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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2023 - * 14

Amendment No. (req. for Amendments *)

Filing by BOX Exchange LLC.

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>
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Rule

<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)
<input checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)
<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010
Section 806(e)(1) *

Section 806(e)(2) *

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 3C(b)(2) *

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Proposal to amend the Fee Schedule.

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Alanna Last Name * Barton

Title * General Counsel

E-mail * abarton@boxexchange.com

Telephone * (617) 235-2239 Fax

Signature

Pursuant to the requirements of the Securities Exchange of 1934, BOX Exchange LLC has duty caused this filing to be signed on its behalf by the undersigned thereunto duty authorized.

Date 05/31/2023

(Title *)

By Alanna Barton

General Counsel

(Name *)

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Date: 2023.05.31
10:04:13 -04'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EDFS website.

Form 19b-4 Information *

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SR-BOX-2023-14 (19b-4).docx

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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SR-BOX-2023-14 (Ex 1).docx

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2- Notices, Written Comments, Transcripts, Other Communications

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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SR-BOX-2023-14 (Ex 5).docx

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

Item 1. Text of Proposed Rule Change

a) BOX Exchange LLC (the “Exchange”) proposes to amend the Fee Schedule on the BOX Options Market LLC (“BOX”) facility. While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on June 1, 2023. The text of the proposed changes is attached as Exhibit 5.

b) Not applicable to application of any other Exchange rule.

c) Not applicable.

Item 2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by officers of the Exchange pursuant to authority delegated by the Exchange Board of Directors (“Board”). No further action is necessary for the filing of the proposed rule change.

Please refer questions and comments on the proposed rule change to Alanna Barton, General Counsel for the Exchange, at (617) 235-2239.

Item 3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

a) Purpose

The Exchange recently adopted a new data product on BOX known as the Intraday Open-Close Data Report.¹ When the Exchange established the Intraday Open-Close Data Report data, it did not include ad-hoc requests for the Intraday Open-Close historical data. Since establishing the Intraday Open-Close Data Report, Participants and non-Participants have expressed interest in ad-hoc historical requests for the Intraday Open-Close Data Report. As such, the Exchange now proposes to offer ad-hoc historical requests for the Intraday Open-Close Data Report and adopt fees for this data.

¹ See Securities Exchange Act Release No. 97174 (March 21, 2023), 88 FR 18201 (March 27, 2023)(SR-BOX-2023-09).

Specifically, the Exchange proposes to assess a \$1,000 fee per request per month for the historical data.

Similar to the ad-hoc requests for the End-of-Day Open Close Data Report, ad-hoc requests for the Intraday Open-Close Data Report can be for any number of months beginning with January 2018 for which the data is available.² The proposed fee will apply to both Participants and non-Participants. The Exchange notes that another exchange provides similar data that may be purchased on an ad-hoc basis and is similarly priced.³

By way of background, the Exchange currently offers the Intraday Open-Close Data Report to Participants and non-Participants, which is a volume summary file for trading activity on BOX. The Exchange notes that the file contains proprietary BOX trade data and does not include trade data from any other exchanges. It is also a historical data product and not a real time data feed. The Intraday Open-Close Data Report is produced and updated every 10 minutes during the trading day. Data is captured in "snapshots" taken every 10 minutes throughout the trading day and available to subscribers within five minutes of the conclusion of each 10-minute period. Each update will represent combined data captured from the current "snapshot" and all previous "snapshots" and thus will provide open-close data on an aggregate basis. The Intraday Open-Close Data

² For example, a Participant or non-Participant that requests historical Intraday Open-Close Data for the months of January 2018 and February 2018, would be assessed a total of \$2,000. Participants and non-Participants are permitted to make ad-hoc requests for any number of days within a month for the Intraday Open-Close Data Report. For example, a Participant or non-Participant may make an ad-hoc request for the Intraday Open-Close Data Report from May 1st to May 20th. The accounting will be prorated based on the number of trading days in the month versus the number of trading days received. The Participant or non-Participant will be charged for the request on a prorated basis. The Exchange is proposing to allow ad-hoc requests for the Intraday Open-Close Data Report for any month starting January 2018, as this is what is currently offered for End-of-Day historical data requests. The Exchange notes that it may make historical data prior to January 2018 available in the future and that such historical data would be available to all Participants or non-Participants.

³ See Miami International Securities Exchange, LLC ("MIAX") Fee Schedule. MIAX assesses \$1,000 per request per month for the Intra-Day Ad-Hoc Request for historical data.

