).

<sup>8</sup> See Cboe C2 Exchange, Inc. ("Cboe C2") Options Fee Schedule (assessing \$650 per port per month for Logical Ports (BOE, FIX, Drop) and at least \$1,500 per month for Bulk BOE Ports). The Exchange notes that Bulk BOE Ports are analogous to the Exchange's SAIL Ports and Logical Ports are analogous to the Exchange's FIX Ports. See also Nasdaq PHLX LLC ("Nasdaq Phlx") Rules Options 7, Section 9 (assessing \$650 per month per mnemonic for FIX Ports and \$1,250 per port, per month up to a maximum of \$42,000 per month for SQF Ports). The Exchange notes that SQF Ports are similar to SAIL Ports. Under the proposal, Market Makers on BOX will be assessed \$1,200 per month for all SAIL Ports, compared to Cboe C2 which assesses at least \$1,500 per month for each Bulk BOE Port and Nasdaq Phlx which assesses \$1,250 per port, per month up to a maximum of \$42,000 per month for SQF Ports. The Exchange notes further that HSVF Ports allow access to BOX market data and, while BOX assesses fees for HSVF Ports, it does not assess market data fees. In contrast, other

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## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of section 6(b) of the Act.<sup>9</sup> Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)<sup>10</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)<sup>11</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with section 6(b)(4)<sup>12</sup> of the Act, which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Participants and other persons using its facilities.

Specifically, the current connectivity and port fees do not properly reflect the value of the services and products, as fees for the services and products in question have been static in nominal terms, and therefore falling in real terms due to inflation. Additionally, exchange fees are constrained by the fact that market participants can choose among 17 different venues for options trading, and therefore no single venue can charge excessive fees for its products without losing customers and market share.

The Exchange believes the proposed fee change is reasonable as it reflects a moderate increase in physical connectivity and port fees for 10 Gb Connections, Non-10 Gb Connections,

exchanges assess market data fees. *See, e.g.,* Nasdaq Phlx Options 7, Section 10 (assessing \$2,000 per month for Internal Distributors of Top of PHLX Options data); Cboe C2 Options Fee Schedule (assessing a \$2,500 per month C2 Options Top Distribution Fee). The Exchange notes that Nasdaq Phlx and Cboe C2's market data fees are higher than BOX's proposed HSVF Port fees.

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

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

<sup>11</sup> *Id.*

<sup>12</sup> 15 U.S.C. 78f(b)(4).

FIX Ports, SAIL Ports, Drop Copy Ports, and HSVF Ports. Further, the current connectivity and port fees have remained unchanged since 2018.<sup>13</sup> The Exchange notes that since these fees were initiated 6 years ago, there has been notable inflation. Particularly, the dollar has had an average inflation rate of 3.69% per year between 2018 and today, producing a cumulative price increase of approximately 24.3% inflation since the connectivity and port fees were initiated.<sup>14</sup> For example, BOX's datacenter vendor has increased prices for power and space by 5% per year since at least 2020. Accordingly, the Exchange believes the proposed connectivity and port fees are reasonable as the increases represent a 20% increase from the rates adopted 6 years ago, notwithstanding the cumulative inflation rate of 24.3%. Further, the Exchange notes that the proposed fees remain in line with, or lower than, amounts assessed by other exchanges for similar connections and ports.<sup>15</sup> For the above reasons, the Exchange believes the proposed change is reasonable. Further, the Exchange is proposing a 20% fee increase for each connection and port type and believes that a 20% price increase over a period producing a cumulative price increase of approximately 24.3% is reasonable because the Exchange is proposing less than the cumulative price increase. The Exchange believes that the proposed 20% increase strikes a balance between market participants' expectations and the rise of inflation.

