

does not impose a burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be 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, as modified by Amendment No. 1, 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-NYSECHX-2020-01 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-NYSECHX-2020-01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSECHX-2020-01 and should be submitted on or before February 13, 2020.

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

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-88002; File No. SR-BOX-2019-19]**

**Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing of Amendment No. 1 and Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, To Adopt Rules Governing the Trading of Equity Securities on the Exchange Through a Facility of the Exchange Known as the Boston Security Token Exchange LLC**

January 16, 2020.

On September 27, 2019, BOX Exchange LLC ("Exchange" or "BOX") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to adopt rules governing the listing and trading of equity securities that would be NMS stocks on the Exchange through a facility of the Exchange known as the Boston Security Token Exchange LLC ("BSTX"). The proposed rule change

was published for comment in the **Federal Register** on October 18, 2019.<sup>3</sup> On November 29, 2019, pursuant to Section 19(b)(2) of the Exchange Act,<sup>4</sup> the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.<sup>5</sup> On December 26, 2019, the Exchange filed Amendment No. 1 to the proposed rule change, which amended the proposed rule change as originally filed.<sup>6</sup> The Commission has received one comment letter on the proposed rule change.<sup>7</sup> The Commission is publishing this notice and order to

<sup>3</sup> See Securities Exchange Act Release No. 87287 (October 11, 2019), 84 FR 56022 (October 18, 2019) ("Notice").

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> See Securities Exchange Act Release No. 87641 (November 29, 2019), 84 FR 66701 (December 5, 2019). The Commission designated January 16, 2020, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change.

<sup>6</sup> In Amendment No. 1, the Exchange revised the proposal to: (1) Adopt listing standards that are similar to those of NYSE American, rather than quantitative listing standards that are 20% lower than those of NYSE American as initially proposed; (2) remove the requirement that, for a period of one year from the commencement of trading in security tokens on BSTX, non-BSTX Participants must obtain a wallet address from the Exchange and agree to report their end-of-day security token balances to BSTX; (3) provide for an omnibus wallet address to which the Exchange would instruct Wallet Managers to allocate unreported end-of-day balances for a given type of security token, resulting either from security tokens held by non-BSTX Participants who are not subject to the end-of-day balance reporting requirement or from any missing end-of-day balance reports among BSTX Participants; (4) state that a BSTX Participant who fails to obtain a wallet address prior to acquiring a position in a security token, fails to report the end-of-day balances in a timely manner, or inaccurately reports such balances would be subject to disciplinary action; (5) add additional listing requirements for security tokens issued by affiliates of the Exchange; (6) require at least three market makers upon initial listing for a security token that does not utilize a designated market maker ("DMM"); (7) state that the Ethereum blockchain serves as ancillary records that would not create or convey any ownership of security tokens or shareholder equity in the issuer; and (8) make technical and conforming changes. See text accompanying *infra* note 12 for the Exchange's definition of "security tokens," *infra* note 15 for the definition of "BSTX Participant," and *infra* note 18 for the definition of "Wallet Manager." When the Exchange filed Amendment No. 1 to BOX-2019-19, it also submitted the text of the partial amendment as a comment letter to the filing, which the Commission made publicly available at <https://www.sec.gov/comments/sr-box-2019-19/srbox201919-6613675-202939.pdf> ("Amendment No. 1").

<sup>7</sup> See Letter from Ellen Greene, Managing Director, SIFMA, to Vanessa Countryman, Secretary, Commission, dated January 13, 2020, available at <https://www.sec.gov/comments/sr-box-2019-19/srbox201919-6640676-203567.pdf> ("SIFMA Letter").

<sup>27</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.

solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons and to institute proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act<sup>8</sup> to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.