Report aggregates the volume by origin (Public Customer, Professional Customer, Broker Dealer, and Market Maker), buying/selling, and opening/closing criteria. Public Customer and Professional Customer volume is further broken down into trade size buckets (less than 100 contracts, 100-199 contracts, greater than 199 contracts). Ad-hoc requests for Intraday Open-Close Data Report will provide the same information for a requested historical time period for any number of months beginning with January 2018.⁴

This product is offered to Participants on a completely voluntary basis in that the Exchange is not required by any rule or regulation to make this data available and potential subscribers may purchase the Intraday Open-Close Data Report or make ad-hoc requests for the Intraday Open-Close Data Report only if they voluntarily choose to do so. It is a business decision of each potential subscriber whether to subscribe to the Intraday Open-Close Data Report and/or make ad-hoc requests for the Intraday Open-Close Data Report.

b) Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,⁵ in general, and Section 6(b)(4) and 6(b)(5) of the Act,⁶ in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange also believes that its proposed changes to its Fee Schedule concerning fees for the Intraday Ad-hoc Open-Close Data Report is consistent with Section 6(b) of the Act,⁷ in general,

⁴ The historical monthly reports of the Intraday Open-Close Data Report will contain all series in an underlying security if the security had volume on BOX during that month. The Intraday Open-Close Data Report file format specifications can be found at www.boxoptions.com.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4) and (5).

⁷ 15 U.S.C. 78f(b).

and furthers the objectives of Section 6(b)(4) of the Act,⁸ in particular, in that it is an equitable allocation of dues, fees and other charges among its Participants and other recipients of Exchange data.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (“SROs”) and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. Particularly, the Intraday Open-Close Data Report further broadens the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. The data product also promotes increased transparency through the dissemination of the Intraday Ad-hoc Open-Close Data Report. Particularly, information regarding opening and closing activity across different option series during the trading day may indicate investor sentiment, which may allow market participants to make better informed trading decisions throughout the day. Subscribers to the data may also be able to enhance their ability to analyze option trade and volume data and create and test trading models and analytical strategies. The Exchange believes the Intraday Open-Close Data Report provides a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading and completely optional. Moreover, another exchange offers a similar data product.⁹ This proposal seeks to respond to Participant requests for ad-hoc Intraday Open-Close data and adopt a fee of \$1,000 per request per month for such requests.

⁸ 15 U.S.C. 78f(b)(4).

⁹ See supra note 3.

The Exchange operates in a highly competitive environment. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, for the month of March 2023, no single options exchange had more than approximately 16% of the equity options market share and the Exchange represented only approximately 6.19% of the equity options market share for the month of May 2023.¹⁰

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 Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supra-competitive fees. In the event that a market participant views one exchange’s data product as more or less attractive than the competition they can and do switch between similar products.

The Exchange believes the proposed fee is reasonable as the proposed fee is similar to a fee currently assessed by another exchange that provides a similar data product.¹² Further, the Exchange notes that an ad-hoc request for the Intraday Day Open-Close Data Report is entirely optional and if a market participant views another exchange’s data as more attractive than the proposed Intraday Open-Close data product,

¹⁰ See Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (May 5, 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”).

¹² See *supra* note 3.

then such market participant can choose not to purchase BOX's data and instead purchase another exchange's data product, which offer similar data points, albeit based on that other market's trading activity.

The Exchange also believes that its proposal to respond to market participant requests and adopt fees for ad-hoc requests for the Intraday Open-Close Data Report is reasonable as this would further support the current offering of the Intraday Open-Close Data Report that is designed to aid investors by providing insight into trading on BOX. The proposed ad-hoc requests for Intraday Open-Close Data Report would provide interested options market participants with valuable information about opening and closing transactions executed on BOX, similar to other historical trade data products offered by competing options exchanges. In turn, this data would assist market participants in gauging investor sentiment and trading activity, resulting in potentially better-informed trading decisions. As noted above, users may also use such data to create and test trading models and analytical strategies.