The Exchange notes that the 2021, 2022, and 2023 inflation rates were higher than any other year since 1991.<sup>16</sup> The Exchange believes that this could not have been reasonably anticipated in 2018 when the current connectivity fees were established. Therefore, this proposal attempts to take into account the higher than expected inflation rates seen since 2021 and the fact that the connectivity fees have not changed since 2018. The Exchange believes further that it is reasonable to increase its fees to compensate for inflation because, over time, inflation has degraded the value of each dollar that the Exchange collects in fees, such that the real revenue collected today is considerably less than that same revenue collected in 2018. The Exchange notes that this inflationary

<sup>13</sup> *See supra* note 6.

<sup>14</sup> *See* <https://www.officialdata.org/us/inflation/2010?amount=1> (calculated from 2018 to April 18, 2024).

<sup>15</sup> *See supra* notes 5, 8.

<sup>16</sup> *See* <https://www.officialdata.org/us/inflation/1990?amount=1> (calculated from 1990 to June 14, 2024).

effect is a general phenomenon that is independent of any change in BOX's costs in providing its goods and services. The Exchange believes that it is reasonable for it to offset, in part, this erosion in the value of the revenues it collects.

Additionally, the Exchange believes the proposed fee increase is reasonable in light of recent and anticipated connectivity-related upgrades and changes. Specifically, BOX has recently replaced trading servers and added additional servers to increase performance and capacity, to increase competitiveness, and to support growth. For example, the rapid growth of trading volumes from 2020 has increased the number of servers, network devices, and telecommunications lines required to keep pace with the growth of trade, order, and quote data. As part of another recent change, BOX deployed additional low latency network switches and increased its datacenter space. As a result of these initiatives, BOX increased its overall hardware footprint at the datacenters which directly results in increased support costs at the datacenter as well.

The goal of the initiatives discussed above, among other things, is to provide faster and more consistent order handling and matching performance for options, while ensuring quicker processing time and supporting increasing volumes. Accordingly, BOX continuously invests in improvements that enhance the value of its connectivity services. The Exchange expended, and will continue to expend, resources to innovate and modernize technology so that it may benefit its Participants and continue to compete among other options markets. BOX regularly invests in efforts to support and optimize its systems to support system capacity, reliability, and performance.

Further, Participants and non-Participants will continue to choose the method of connectivity based on their specific needs and no broker-dealer is required to become a Participant of, let alone connect directly to, BOX. There is also no regulatory requirement that any market participant connect to any one particular exchange. Moreover, direct connectivity is not a requirement to participate on BOX. Participants may choose to connect indirectly to BOX via a third-party reseller of connectivity. Additionally, market participants may choose to connect to other options exchanges. Indeed, there are currently 17 registered options exchanges that trade options, many with higher

connectivity and port fees.<sup>17</sup> Based on publicly available information, no single options exchange has more than approximately 19% of the market share.<sup>18</sup> Further, low barriers to entry mean that new exchanges may rapidly enter the market and offer additional substitute platforms to further compete with BOX and the products it offers. For example, there are 4 exchanges that have been added in the U.S. options markets in the last 6 years (*i.e.*, Nasdaq MRX, LLC, MIAAX Pearl, LLC, MEMX LLC, and MIAAX Emerald LLC), and an additional options exchange that is expected to launch in 2024 (*i.e.*, MIAAX Sapphire Exchange).

The Exchange notes that both Participants and non-Participants may purchase connectivity and that either Participants or non-Participants may resell such connectivity. This indirect connectivity is a viable alternative for market participants to consume market data from BOX without connecting directly to BOX (and thus not pay BOX's connectivity fees), which alternative is already being used by both Participants and non-Participants and further constrains the price that BOX is able to charge for connectivity. The Exchange notes that it could, but chooses not to, preclude resale of its connectivity. The Exchange also chooses not to adopt fees that would be assessed to third-party resellers on a per customer basis (*i.e.*, fee based on number of Participants that connect to BOX indirectly via the third-party). Particularly, these third-party resellers may purchase BOX's connections and resell access to such connections either alone or as part of a package of services. The Exchange notes that multiple Participants are able to share a single physical connection (and corresponding bandwidth) with other non-affiliated Participants if purchased through a third-party re-seller. This allows resellers to mutualize the costs of the connections for market participants and provide such connections at a price that may be lower than BOX charges due to this mutualized connectivity. These third-party sellers may also provide an additional value to market participants as they may also manage and monitor these connections. Additionally, clients of these third-parties may also be able connect from the same colocation facility either from their own racks or using the third-party's managed racks and infrastructure which may provide