### I. Summary of the Proposal, as Modified by Amendment No. 1

As described in the Notice and Amendment No. 1,<sup>9</sup> the Exchange proposes to adopt rules governing the trading of equity securities through a facility of the Exchange known as BSTX.<sup>10</sup> BSTX proposes to operate a fully automated, price-time priority execution system to trade equity securities that are NMS stocks and meet BSTX listing standards.<sup>11</sup> These securities would have ancillary records of ownership reflecting certain end-of-day security token balances as reported by market participants that would be created and maintained using distributed ledger technology (such securities to be referred to as “security tokens”).<sup>12</sup> According to the Exchange, official records of security ownership would be maintained by participants at The Depository Trust Company (“DTC”), and attribution of a security token on the Ethereum blockchain would not convey ownership of shareholder equity in the issuer.<sup>13</sup>

According to the Exchange, security tokens would have their ancillary record of ownership recorded on the Ethereum blockchain using a protocol standard determined by BSTX (the “BSTX Security Token Protocol”).<sup>14</sup> The Exchange proposes that each BSTX Participant<sup>15</sup> would be required to establish, either directly or through a carrying firm, a whitelisted wallet address to which its end-of-day security token ownership balances may be recorded.<sup>16</sup> The Exchange proposes that each business day, each BSTX Participant would be required to report to BSTX certain end-of-day security

token ownership balances in a manner and form acceptable to BSTX.<sup>17</sup> The Exchange would then, in coordination with a Wallet Manager,<sup>18</sup> cause the Ethereum blockchain to be updated as an ancillary recordkeeping mechanism to reflect changes in ownership of security tokens.<sup>19</sup> According to the Exchange, non-BSTX Participants that may trade security tokens would not be subject to the requirement to obtain a wallet address or to the end-of-day ownership reporting requirements.<sup>20</sup>

According to the Exchange, to account for instances in which a BSTX Participant fails to report or inaccurately reports its end-of-day ownership balance and the position of security tokens held by non-BSTX Participants who are not subject to the end-of-day ownership reporting requirement, the Exchange would require the Wallet Managers to allocate all such unreported security token balances for a given security token to a single omnibus wallet address.<sup>21</sup> The Exchange states that the Ethereum blockchain would display security token balances that would reflect end-of-day ownership balances reported to BSTX pursuant to proposed BSTX Rule 17020<sup>22</sup> and a balance allocated to the omnibus wallet address for any type of security token for which the sum of the reported positions is less than the number of security tokens known by the Exchange to be issued and outstanding. Thus, according to the Exchange, the Ethereum blockchain may not reflect the precise distribution of a security token among holders, and may also display inaccurate information to the extent that BSTX Participants inaccurately report their end-of-day ownership balances to BSTX.<sup>23</sup>

The Exchange proposes that security tokens would be only eligible for trading on another national securities exchange if that exchange is able to support trading in security tokens<sup>24</sup> and has in effect rules providing for the trading of security tokens on that exchange,

including rules requiring that exchange members obtain a wallet address compatible with the BSTX Security Token Protocol and adopt some mechanism to report end-of-day security token ownership balances to BSTX.<sup>25</sup>

The Exchange also proposes rules for participation on BSTX, business conduct for BSTX Participants, financial and operational rules for BSTX Participants, supervision, trading practices, discipline, trading rules, and market making.<sup>26</sup> In addition, the Exchange proposes listing standards that, according to the Exchange, are similar to the listing standards of NYSE American.<sup>27</sup> The Exchange proposes that these listing standards would also specify that all listed security tokens must comply with the BSTX Security Token Protocol.<sup>28</sup>

According to the Exchange, all transactions in security tokens would clear and settle in accordance with the rules, policies, and procedures of registered clearing agencies.<sup>29</sup> The Exchange states that BSTX anticipates that DTC would serve as the securities depository for security tokens and that confirmed trades in securities tokens on BSTX would be transmitted to National Securities Clearing Corporation (“NSCC”) for clearing.<sup>30</sup>

### II. Summary of the Comment

To date the Commission has received one comment letter on the proposal.<sup>31</sup> The commenter notes that the proposal was only recently brought to its attention because it did not anticipate that a filing by an options exchange to create a facility could impact the U.S. equities markets.<sup>32</sup> The commenter expresses concern that the approval of the proposal “could be a significant change for the equities market.”<sup>33</sup> The

<sup>25</sup> See *id.*

<sup>26</sup> See *id.* at 56030–43. The trading rules that the Exchange proposes include provisions for primary distributions of securities to be made through the Exchange, including using an auction process. See *id.* at 56035–36.

<sup>27</sup> See Amendment No. 1, *supra* note 6, at 10–11.

<sup>28</sup> See Notice, *supra* note 3, 84 FR at 56025.