Providing market data, such as the Intraday Open-Close Data Report, is also a means by which exchanges compete to attract business. Subscribers that receive the Intraday Open-Close Data Report in response to an ad hoc request, may use such data to evaluate the usefulness of BOX's Intraday Open-Close Data Report and decide, based on that data, whether to subscribe to the Intraday Open-Close Data Report on a monthly basis. To the extent that the Exchange is successful in attracting subscribers for the Intraday Open-Close Data Report through this proposal, it may earn trading revenues and further enhance the value of its data products. If the market deems the proposal to be

unfair or inequitable, firms can diminish or discontinue their use of the data and/or avail themselves of similar products offered by other exchanges.¹³

The Exchange believes the proposed fee is equitable and not unfairly discriminatory as the fee would apply equally to all users who choose to purchase the historical data. The Exchange's proposed fee would not differentiate between subscribers that purchase the ad-hoc Intraday Open-Close Data Report and is set at a modest level that would allow any interested Participant or non-Participant to purchase such data based on their business needs.

The Exchange reiterates that the decision as to whether or not to purchase the ad-hoc Intraday Open-Close Data Report is entirely optional for all potential subscribers. Indeed, no market participant is required to purchase the ad-hoc Intraday Open-Close Data Report, and the Exchange is not required to make the ad-hoc Intraday Open-Close Data Report available to all investors. Rather, the Exchange is voluntarily making the ad-hoc Intraday Open-Close Data Report available, as requested by customers, and market participants may choose to receive (and pay for) this data based on their own business needs. Potential purchasers may request the data at any time if they believe it to be valuable or may decline to purchase such data.

Item 4. 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. Rather, the Exchange believes that the proposal will promote competition by permitting the Exchange to sell a data product similar to those offered by another competitor options

¹³ Id.

exchange.¹⁴ The Exchange also does not believe the proposed fees would cause any unnecessary or in appropriate burden on intermarket competition as other exchanges are free to introduce their own comparable data product and lower their prices to better compete with the Exchange's offering. The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed fee applies uniformly to any purchaser, in that it does not differentiate between subscribers that purchase Intraday Open-Close Data Report. The proposed fees are set at a modest level that would allow any interested Participant or non-Participant to purchase such data based on their business needs.

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 to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

Item 5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

Item 6. Extension of Time Periods for Commission Action

Not applicable.

Item 7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

¹⁴ Id.

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act¹⁵ and Rule 19b-4(f)(2) thereunder,¹⁶ 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.

Item 8. Proposed Change Based Upon Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

Item 9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

Item 10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

Item 11. Exhibits

1. Form of Notice of the Proposed Rule Change for Publication in the Federal Register.
5. Text of the Proposed Rule Change.

¹⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁶ 17 CFR 240.19b-4(f)(2).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-BOX-2023-14)

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to amend the BOX Fee Schedule to offer ad-hoc historical requests for the Intraday Open-Close Data Report and adopt fees for this data.

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

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

The Exchange is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend the Fee Schedule on the BOX Options Market LLC (“BOX”) options facility to offer ad-hoc historical requests for the Intraday Open-Close Data Report and adopt fees for this data. While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on June 1, 2023. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission’s

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).

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 recently adopted a new data product on BOX known as the Intraday Open-Close Data Report.⁵ When the Exchange established the Intraday Open-Close Data Report data, it did not include ad-hoc requests for the Intraday Open-Close historical data. Since establishing the Intraday Open-Close Data Report, Participants and non-Participants have expressed interest in ad-hoc historical requests for the Intraday Open-Close Data Report. As such, the Exchange now proposes to offer ad-hoc historical requests for the Intraday Open-Close Data Report and adopt fees for this data. Specifically, the Exchange proposes to assess a \$1,000 fee per request per month for the historical data.

Similar to the ad-hoc requests for the End-of-Day Open Close Data Report, ad-hoc requests for the Intraday Open-Close Data Report can be for any number of months beginning

⁵ See Securities Exchange Act Release No. 97174 (March 21, 2023), 88 FR 18201 (March 27, 2023) (SR-BOX-2023-09).

with January 2018 for which the data is available.⁶ The proposed fee will apply to both Participants and non-Participants. The Exchange notes that another exchange provides similar data that may be purchased on an ad-hoc basis and is similarly priced.⁷

By way of background, the Exchange currently offers the Intraday Open-Close Data Report to Participants and non-Participants, which is a volume summary file for trading activity on BOX. The Exchange notes that the file contains proprietary BOX trade data and does not include trade data from any other exchanges. It is also a historical data product and not a real time data feed. The Intraday Open-Close Data Report is produced and updated every 10 minutes during the trading day. Data is captured in "snapshots" taken every 10 minutes throughout the trading day and available to subscribers within five minutes of the conclusion of each 10-minute period. Each update will represent combined data captured from the current "snapshot" and all previous "snapshots" and thus will provide open-close data on an aggregate basis. The Intraday Open-Close Data Report aggregates the volume by origin (Public Customer, Professional Customer, Broker Dealer, and Market Maker), buying/selling, and opening/closing criteria. Public Customer and Professional Customer volume is further broken down into trade size buckets (less than 100 contracts, 100-199 contracts, greater than 199 contracts). Ad-hoc requests

