Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeBZX–2023–091. 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 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–CboeBZX–2023–091 and should be submitted on or before December 8, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–25383 Filed 11–16–23; 8:45 am]

BILLING CODE 8011–01–P

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98906; File No. SR–BOX–2023–25]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule for Trading on the BOX Options Market LLC Facility To Amend Sections IV.A (Non-Auction Transactions) and IV.A.1 (Tiered Volume Rebate for Non-Auction Transactions)

November 13, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 1, 2023, BOX Exchange LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend Section IV.A (Non-Auction Transactions) and Section IV.A.1 (Tiered Volume Rebate for Non-Auction Transactions) of the Fee Schedule 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 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 Section IV.A (Non-Auction Transactions) and Section IV.A.1 (Tiered Volume Rebate for Non-Auction Transactions) of the BOX Fee Schedule. First, the Exchange proposes to increase Public Customer taker fees on transactions for options overlying the Standard and Poor's Depositary Receipts Trust (''SPY'') in Section IV.A.[5] Next, the Exchange proposes to reduce Tier 4 rebates and establish a new Tier 5 in the Tiered Volume Rebate for Non-Auction Transactions for Percentage National Customer Volume in Multiply-Listed Options Classes.

Non-Auction Transactions

In Section IV.A of the BOX Fee Schedule, fees and credits for Electronic Non-Auction Transactions are assessed depending on three factors: (i) the account type of the Participant submitting the order; (ii) whether the Participant is a liquidity provider or liquidity taker; and (iii) the account type of the contra party. Currently, when a Public Customer SPY order is a liquidity taker contra to a Professional Customer, Broker Dealer, or a Market Maker, the Public Customer is assessed no fee. The Exchange now proposes to increase Public Customer taker fees on SPY Non-Auction Transactions. Accordingly, when a Public Customer SPY order is a liquidity taker contra to a Professional Customer, Broker Dealer, or a Market Maker, the Public Customer will be assessed a fee of $0.10.

Tiered Volume Rebate for Non-Auction Transactions

The Exchange also proposes to amend Section IV.A.1 of the Fee Schedule. Specifically, the Exchange proposes to add a Tier and to adjust the Percentage Thresholds of National Customer Volume in Multiply-Listed Options Classes. Currently, Public Customers

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

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(2).

[5] Options overlying Standard and Poor's Depositary Receipts/SPDRs (''SPY'') are based on the SPDR exchange-traded fund (''ETF''), which is designed to track the performance of the S&P 500 Index.

receive a per contract rebate for electronic Non-Auction Transactions according to the Tier achieved by the Public Customer as provided in the Percentage Thresholds of National Customer Volume in Multiply-Listed Options Classes table in Section IV.A.1 of the BOX Fee Schedule.[6] Percentage thresholds are calculated on a monthly basis by totaling the Public Customer's executed Auction and Non-Auction transaction volume on BOX, relative to the total national customer volume in multiply-listed options classes.

The Exchange notes that Non-Auction Transactions where a Public Customer order interacts with another Public Customer order are exempt from a per contract rebate. However, these transactions still count toward the Public Customer's monthly volume on BOX. The current thresholds and rebates are as follows:

Tier	Percentage thresholds of national customer volume in multiply-listed options classes (monthly)	Per contract rebate					
		Penny interval classes		Non-penny interval classes		SPY	
		Maker	Taker	Maker	Taker	Maker	Taker
1	0.000–0.249	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
2	0.250–0.499	(0.05)	(0.15)	(0.15)	(0.27)	(0.05)	0.00
3	0.500–0.749	(0.10)	(0.20)	(0.30)	(0.32)	(0.10)	0.00
4	0.750 and Above	(0.27)	(0.27)	(0.60)	(0.40)	(0.27)	0.00

The Exchange proposes to modify Tier 4 from 0.750% and Above to 0.750%–0.999% and to establish Tier 5 which will be 1.000% and Above. The Exchange also proposes to reduce Tier 4 rebates to $0.20 and $0.22 for Maker and Taker respectively in Penny Interval Classes, $0.45 and $0.35 for Maker and Taker respectively in Non-Penny Interval Classes, and $0.20 and $0.00 for Maker and Taker respectively in SPY. Finally, the Exchange proposes to establish Tier 5 rebates of $0.27 and $0.27 for Maker and Taker respectively in Penny Interval Classes, $0.60 and $0.40 for Maker and Taker respectively in Non-Penny Interval Classes, and $0.27 and $0.11 for Maker and Taker respectively in SPY. The proposed rebate structure is as follows:

Tier	Percentage thresholds of national customer volume in multiply-listed options classes (monthly)	Per contract rebate					
		Penny interval classes		Non-penny interval classes		SPY	
		Maker	Taker	Maker	Taker	Maker	Taker
1	0.000–0.249	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
2	0.250–0.499	(0.05)	(0.15)	(0.15)	(0.27)	(0.05)	0.00
3	0.500–0.749	(0.10)	(0.20)	(0.30)	(0.32)	(0.10)	0.00
4	0.750–0.999	(0.20)	(0.22)	(0.45)	(0.35)	(0.20)	0.00
5	1.000 and Above	(0.27)	(0.27)	(0.60)	(0.40)	(0.27)	(0.11)