<sup>29</sup> See *id.* at 56023.

<sup>30</sup> See *id.*

<sup>31</sup> See SIFMA Letter, *supra* note 7.

<sup>32</sup> *Id.* at 2.

<sup>33</sup> *Id.* The commenter’s letter also references another filing by the Exchange, SR–BOX–2019–37, which also relates to the commencement of operations of BSTX. *Id.* at 1 (referencing Securities Exchange Act Release No. 87868 (December 30, 2019), 85 FR 345 (January 3, 2020) (SR–BOX–2019–37) (“BSTX Corporate Governance Proposal”). With the BSTX Corporate Governance Proposal, BSTX proposes the corporate governance documents for the BSTX facility, and describes the proposed initial ownership structure for the facility, which would be 50% owned by BOX Digital Markets LLC, a subsidiary of BOX Holdings Group

Continued

<sup>8</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>9</sup> See Notice, *supra* note 3; Amendment No. 1, *supra* note 6.

<sup>10</sup> See Notice, *supra* note 3, 84 FR at 56022.

<sup>11</sup> See *id.*

<sup>12</sup> See *id.*

<sup>13</sup> See *id.* at 56026.

<sup>14</sup> See *id.* at 56025.

<sup>15</sup> A “BSTX Participant” would be a participant that is authorized to trade security tokens on the Exchange. See proposed BSTX Rule 17000(a)(11).

<sup>16</sup> See Notice, *supra* note 3, 84 FR at 56027. According to the Exchange, a whitelisted wallet address would be a permissioned number associated with a particular market participant to which security tokens may be sent. The Registry Smart Contract, which is an ancillary smart contract within the BSTX Security Token Protocol, contains a list of whitelisted addresses. See *id.* at 56026–27.

<sup>17</sup> See *id.* at 56027.

<sup>18</sup> The Exchange proposes to define a “Wallet Manager” as a party approved by BSTX to operate software compatible with the BSTX Security Token Protocol. See proposed Rule 17000(a)(31). According to the Exchange, the Wallet Manager would act as a third-party service provider for the Exchange that would facilitate establishing wallet addresses and updating the Ethereum blockchain. See Notice, *supra* note 3, 84 FR at 56027 n.44.

<sup>19</sup> See Notice, *supra* note 3, 84 FR at 56027–28.

<sup>20</sup> See Amendment No. 1, *supra* note 6, at 5.

<sup>21</sup> See *id.* at 6.

<sup>22</sup> Proposed BSTX Rule 17020 sets forth the proposed end-of-day reporting requirements for BSTX Participants. See proposed BSTX Rule 17020.

<sup>23</sup> See Amendment No. 1, *supra* note 6, at 6.

<sup>24</sup> See Notice, *supra* note 3, 84 FR at 56029.

commenter requests an extension of the comment period to consider the proposal, particularly on the implications of the characterization of security tokens as NMS stocks, the use of blockchain, and the potential impact on unlisted trading privileges.<sup>34</sup>

### III. Proceedings To Determine Whether To Approve or Disapprove SR-BOX-2019-19 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act<sup>35</sup> to determine whether the proposed rule change should be approved or disapproved. Institution 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 additional comment on the proposed rule change to inform the Commission's analysis of whether to approve or disapprove the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Exchange Act,<sup>36</sup> the Commission is providing notice of the grounds for disapproval under consideration:

- Whether the Exchange has demonstrated how the proposal is consistent with Section 6(b)(1) of the Exchange Act, which requires, among other things, that a national securities exchange be so organized and have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and enforce compliance by its members and persons associated with its members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange;<sup>37</sup>
- Whether the Exchange has demonstrated how the proposal is consistent with Section 6(b)(5) of the Exchange 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, 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 to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers;<sup>38</sup>