⁶ For example, a Participant or non-Participant that requests historical Intraday Open-Close Data for the months of January 2018 and February 2018, would be assessed a total of \$2,000. Participants and non-Participants are permitted to make ad-hoc requests for any number of days within a month for the Intraday Open-Close Data Report. For example, a Participant or non-Participant may make an ad-hoc request for the Intraday Open-Close Data Report from May 1st to May 20th. The accounting will be prorated based on the number of trading days in the month versus the number of trading days received. The Participant or non-Participant will be charged for the request on a prorated basis. The Exchange is proposing to allow ad-hoc requests for the Intraday Open-Close Data Report for any month starting January 2018, as this is what is currently offered for End-of-Day historical data requests. The Exchange notes that it may make historical data prior to January 2018 available in the future and that such historical data would be available to all Participants or non-Participants.

⁷ See Miami International Securities Exchange, LLC ("MIAX") Fee Schedule. MIAX assesses \$1,000 per request per month for the Intra-Day Ad-Hoc Request for historical data.

for Intraday Open-Close Data Report will provide the same information for a requested historical time period for any number of months beginning with January 2018.⁸

This product is offered to Participants on a completely voluntary basis in that the Exchange is not required by any rule or regulation to make this data available and potential subscribers may purchase the Intraday Open-Close Data Report or make ad-hoc requests for the Intraday Open-Close Data Report only if they voluntarily choose to do so. It is a business decision of each potential subscriber whether to subscribe to the Intraday Open-Close Data Report and/or make ad-hoc requests for the Intraday Open-Close Data Report.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,⁹ in general, and Section 6(b)(4) and 6(b)(5) of the Act,¹⁰ 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 also believes that its proposed changes to its Fee Schedule concerning fees for the Intraday Ad-hoc Open-Close Data Report is consistent with Section 6(b) of the Act,¹¹ in general, and furthers the objectives of Section 6(b)(4) of the Act,¹² in particular, in that it is an equitable allocation of dues, fees and other charges among its Participants and other recipients of Exchange data.

⁸ The historical monthly reports of the Intraday Open-Close Data Report will contain all series in an underlying security if the security had volume on BOX during that month. The Intraday Open-Close Data Report file format specifications can be found at www.boxoptions.com.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(4) and (5).

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(4).

In adopting Regulation NMS, the Commission granted self-regulatory organizations (“SROs”) and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. Particularly, the Intraday Open-Close Data Report further broadens the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. The data product also promotes increased transparency through the dissemination of the Intraday Ad-hoc Open-Close Data Report. Particularly, information regarding opening and closing activity across different option series during the trading day may indicate investor sentiment, which may allow market participants to make better informed trading decisions throughout the day. Subscribers to the data may also be able to enhance their ability to analyze option trade and volume data and create and test trading models and analytical strategies. The Exchange believes the Intraday Open-Close Data Report provides a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading and completely optional. Moreover, another exchange offers a similar data product.¹³ This proposal seeks to respond to Participant requests for ad-hoc Intraday Open-Close data and adopt a fee of \$1,000 per request per month for such requests.

The Exchange operates in a highly competitive environment. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, for the month of March 2023, no single options exchange had more than approximately 16% of the equity options market share and the Exchange represented only approximately 6.19% of the

¹³ See supra note 7.

equity options market share for the month of May 2023.¹⁴ 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.”¹⁵ Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supra-competitive fees. In the event that a market participant views one exchange’s data product as more or less attractive than the competition they can and do switch between similar products.

The Exchange believes the proposed fee is reasonable as the proposed fee is similar to a fee currently assessed by another exchange that provides a similar data product.¹⁶ Further, the Exchange notes that an ad-hoc request for the Intraday Day Open-Close Data Report is entirely optional and if a market participant views another exchange’s data as more attractive than the proposed Intraday Open-Close data product, then such market participant can choose not to purchase BOX’s data and instead purchase another exchange’s data product, which offer similar data points, albeit based on that other market’s trading activity.