further cost-savings. Further, the Exchange does not receive any connectivity revenue when connectivity is resold by a third-party, which often is resold to multiple customers. Given the availability of third-party providers that also offer connectivity solutions, the Exchange believes participation on BOX remains affordable (notwithstanding the proposed fee change) for all market participants, including smaller trading firms that may be able to take advantage of lower costs that result from mutualized connectivity.

Accordingly, the vigorous competition among national securities exchanges provides many alternatives for firms to voluntarily decide whether direct connectivity to BOX is appropriate and worthwhile, and as noted above, no broker-dealer is required to become a Participant of the Exchange, let alone connect directly to it. In the event that a market participant views BOX's proposed fee change as more or less attractive than the competition, that market participant can choose to connect to BOX indirectly or may choose not to connect at all and connect instead to one or more of the other 16 options markets. As such, BOX must set its fees, including its fees for connectivity and ports competitively. If not, customers may move to other venues or reduce use of the BOX's services. "If competitive forces are operative, the self-interest of the exchanges themselves will work powerfully to constrain unreasonable or unfair behavior."<sup>19</sup> Accordingly, "the existence of significant competition provides a substantial basis for finding that the terms of an exchange's fee proposal are equitable, fair, reasonable, and not unreasonably or unfairly discriminatory."<sup>20</sup> Disincentivizing market participants from purchasing BOX connectivity would only serve to discourage participation on BOX, which ultimately does not benefit BOX. Moreover, if BOX charges excessive fees, BOX may stand to lose not only connectivity and port revenues but also other revenues, including revenues associated with the execution of orders. In summary, the proposal represents an equitable allocation of reasonable dues, fees and other charges because BOX's connectivity and port fees have fallen in real terms and customers have a choice in trading venue and will exercise that choice and trade at another venue if connectivity and port fees are not set

such that BOX's revenues are sufficient to invest in a competitive connectivity offering.

As for market participants that determine to continue to maintain their current connectivity to BOX, or to purchase connectivity for business purposes, those business reasons presumably result in revenue capable of covering the proposed fees. Further, for such market participants that choose to connect to BOX, the Exchange believes the proposed fees continue to provide flexibility with respect to how to connect to BOX based on each market participants' respective business needs. For example, the amount and type of ports are determined by factors relevant and specific to each market participant, including its business model, costs of connectivity, how its business is segmented and allocated, and volume of messages sent to BOX. Moreover, the Exchange notes that BOX does not have unlimited system capacity and the proposed fees are also designed to encourage market participants to be efficient with their respective port usage and discourage the purchasing of large amounts of superfluous ports. There is also no requirement that any market participant maintain a specific number of ports and a market participant may choose to maintain as many or as few of such ports as each deems appropriate.<sup>21</sup> Further, market participants are free to reduce or discontinue use of these ports in response to the proposed fees.

As noted above, there is no regulatory requirement that any market participant connect to any one options exchange, nor that any market participant connect at a particular connection speed or act in a particular capacity on BOX, or trade any particular product offered on an exchange. Moreover, membership is not a requirement to participate on BOX. Indeed, the Exchange is unaware of any one options exchange whose membership includes every registered broker-dealer. By way of example, while the Exchange has 54 Participants (*i.e.*, members), Cboe BZX has 61 members that trade options,<sup>22</sup> Cboe C2 has 52 Trading Permit Holders ("TPHs") (*i.e.*,

<sup>21</sup> As noted herein, Participants must connect to a minimum of one port via FIX or SAIL.