The Exchange notes that the proposed SPY taker fees are lower than comparable taker fees at several other exchanges.[7] The Exchange notes further that other exchanges employ similar incentive programs; and the Exchange believes that the proposed changes are reasonable and competitive when compared to incentive structures at other exchanges.[8]

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of section 6(b) of the Act, in general, and section 6(b)(4) and 6(b)(5) of the Act,[9] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange notes that it operates in a highly competitive environment. Indeed, there are currently 17 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 21% of the market share and currently the Exchange represents only approximately 7% of the market share.[10] The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies." [11] As stated above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed fee changes reflect a competitive pricing structure designed to incentivize Public Customer electronic non-auction order flow to BOX.

[6] The Exchange notes that Public Customers do not initiate transactions on BOX directly. BOX Participants initiate Electronic Non-Auction Transactions on the behalf of Public Customers and are assessed fees or provided rebates by the Exchange.

[7] *See e.g.,* Nasdaq PHLX LLC, Options 7, Section 3 Part A. ("Simple Order" Customer fee for removing SPY liquidity of $0.41); Cboe C2 Exchange, Inc. Fee Schedule ("Transaction Fees" applicable to SPY for Public Customer Remove rates of $0.37); MIAX PEARL, LLC Fee Schedule ("Transaction Rebates/Fees" for Priority Customer SPY Taker in Tier 1 of $0.46).

[8] *See* Nasdaq PHLX LLC ("Nasdaq PHLX") Options 7, Section 2 (Customer Rebate Program) *and* Cboe Exchange, Inc. ("CBOE") Fee Schedule (Volume Incentive Program). The Exchange notes that these programs use different tier structures, volume calculations, and rebate amounts, however, their rebate programs operate similarly to BOX's in that they are driven by volume and designed to incentivize Public Customer order flow.

[9] 15 U.S.C. 78f(b)(4) and (5).

[10] *See* Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (September 29, 2023), available at *https://markets.cboe.com/us/options/market_statistics/*.

[11] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

Non-Auction Transactions

The Exchange believes the proposed electronic Non-Auction transaction taker fees for Public Customer SPY transactions are reasonable as the proposed taker fees are lower than similar transaction fees assessed at other exchanges.[12] The Exchange further believes that the proposed SPY taker fee for electronic Non-Auction Public Customer transactions will not disincentivize Public Customer order flow because BOX's electronic Non-Auction Transactions fee structure is designed to attract competitive quotes and orders, which results in liquid markets that Public Customers may find attractive. Specifically, the Exchange assesses no fees for Public Customers that make liquidity in SPY and, no fees for Market Makers that make liquidity in SPY, which incentivizes competitive quotes and resting orders. The Exchange believes that Public Customers may be willing to pay a nominal taker fee of $0.10 to access such competitive markets. The Exchange notes that other exchanges assess fees between $0.37 and $0.46 for customer transactions taking liquidity in SPY.[13]

The Exchange believes that assessing Public Customers a taker fee of $0.10 for SPY electronic Non-Auction Transactions is equitable and not unfairly discriminatory. The Exchange notes that Professional Customer, Broker Dealer, and Market Maker taker fees for SPY electronic Non-Auction Transactions are $0.50. The securities markets generally, and BOX in particular, have historically aimed to improve markets for investors and develop various features within the market structure for Public Customer benefit. Accordingly, the Exchange believes that charging a lower taker fee for Public Customers for their SPY transactions compared to other account types on BOX is appropriate and not unfairly discriminatory.

Tiered Volume Rebate for Non-Auction Transactions

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to adjust certain percentage thresholds in the volume-based thresholds for Public Customers in electronic Non-Auction Transactions. The volume-based thresholds and applicable rebates are designed to continue to incentivize Public Customers to direct order flow to BOX to obtain the benefit of the rebate, which may in turn benefit all market participants by increasing liquidity on BOX. The Exchange proposes to amend Tier 4, which was 0.750% and Above, to 0.750%–0.999%, and to add Tier 5 with a threshold of 1.000% and Above. This fee structure is designed to incentivize Public Customers to send their order flow to BOX, which may result in increased trading opportunities and executions on BOX.[14] Further, the Exchange notes that the proposed amendment to the percentage thresholds in the volume-based thresholds for Public Customers in electronic Non-Auction Transactions is not designed to benefit one firm in particular, but, as discussed herein, is designed to further incentivize order flow to BOX. While the Exchange proposes to decrease Tier 4 rebates, the Exchange believes that Public Customers will still benefit from the opportunity to obtain a rebate for their executions on BOX. The Exchange notes that other exchanges employ similar incentive programs; and the Exchange believes that the proposed changes are reasonable and competitive when compared to incentive structures at other exchanges.[15]