The Exchange also believes that its proposal to respond to market participant requests and adopt fees for ad-hoc requests for the Intraday Open-Close Data Report is reasonable as this would further support the current offering of the Intraday Open-Close Data Report that is

¹⁴ See Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (May 5, 2023), available at https://markets.cboe.com/us/options/market_statistics/.

¹⁵ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

¹⁶ See *supra* note 7.

designed to aid investors by providing insight into trading on BOX. The proposed ad-hoc requests for Intraday Open-Close Data Report would provide interested options market participants with valuable information about opening and closing transactions executed on BOX, similar to other historical trade data products offered by competing options exchanges. In turn, this data would assist market participants in gauging investor sentiment and trading activity, resulting in potentially better-informed trading decisions. As noted above, users may also use such data to create and test trading models and analytical strategies.

Providing market data, such as the Intraday Open-Close Data Report, is also a means by which exchanges compete to attract business. Subscribers that receive the Intraday Open-Close Data Report in response to an ad hoc request, may use such data to evaluate the usefulness of BOX's Intraday Open-Close Data Report and decide, based on that data, whether to subscribe to the Intraday Open-Close Data Report on a monthly basis. To the extent that the Exchange is successful in attracting subscribers for the Intraday Open-Close Data Report through this proposal, it may earn trading revenues and further enhance the value of its data products. If the market deems the proposal to be unfair or inequitable, firms can diminish or discontinue their use of the data and/or avail themselves of similar products offered by other exchanges.¹⁷

The Exchange believes the proposed fee is equitable and not unfairly discriminatory as the fee would apply equally to all users who choose to purchase the historical data. The Exchange's proposed fee would not differentiate between subscribers that purchase the ad-hoc Intraday Open-Close Data Report and is set at a modest level that would allow any interested Participant or non-Participant to purchase such data based on their business needs.

¹⁷ Id.

The Exchange reiterates that the decision as to whether or not to purchase the ad-hoc Intraday Open-Close Data Report is entirely optional for all potential subscribers. Indeed, no market participant is required to purchase the ad-hoc Intraday Open-Close Data Report, and the Exchange is not required to make the ad-hoc Intraday Open-Close Data Report available to all investors. Rather, the Exchange is voluntarily making the ad-hoc Intraday Open-Close Data Report available, as requested by customers, and market participants may choose to receive (and pay for) this data based on their own business needs. Potential purchasers may request the data at any time if they believe it to be valuable or may decline to purchase such data.

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. Rather, the Exchange believes that the proposal will promote competition by permitting the Exchange to sell a data product similar to those offered by another competitor options exchange.¹⁸ The Exchange also does not believe the proposed fees would cause any unnecessary or in appropriate burden on intermarket competition as other exchanges are free to introduce their own comparable data product and lower their prices to better compete with the Exchange's offering. The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed fee applies uniformly to any purchaser, in that it does not differentiate between subscribers that purchase Intraday Open-Close Data Report. The proposed fees are set at a modest level that would allow any interested Participant or non-Participant to purchase such data based on their business needs.

¹⁸ Id.

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 to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act¹⁹ and Rule 19b-4(f)(2) thereunder,²⁰ 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:

¹⁹ 15 U.S.C. 78s(b)(3)(A)(ii).

²⁰ 17 CFR 240.19b-4(f)(2).

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-BOX-2023-14 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-BOX-2023-14. This file number should be included on the subject line if e-mail 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 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. 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-2023-14 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Kevin M. O'Neill
Deputy Secretary

²¹ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

New language
[deleted language]

BOX Exchange Fee Schedule

Section I. and II.

No Change.

III. Technology Fees

A. through B.

No Change.

C. Reports

1. Open-Close Data Reports

End-of-Day Subscription	\$500 per month for Participants and non-Participants. A free trial is available for three (3) months of Open-Close End-of-Day Data Reports to both Participants and non-Participants for those who have not previously subscribed. The free trial is only available for the End-of-Day Subscription.
Intraday Subscription	\$1500 per month for Participants and non-Participants.
End-of-Day Ad-hoc Request (historical data)	\$400 per request per month for Participants and non-Participants. \$500 per request per year for academic purchasers. An ad-hoc request can be for any number of months beginning with January 2018.
<u>Intraday Ad-hoc Request (historical data)</u>	<u>\$1,000 per request per month for Participants and non-Participants. An ad-hoc request can be for any number of months beginning with January 2018.</u>

2. Liquidity Taker Event Reports

No Change.

D. BOX Trade Management System (“TMS”)

No Change.

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