- Whether the Exchange has demonstrated how the proposal is consistent with Section 6(b)(7) of the Exchange Act, which requires that the rules of the exchange provide a fair procedure for the prohibition or limitation by the exchange of any person with respect to access to services offered by the exchange;<sup>39</sup>
- Whether the Exchange has demonstrated how the proposal is consistent with Section 6(b)(8) of the Exchange Act, which requires that the rules of the exchange do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act;<sup>40</sup>
- Whether the Exchange has demonstrated how the proposal is consistent with Section 11A of the Exchange Act, which provides the Commission's authority to establish and maintain a national market system;<sup>41</sup>
- Whether the Exchange has demonstrated how the proposal is consistent with Section 12 of the Exchange Act, which provides, among other things, certain requirements that a national securities exchange must comply with to extend unlisted trading privileges to securities originally listed on another national securities exchange;<sup>42</sup> and
- Whether the Exchange has demonstrated how the proposal is consistent with Section 17A of the Exchange Act, which provides, among other things, the Commission's authority to establish linked or coordinated facilities for the clearance and settlement of transactions in securities.<sup>43</sup>

Under the Commission's Rules of Practice, the "burden to demonstrate that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder . . . is on the [SRO] that proposed the rule change."<sup>44</sup> The

description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,<sup>45</sup> and any failure of an SRO to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Exchange Act and the applicable rules and regulations.<sup>46</sup>

The Commission is instituting proceedings to allow for additional consideration and comment on the issues raised herein, including as to whether the proposal is consistent with the Exchange Act.

### 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, as modified by Amendment No. 1, is consistent with Sections 6(b)(1),<sup>47</sup> 6(b)(5),<sup>48</sup> 6(b)(7),<sup>49</sup> 6(b)(8),<sup>50</sup> 11A,<sup>51</sup> 12,<sup>52</sup> and 17A<sup>53</sup> of the Exchange Act or any other provision of the Securities Act of 1933 ("Securities Act") or 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 under the Exchange Act,<sup>54</sup> any request for an opportunity to make an oral presentation.<sup>55</sup>

Interested persons are invited to submit written data, views, and arguments regarding whether the

<sup>45</sup> See *id.*

<sup>46</sup> See *id.*

<sup>47</sup> 15 U.S.C. 78f(b)(1).

<sup>48</sup> 15 U.S.C. 78f(b)(5).

<sup>49</sup> 15 U.S.C. 78f(b)(7).

<sup>50</sup> 15 U.S.C. 78f(b)(8).

<sup>51</sup> 15 U.S.C. 78k-1.

<sup>52</sup> 15 U.S.C. 78l.

<sup>53</sup> 15 U.S.C. 78q-1.

<sup>54</sup> 17 CFR 240.19b-4.

<sup>55</sup> Section 19(b)(2) of the Exchange Act, as amended by the Securities Act 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 Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

LLC—an affiliate of the Exchange, and 50% owned by tZERO Group, Inc., an indirect subsidiary of Overstock.com, Inc. See *id.* The commenter also requests more time to provide feedback on the BSTX Corporate Governance Proposal. See SIFMA Letter, *supra* note 7, at 2.

<sup>34</sup> See SIFMA Letter, *supra* note 7, at 2.

<sup>35</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>36</sup> *Id.*

<sup>37</sup> 15 U.S.C. 78f(b)(1).

<sup>38</sup> 15 U.S.C. 78f(b)(5).

<sup>39</sup> 15 U.S.C. 78f(b)(7).

<sup>40</sup> 15 U.S.C. 78f(b)(8).

<sup>41</sup> 15 U.S.C. 78k-1.

<sup>42</sup> 15 U.S.C. 78l.

<sup>43</sup> 15 U.S.C. 78q-1.

<sup>44</sup> 17 CFR 201.700(b)(3).

proposal should be approved or disapproved by February 13, 2020. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by February 27, 2020.

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice and Amendment No. 1,<sup>56</sup> in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks comment on the following questions and asks commenters to submit data where appropriate to support their views:

- What are commenters' views on the use of distributed ledger technology to create and maintain unofficial ancillary records of ownership reflecting certain end-of-day security token ownership balances as reported by market participants, and the use of the Ethereum blockchain in particular? What are commenters' views on whether the use of the Ethereum blockchain for an ancillary record of ownership is consistent with referring to the security as a "token"? What are commenters' views on advantages and disadvantages of having an unofficial ancillary record of a security's ownership on the Ethereum blockchain, in addition to an official record of such security's ownership through DTC, including costs and benefit to investors or the integrity of the securities markets?