<sup>22</sup> See Securities Exchange Act Release No. 100011 (April 23, 2024), 89 FR 33428 (April 29, 2024) (SR-CboeEDGX-2024-021) (Cboe BZX Exchange, Inc. (options and equities platforms), Cboe BYX Exchange, Inc., Cboe EDGA Exchange, Inc., and Cboe C2 Exchange, Inc., are also submitting contemporaneous identical rule filings). See also Securities Exchange Act Release No. 100119 (May 13, 2024), 89 FR 43446 (May 17, 2024) (SR-Phlx-2024-19).

<sup>17</sup> See *supra* notes 5, 8.

<sup>18</sup> See Cboe Global Markets U.S. Options Market Volume Summary (April 17, 2024), available at [https://markets.cboe.com/us/options/market\\_statistics/](https://markets.cboe.com/us/options/market_statistics/).

<sup>19</sup> See Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770 (December 9, 2008) (SR-NYSEArca-2006-21).

<sup>20</sup> *Id.*

members),<sup>23</sup> NYSE American Options has 71 members,<sup>24</sup> NYSE Arca Options has 69 members,<sup>25</sup> MIA X Options has 46 members,<sup>26</sup> and MIA X Pearl Options has 40 members.<sup>27</sup> Accordingly, excessive fees would simply serve to reduce demand for these products, which market participants are under no regulatory obligation to utilize.

The Exchange believes that the proposed fee changes are not unfairly discriminatory because the fees are assessed uniformly across all market participants that voluntarily subscribe to or purchase connectivity or ports. The Exchange notes that SAIL Port fees are higher than FIX Port fees, although both types of ports may be used to enter orders, only SAIL Ports may be used to enter quotes. Thus, a Market Maker entering quotes will be assessed higher port fees than another Participant entering orders using a FIX Port. The Exchange believes that the fee disparity between SAIL Ports and FIX Ports is not unfairly discriminatory because SAIL Ports allow bulk quotes and Market Maker functions such as Market Maker Protection. These features allow Market Makers to maintain and manage large numbers of quotes which provides unique value to Market Makers.

#### *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 proposed fee change will not impact intramarket competition because it will apply to all similarly situated Participants and non-Participants equally (*i.e.*, all market participants that choose to purchase connectivity or ports).<sup>28</sup> The Exchange notes that SAIL Port fees are higher than FIX Port fees, although both types of ports may be used to enter orders, only SAIL Ports may be used to enter quotes. Thus, a Market Maker entering quotes will be assessed higher port fees than another Participant entering orders using a FIX Port. The Exchange believes that the fee disparity between SAIL Ports and FIX

Ports is not unfairly discriminatory because SAIL Ports allow bulk quotes and Market Maker functions such as Market Maker Protection. These features allow Market Makers to maintain and manage large numbers of quotes which provides unique value to Market Makers.

Additionally, the Exchange does not believe its proposed pricing will impose a barrier to entry to smaller market participants and notes that its proposed connectivity pricing is associated with relative usage of the various market participants. For example, market participants with modest capacity needs can continue to buy fewer ports than market participants with greater capacity needs and the less expensive Non-10 Gb Connection or may choose to obtain access via a third-party re-seller. Accordingly, the proposed connectivity and port fees do not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the allocation reflects the network resources consumed by the various size of market participants—lowest bandwidth consuming members pay the least, and highest bandwidth consuming members pay the most.

The Exchange notes that the proposed fees are still lower than many fees for similar connectivity and ports on other exchanges and therefore may stimulate intermarket competition by attracting additional firms to connect to BOX or at least should not deter interested market participants from connecting directly to BOX. The Exchange believes that this fee increase will not impose any burden on intermarket competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes further that, without this fee increase, it is potentially at a competitive disadvantage to certain other exchanges that have in place higher fees for similar services. Further, if the changes proposed herein are unattractive to market participants, BOX can, and likely will, see a decline in connectivity and ports as a result. The Exchange operates in a highly competitive market in which market participants can determine whether or not to connect directly to BOX and how many ports to purchase, if any, based on the value received compared to the cost of doing so. Indeed, market participants have numerous alternative venues that they may participate on and direct their order flow to, including 16 other options markets, as well as off-exchange venues, where competitive products are available for trading.