The Exchange believes that the proposed changes to the thresholds in Tiers 4 and 5 are equitable and not unfairly discriminatory as they are available to all Public Customers, and Public Customers may choose whether or not to take advantage of the percentage thresholds and their applicable rebates. The securities markets generally, and BOX in particular, have historically aimed to improve markets for investors and develop various features within the market structure for Public Customer benefit. Accordingly, the Exchange believes that providing a rebate structure for Public Customers is appropriate and not unfairly discriminatory. Based on its review of competitor exchanges, the Exchange believes that lowering Tier 4 rebates, and adding more difficult to obtain Tier 5 rebates, will not disincentivize Public Customer order flow. Rather, the Exchange believes that the proposed rebates will continue to help attract a high level of Public Customer order flow to the BOX, which will ultimately benefit all Participants trading on BOX.

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow and discontinue or reduce use of certain categories of products in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees. Stated differently, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow. The Exchange believes the proposed changes are a reasonable attempt to effectively compete for electronic Non-Auction Public Customer orders. The Exchange believes that the proposed change may incentivize Public Customer order flow and, in turn, may make BOX a more competitive venue for order execution to the benefit of all Participants. Finally, the Exchange believes the proposed changes are consistent with the Act because, to the extent the modifications permit the Exchange to continue to attract greater volume and liquidity, the proposed changes would improve BOX's overall competitiveness and strengthen market quality for all market participants.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes the proposed changes to Public Customer SPY taker fees in the electronic Non-Auction Transactions fee structure will not impose a burden on intramarket competition as BOX believes that the changes will result in Public Customers being charged appropriately for their SPY taker transactions. The proposed change would apply to all similarly situated market participants and, accordingly, the proposed change would not impose a disparate burden on competition among Participants on BOX. The proposed change is designed to assess Public Customers a nominal taker fee for Electronic SPY Non-Auction Transactions. The Exchange notes that Public Customer taker fees remain lower than Professional Customer, Broker Dealer, and Market Maker taker fees because BOX has historically aimed to improve markets for investors and develop various features within the market structure for Public Customer benefit.

The Exchange believes further the proposed changes to Public Customer SPY taker fees in the Electronic Non-Auction Transactions fee structure will not impose a burden on intermarket competition. The Exchange notes that the Non-Auction Transaction fee structure as a whole, including the proposed change, is designed to be competitive with other options

[12] *See supra* note 7.

[13] *See supra* note 7.

[14] The Exchange notes that BOX Participants collect rebates on behalf of Public Customers and have independent fee arrangements with such Public Customers.

[15] *See supra* note 8.

exchanges and to attract order flow. The Exchange believes the electronic Non-Auction Transactions fee structure, including the proposed change, will remain competitive with other options exchanges and will continue to assess lower Public Customer taker fees than several other exchanges.[16]

The Exchange believes the proposed changes to Tier 4 and the addition of Tier 5 in Section IV.A.1 will not impose a burden on competition among various BOX Participants. The Exchange believes that the proposed changes will result in Public Customers being rebated appropriately for their transactions. The Exchange believes further that the proposed rebates will continue to attract Public Customer order flow to the BOX, which will ultimately benefit all Participants trading on BOX.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. Because competitors are free to modify their own fees and rebates in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee or rebate changes in this market may impose any burden on competition is extremely limited. The Exchange notes that other exchanges provide programs to incentivize customer order flow and that the proposed changes to the volume thresholds remain competitive when compared to incentive structures at other exchanges.[17] For the reasons described above, the Exchange believes that the proposed rule change will encourage intermarket competition.

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[18] and Rule 19b–4(f)(2) thereunder,[19] 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.* Please include file number SR–BOX–2023–25 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–2023–25. 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 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–2023–25 and should be submitted on or before December 8, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–25379 Filed 11–16–23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98915; File No. SR–CBOE–2023–049]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Order Approving a Proposed Rule Change To Adopt Monthly Options Series

November 13, 2023.

I. Introduction

On September 27, 2023, Cboe Exchange, Inc. (''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its rules to accommodate the listing of option series that would expire at the close of business on the last business day of a calendar month (''Monthly Option Series''). The proposed rule change was published for comment in the **Federal Register** on October 4, 2023.[3] The Commission did not receive any comment letters and is approving the proposed rule change.

II. Description of the Proposal

Cboe Options proposes to amend its rules to adopt the listing and trading of Monthly Options Series. The proposed rule change will allow Cboe Options to open for trading Monthly Option Series that would expire at the close of business on the last business day of a calendar month.[4] The Exchange may list

[16] *See supra* note 7.

[17] *See supra* note 8.

[18] 15 U.S.C. 78s(b)(3)(A)(ii).

[19] 17 CFR 240.19b–4(f)(2).

[20] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 98593 (September 28, 2023), 88 FR 68833 (''Notice'').

[4] The Exchange also proposes to make a nonsubstantive change to Rules 4.5(d) and 4.13(a)(2)(A) to change current references to ''monthly options series'' to ''standard expiration