- What are commenters' views on potential discrepancies that may exist between the official records of ownership and the unofficial ancillary records maintained on the Ethereum blockchain, how erroneous entries of transactions on the Ethereum blockchain would be identified and addressed, and how the unofficial ancillary record would be updated after events such as dividends and stock splits? Do commenters believe that potential discrepancies between the official records of ownership and the unofficial ancillary records maintained on the Ethereum blockchain could pose risks to investors, other market participants, the securities market, or the national clearance and settlement system? Please explain why or why not.

- What are commenters' views on whether the ancillary recordkeeping mechanism is inconsistent with Section 17A(a)(2)(A)(ii) of the Exchange Act,<sup>57</sup> which directs the Commission to facilitate the establishment of linked or

coordinated facilities for clearance and settlement of securities transactions, or any other provision of the Exchange Act, or the rules and regulations thereunder?

- The Exchange states that "[p]ursuant to Rule 12f-5 under the Exchange Act,<sup>58</sup> an exchange may not extend unlisted trading privileges to any security unless the national securities exchange has in effect rules providing for transactions in the class or type of security to which the exchange extends unlisted trading privileges"<sup>59</sup> and that to be able to extend unlisted trading privileges to BSTX-listed security tokens, another national security exchanges would need rules that would "(i) requir[e] that exchange members obtain a wallet address compatible with the BSTX Security Token Protocol in order to attribute security token balances with that exchange member; and (ii) adopt[] some mechanism to report end-of-day security token [ownership] balances to BSTX in order to facilitate updates of ownership to the Ethereum blockchain as an ancillary recordkeeping mechanism."<sup>60</sup> What are commenters' views on how a national securities exchange seeking to extend unlisted trading privileges to a BSTX-listed security token might fulfill these requirements and whether doing so would impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act? Do commenters agree with the Exchange's assertion that the burden on another exchange of adopting additional rules to extend unlisted trading privileges to trade BSTX-listed security tokens is no different than the burden on an exchange that only trades equities having to first adopt rules to govern options trading prior to offering trading in options?<sup>61</sup> Why or why not?

- Do commenters believe that the proposal, including the proposed requirement that the BSTX Participants report their end-of-day ownership balances to BSTX to be recorded to the Ethereum blockchain, is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system for NMS stock?<sup>62</sup> Why or why not? Do commenters believe that the proposal is in the public interest and appropriate for the protection of investors and is designed to maintain fair and orderly markets to assure, among other things, fair competition among brokers and

dealers, among exchange markets, and between exchange markets and markets other than exchange markets; and the practicability of brokers executing investors' orders in the best market?<sup>63</sup> Why or why not?

- Do commenters agree with the Exchange's assertion that requiring BSTX Participants to report their end-of-day ownership balances to the Exchange, while non-BSTX Participants would not be subject to the same requirement, would "impose only a minimal burden on BSTX Participants"?<sup>64</sup> Why or why not? Do commenters believe that the requirements imposed by the end-of-day ownership reporting requirements would result in a burden or impact on competition between BSTX Participants and non-BSTX Participants or otherwise, that would be necessary or appropriate in furtherance of the Exchange Act? Why or why not?

- What are commenters' views on the Exchange's proposal to disseminate end-of-day ownership information, potential inaccuracies in that information, how and when that information would be disseminated, and how market participants would have access to view this information on the Ethereum blockchain? What are commenters' views on any advantages or disadvantages with the Exchange's proposal to disseminate end-of-day ownership information?

- What are commenters' views on the use of an omnibus account to reflect discrepancies between the sum of end-of-day balances reported by BSTX Participants and the number of security tokens known by the Exchange to be issued and outstanding? Do commenters have concerns about how and when the balances attributed to the omnibus wallet address would be calculated and by whom? What are commenters' views on how the number of securities for a given security token attributed to the omnibus wallet address may change over time and the potential for the total number of securities for a security token attributed to the omnibus wallet address to exceed the number of disseminated whitelisted address for that security token? What are commenters' views on whether they would have access to the information necessary to differentiate the balances attributed to the omnibus wallet address from the balances attributed to whitelisted addresses in the information disseminated on the Ethereum blockchain and, if not, the potential for confusion by investors or other market participants?

<sup>58</sup> 17 CFR 240.12f-5 (citation in original).