#### *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<sup>29</sup> and Rule 19b-4(f)(2) thereunder,<sup>30</sup> 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.

#### **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 (<https://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-2024-16 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-2024-16. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://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

<sup>29</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>30</sup> 17 CFR 240.19b-4(f)(2).

<sup>23</sup> *Id.*

<sup>24</sup> See <https://www.nyse.com/markets/american-options/membership#directory>.

<sup>25</sup> See <https://www.nyse.com/markets/arca-options/membership#directory>.

<sup>26</sup> See [https://www.miaxglobal.com/sites/default/files/page-files/MIA\\_X\\_Options\\_Exchange\\_Members\\_April\\_2023\\_04282023.pdf](https://www.miaxglobal.com/sites/default/files/page-files/MIA_X_Options_Exchange_Members_April_2023_04282023.pdf).

<sup>27</sup> See [https://www.miaxglobal.com/sites/default/files/page-files/MIA\\_X\\_Pearl\\_Exchange\\_Members\\_01172023\\_0.pdf](https://www.miaxglobal.com/sites/default/files/page-files/MIA_X_Pearl_Exchange_Members_01172023_0.pdf).

<sup>28</sup> The Exchange notes that only Participants may purchase FIX Ports, SAIL Ports, and Drop Copy Ports.

Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-BOX-2024-16 and should be submitted on or before July 18, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>31</sup>

**Vanessa A. Countryman,**  
Secretary.

[FR Doc. 2024-14061 Filed 6-26-24; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100399; File No. SR-FICC-2024-005]

### Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Partial Amendment No. 1, To Modify the GSD Rules To Facilitate Access to Clearance and Settlement of All Eligible Secondary Market Transactions in U.S. Treasury Securities

June 21, 2024.

#### I. Introduction

On March 11, 2024, Fixed Income Clearing Corporation (“FICC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change SR-FICC-2024-005 pursuant to Section 19(b) of the Securities Exchange Act of 1934 (“Exchange Act”) <sup>1</sup> and Rule 19b-4 <sup>2</sup> thereunder to modify FICC’s Government Securities Division

(“GSD”) Rulebook (“GSD Rules”) to facilitate access to clearance and settlement services of all eligible secondary market transactions in U.S. Treasury securities.<sup>3</sup> On March 19, 2024, FICC filed Partial Amendment No. 1 to make clarifications and corrections <sup>4</sup> to the proposed rule change. The proposed rule change, as modified by Partial Amendment No. 1, is referred to herein as the “Proposed Rule Change.” The Proposed Rule Change was published for public comment in the **Federal Register** on March 27, 2024.<sup>5</sup> The Commission has received comments regarding the substance of the changes proposed in the Proposed Rule Change.<sup>6</sup>

On May 1, 2024, pursuant to Section 19(b)(2) of the Exchange Act,<sup>7</sup> the Commission designated a longer period within which to approve, disapprove, or institute proceedings to determine whether to approve or disapprove the Proposed Rule Change.<sup>8</sup> The Commission is instituting proceedings, pursuant to Section 19(b)(2)(B) of the Exchange Act,<sup>9</sup> to determine whether to approve or disapprove the Proposed Rule Change.

#### II. Summary of the Proposed Rule Change

##### A. Background

FICC, through GSD, serves as a central counterparty and provides real-time trade matching, clearing, risk management and netting for cash purchases and sales of U.S. Treasury securities as well as repurchase and reverse repurchase transactions involving U.S. Treasury securities. Currently, FICC is the sole provider of

clearance and settlement services for U.S. Treasury securities.