<sup>59</sup> Notice, *supra* note 3, 84 FR at 56029.

<sup>60</sup> *Id.*

<sup>61</sup> See *id.* at 56055.

<sup>62</sup> See 15 U.S.C. 78f(b)(5).

<sup>56</sup> See Notice, *supra* note 3; Amendment No. 1, *supra* note 6.

<sup>57</sup> 15 U.S.C. 78q-1(a)(2)(A)(ii).

<sup>63</sup> See 15 U.S.C. 78k-1(a)(1)(C)(ii), (iv).

<sup>64</sup> Amendment No. 1, *supra* note 6, at 15.

• What are commenters' views on the proposed requirement that end-of-day security token balances must be reported to BSTX each business day when the securities depository is also open for business, after such time as the securities depository has completed its end-of-day settlement process? Do commenters agree with "BSTX's belie[f] that the proposed end-of-day security token balance reporting requirement would be consistent with authority that the Commission has already approved regarding furnishment of records by members of exchanges"?<sup>65</sup> Why or why not? What are commenters' view on how the Exchange will enforce compliance with the end-of-day ownership reporting requirement on BSTX Participants?

• What are commenters' views on the Exchange's proposal to require each BSTX Participant to, either directly or through its carrying firm, establish a whitelisted wallet address to which its end-of-day security token ownership balances may be recorded by contacting BSTX or a Wallet Manager?<sup>66</sup> What are commenters' views on the function and activities of the Exchange Wallet Manager and how the Wallet Manager will assist a BSTX Participant with establishing a wallet address? What are commenters' views on the standard the Exchange will use to select a Wallet Manager, the standard that the Wallet Manager will use to approve or deny applications to establish a wallet address, Exchange's oversight of the Wallet Manager's activities, including the Wallet Manager's approval or denial of applications to establish a wallet address, and the Exchange's rules and procedures to ensure that a Wallet Manager does not act in an unfair or discriminatory manner in performing its function?

• What are commenters' views on whether it would be feasible for third parties not affiliated with BSTX to serve as a Wallet Manager? What are commenters' views on the Exchange's representation that the BSTX Security Token Protocol is based on open source code, that the Exchange would not require the use of a particular version of

Wallet Manager software, and that anyone would be eligible to serve or operate as a Wallet Manager provided they are capable of facilitating effective updates to the Ethereum blockchain to reflect changes in security token ownership?<sup>67</sup> What are commenters' views on competition to be a Wallet Manager and any potential for conflicts of interest that may arise between or among national securities exchange and Wallet Managers for trading BSTX-listed security tokens?

• While the Exchange proposes that the Exchange and Wallet Manager will not charge a fee for obtaining a wallet address, what are commenters' views on the costs that may be incurred because of the end-of-day security token balance reporting process to investors, issuers, broker-dealers, including BSTX Participants and non-BSTX Participants, Wallet Managers, and trading centers, such as national securities exchanges and alternative trading systems?<sup>68</sup>

• Do commenters agree with the Exchange's assertion that "[o]wnership of security tokens would be able to be transferred without regard to the blockchain-based ancillary recordkeeping functionality"?<sup>69</sup> Why or why not? What are commenters' views on whether or not having a security token attributed to a wallet address could mean that the holder of the wallet address has a shareholder equity interest in the issuer? What are commenters' views on how disputes over ownership of security token would be enforced by the Exchange or any other party?

• The proposed trading rules include provisions providing for primary distributions of securities be made through the Exchange, including using an auction process.<sup>70</sup> Do commenters agree with the Exchange's assertion that the proposed method of opening trading in securities, including with respect to initial security token offerings, "provides a simple and clear method for opening transactions that is consistent with the protection of investors and the

public interest"?<sup>71</sup> Why are why not? Do commenters understand from the Exchange's proposal how primary offerings of security tokens could be made through the Exchange in compliance with the Securities Act, including the registration and prospective delivery provisions, and the related rules thereunder? If not, what information would be helpful? Do commenters understand from the Exchange's proposal how broker-dealers using the Exchange to engage in primary offerings of securities would be able to comply with their obligations under the Securities Act and the Exchange Act, and the respective rules thereunder? If so, please describe how a broker-dealer could comply.