On December 13, 2023, the Commission adopted amendments to the standards applicable to covered clearing agencies, such as FICC,<sup>10</sup> requiring each such clearing agency for U.S. Treasury securities to have written policies and procedures reasonably designed to, among other things, ensure that it has appropriate means to facilitate access to clearance and settlement services of all eligible secondary market transactions in U.S. Treasury securities, including those of the clearing agency’s direct and indirect participants.<sup>11</sup>

GSD’s central counterparty services are currently available directly to entities that are approved under the GSD Rules <sup>12</sup> to be Netting Members.<sup>13</sup>

Currently, there are different Netting Member application categories based upon the type of legal entity (*i.e.*, Bank Netting Member, Dealer Netting Member, Inter-Dealer Broker Netting Member) and whether an entity is incorporated in the United States or not (*i.e.*, a Foreign Netting Member). Netting Member applicants must meet both financial and operational minimum eligibility requirements <sup>14</sup> and, as GSD Members, must adhere to ongoing minimum membership standards.<sup>15</sup> Furthermore, both the minimum eligibility requirements and ongoing standards vary depending on the relevant Netting Membership category. However, in general, all Netting Member categories may access the services

<sup>3</sup> See Notice of Filing *supra* note 5, at 89 FR 21363.

<sup>4</sup> Partial Amendment No. 1 made clarifications and corrections to the description of the proposed rule change and Exhibit 5. Specifically, as originally filed, the description of the proposed rule change made a reference to an incorrect section of the GSD Rulebook. Partial Amendment No. 1 corrects that reference. Additionally, as originally filed, the description of the proposed rule change and Exhibit 5 contained inconsistent references regarding whether FICC or its Board would be responsible for approving membership applications and related membership matters. Partial Amendment No. 1 clarifies and corrects those references. These clarifications and corrections have been incorporated, as appropriate, into the description of the proposed rule change in this order instituting proceedings.

<sup>5</sup> Securities Exchange Act Release No. 99817 (March 21, 2024), 89 FR 21362 (March 27, 2024) (File No. SR-FICC-2024-005) (“Notice of Filing”).

<sup>6</sup> Comments on the Proposed Rule Change are available at <https://www.sec.gov/comments/sr-ficc-2024-005/srficc2024005.htm>.

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>8</sup> Securities Exchange Act Release No. 100031 (Apr. 25, 2024), 89 FR 35269 (May 1, 2024) (File No. SR-FICC-2023-005).

<sup>9</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>10</sup> A “covered clearing agency” is, among other things, a registered clearing agency that provides the services of a central counterparty, and a central counterparty is a clearing agency that interposes itself between the counterparties to securities transactions, acting functionally as the buyer to every seller and the seller to every buyer. 17 CFR 240.17Ad-22(a); *see also* 15 U.S.C. 78c(a)(23) (defining a clearing agency). FICC is a clearing agency registered with the Commission under Section 17A of the Exchange Act (15 U.S.C. 78q-1), and it acts as a central counterparty.

<sup>11</sup> 17 CFR 240.17Ad-22(e)(18)(iv)(C). *See* Securities Exchange Act Release No. 99149 (Dec. 13, 2023), 89 FR 2714 (Jan. 16, 2024) (“Adopting Release”, and the rules adopted therein referred to herein as “Treasury Clearing Rules”). FICC must implement the new requirements of Rule 17Ad-22(e)(18)(iv)(C) by March 31, 2025. FICC will file separate proposed rule changes to address other requirements applicable to it and adopted as part of the Treasury Clearing Rules.

<sup>12</sup> The GSD Rules are available at [https://www.dtcc.com/-/media/Files/Downloads/legal/rules/ficc\\_gov\\_rules.pdf](https://www.dtcc.com/-/media/Files/Downloads/legal/rules/ficc_gov_rules.pdf). Terms not otherwise defined herein are defined in the GSD Rules.

<sup>13</sup> *See* Rule 2, *supra* note 12.

<sup>14</sup> *See* Rule 2A, *supra* note 12.

<sup>15</sup> *See* Rule 3, *supra* note 12.

<sup>31</sup> 17 CFR 200.30-3(a)(12).

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

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