• The Exchange states that "NSCC already has authority under its rules, policies and procedures to clear certain trades on a T+1 or T+0 basis."<sup>72</sup> What are commenters' views on the NSCC process for clearing security tokens? Do commenters believe that the Exchange has adequately explained why BSTX Participants may agree to shorter or longer settlement cycles than T+1,<sup>73</sup> and the potential effects of such shorter or longer settlement cycles?

• What are commenters' views on the rules the Exchange is proposing for short sales of security tokens? Do commenters believe that the proposed short selling rules are appropriately designed for the ancillary recordkeeping on the Ethereum blockchain and the T+1 reporting? Why or why not?

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-2019-19 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.

<sup>67</sup> See *id.* at 56055.

<sup>68</sup> See *id.* at 56046 n.286.

<sup>69</sup> *Id.* at 56023.

<sup>70</sup> See *id.* at 56035-36.

<sup>71</sup> *Id.* at 56037.

<sup>72</sup> *Id.* at 56025.

<sup>73</sup> See *id.* at 56024-25, 56039.

<sup>65</sup> Notice, *supra* note 3, 84 FR at 56028.

<sup>66</sup> See *id.* at 56027.

All submissions should refer to File Number SR–BOX–2019–19. 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 website (<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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2019–19 and should be submitted by February 13, 2020. Rebuttal comments should be submitted by February 27, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>74</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–01041 Filed 1–22–20; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87998; File No. SR–ISE–2020–01]

### Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Pricing Schedule at Options 7

January 16, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on January 2, 2020, Nasdaq ISE, LLC (“ISE” 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. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the Exchange's Pricing Schedule at Options 7, as described further below.

The text of the proposed rule change is available on the Exchange's website at <http://ise.cchwallstreet.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 aspects of such statements.

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

#### 1. Purpose

The purpose of the proposed rule change is to amend the Exchange's Pricing Schedule at Options 7. Each change is described below.

#### Priority Customer Complex Legging Rebate

Currently, the Exchange provides rebates to Priority Customer<sup>3</sup> complex orders that trade with non-Priority Customer complex orders in the complex order book or trade with quotes and orders on the regular order book. This program is designed to encourage Members to bring complex volume to the Exchange, including incentivizing Members to bring Priority Customer complex orders specifically to earn the associated rebates. Rebates are tiered based on a percentage of total industry volume.<sup>4</sup> There are currently nine Priority Customer Complex Tiers as follows:<sup>5</sup>

Priority customer complex tier	Complex order volume percentage	Rebate for select symbols <sup>6</sup>	Rebate for non-select symbols <sup>7</sup>
Tier 1 .....	0.000–0.200 .....	(\$0.25)	(\$0.40)
Tier 2 .....	Above 0.200–0.400 .....	(0.30)	(0.55)
Tier 3 .....	Above 0.400–0.600 .....	(0.35)	(0.70)
Tier 4 .....	Above 0.600–0.750 .....	(0.40)	(0.75)
Tier 5 .....	Above 0.750–1.000 .....	(0.45)	(0.80)

<sup>74</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>3</sup> A “Priority Customer” is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in Nasdaq ISE Options 1, Section 1(a)(36).

<sup>4</sup> The Priority Customer Complex Tiers are based on total Affiliated Member or Affiliated Entity complex order volume (excluding Crossing Orders

and Responses to Crossing Orders) calculated as a percentage of total national volume cleared at The Options Clearing Corporation in the Customer range in equity and ETF options for that month (hereinafter, “Complex Order Volume Percentage”). All complex order volume executed on the Exchange, including volume executed by Affiliated Members, is included in the volume calculation, except for volume executed as Crossing Orders and Responses to Crossing Orders. Affiliated Entities may also aggregate their complex order volume for purposes of calculating Priority Customer rebates. The Appointed OFP would receive the rebate

associated with the qualifying volume tier based on aggregated volume.

<sup>5</sup> The rebate for the highest tier volume achieved is applied retroactively to all eligible Priority Customer complex volume once the threshold has been reached. Members will not receive rebates for net zero complex orders. For purposes of determining which complex orders qualify as “net zero” the Exchange will count all complex orders that leg into the regular order book and are executed at a net price per contract that is within a range of \$0.01 credit and \$0.01 debit.