

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>25</sup> and Rule 19b-4(f)(6) thereunder.<sup>26</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>27</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. According to the Exchange, waiver of the operative delay will ensure fair competition among the exchanges by allowing the Exchange to implement its proposal without delay, thus creating competition among Short Term Option Series throughout the industry, which will ultimately benefit investors. The proposed rule change raises no novel legal or regulatory issues. Thus, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.<sup>28</sup>

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

Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

### IV. Solicitation of Comments

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

#### Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include file number SR-NYSEAMER-2024-65 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-NYSEAMER-2024-65. 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-NYSEAMER-2024-65 and should be submitted on or before December 5, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>29</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101536; File No. SR-BOX-2024-26]

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

November 7, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 24, 2024, BOX Exchange LLC (the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of 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 relating to BOX Connectivity Fees and Port Fees on the BOX Options Market LLC ("BOX") options facility. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at <https://rules.boxexchange.com/rulefilings>.

<sup>29</sup> 17 CFR 200.30-3(a)(12), (59).

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

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

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

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

<sup>25</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>26</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>27</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>28</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

## 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 the Fee Schedule to increase Connectivity Fees for 10 gigabit ("Gb") Connections, Non-10 Gb Connections, Financial Information Exchange ("FIX") Ports, SOLA® Access Information Language ("SAIL") Ports, Drop Copy Ports, and High Speed Vendor Feed ("HSVF") Ports (collectively "Connectivity and Ports").<sup>5</sup> Specifically, the Exchange proposes a one-time<sup>6</sup> increase to its fees for Connectivity and Ports in Sections III.A.2 and III.B of the Fee Schedule.

By way of background, a physical connection is utilized by a Participant or non-Participant to connect to BOX at the datacenters where BOX's servers are located. BOX currently assesses the following physical connectivity fees for Participants and non-Participants on a monthly basis: \$1,000 per connection for a Non-10 Gb Connection and \$5,000 per connection for a 10 Gb Connection. The Exchange proposes to increase, on a one-time basis, the monthly fee for Non-10 Gb Connections from \$1,000 to \$1,080 per connection and from \$5,000 to \$5,400 monthly fee for each 10 Gb Connection. The Exchange notes the proposed fee changes better enable BOX to continue to maintain and improve its market technology and services.

<sup>5</sup> The Exchange initially filed the proposed pricing change on June 3, 2024 (SR-BOX-2024-13). On June 18, 2024, the Exchange withdrew that filing and submitted SR-BOX-2024-16. On August 16, 2024, the Exchange withdrew SR-BOX-2024-16 and submitted SR-BOX-2024-19. On October 10, 2024, the Exchange withdrew SR-BOX-2024-19 and submitted SR-BOX-2024-24. The instant filing replaces SR-BOX-2024-24, which was withdrawn on October 24, 2024.

<sup>6</sup> If the Exchange intends to increase or decrease fees for Connectivity and Ports in the future, the Exchange would be required to file a proposed rule change with the Commission under Section 19(b) of the Act to amend its Fee Schedule.

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

Current FIX Port fees are as follows:

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

Current SAIL Port fees are as follows:

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

The Exchange proposes to increase FIX Port fees on a one-time basis as follows:

FIX ports	BOX monthly port fees
1st FIX Port .....	\$540 per port per month.
FIX Ports 2 through 5 .....	\$270 per port per month.
Additional FIX Ports over 5.	\$162 per port per month.

The Exchange proposes to increase SAIL Port fees on a one-time basis as follows:

SAIL ports	BOX monthly port fees
Market Making .....	\$1,080 per month for all Ports.
Order Entry .....	\$540 per month per port (1-5 Ports). \$162 per month for each additional Port.

The Exchange also proposes to increase Drop Copy Ports on a one-time basis, currently \$500 per port per month, to \$540 per port per month for each month a Participant is credentialed to use a Drop Copy Port. Drop Copy Port fees will remain capped at \$2,000 per month.

The Exchange proposes lastly to increase HSVF Port fees on a one-time basis, currently \$1,500 per month, to \$1,620 per month for each month a Participant or non-Participant is credentialed to use the HSVF Port.

The Exchange notes that BOX continuously invests in improvements that enhance the value of its Connectivity and Ports services. BOX has expended, and will continue to expend, resources to innovate and modernize technology so that it may benefit its Participants and continue to compete among other options markets. BOX regularly invests in efforts to support and optimize its systems to support system capacity, reliability, and performance. Yet the Exchange has not adjusted any of the fees included in this proposal since 2018, to even partially offset the costs of maintaining and enhancing its Connectivity and Ports services.<sup>7</sup>

As discussed below, the Exchange proposes to adjust Connectivity and Ports fees by an industry- and product-specific inflationary measure. It is reasonable and consistent with the Securities and Exchange Act of 1934 (the "Act") for BOX to recoup its investments, at least in part, by adjusting its fees. Continuing to operate at fees frozen at 2018 levels impacts BOX's ability to enhance its services and the interests of market participants. The proposed fee increases are based on an industry-specific Producer Price Index (PPI), which is a tailored measure of inflation.<sup>8</sup> As a general matter, the Producer Price Index is a family of indexes that measures the average change over time in selling prices received by domestic producers of goods and services. PPI measures price

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

<sup>8</sup> See <https://fred.stlouisfed.org/series/PCU51825182>.

change from the perspective of the seller. This contrasts with other metrics, such as the Consumer Price Index (CPI), that measure price change from the purchaser's perspective.<sup>9</sup> About 10,000 PPIs for individual products and groups of products are tracked and released each month.<sup>10</sup> PPIs are available for the output of nearly all industries in the goods-producing sectors of the U.S. economy—mining, manufacturing, agriculture, fishing, and forestry—as well as natural gas, electricity, and construction, among others. The PPI program covers approximately 69 percent of the service sector's output, as measured by revenue reported in the 2017 Economic Census. For purposes of this proposal, the relevant industry-specific PPI is the Data Processing and Related Services PPI ("Data PPI"), which is an industry net-output PPI that measures the average change in selling prices received by companies that provide data processing services. The Data PPI was introduced in January 2002 by the Bureau of Labor Statistics (BLS) as part of an ongoing effort to expand Producer Price Index coverage of the services sector of the U.S. economy and is identified as NAICS–518210 in the North American Industry Classification System.<sup>11</sup> According to the BLS "[t]he primary output of NAICS 518210 is the provision of electronic data processing services. In the broadest sense, computer services companies help their customers efficiently use technology. The processing services market consists of vendors who use their own computer systems—often utilizing proprietary software—to process customers' transactions and data. Companies that offer processing services collect, organize, and store a customer's transactions and other data for record-keeping purposes. Price movements for the NAICS 518210 index are based on changes in the revenue received by companies that provide data processing services. Each month, companies provide net transaction prices for a specified service. The transaction is an actual contract selected by probability, where the price-determining characteristics are held constant while the service is repriced. The prices used in index calculation are the actual prices billed for the selected service contract."<sup>12</sup> The Exchange believes the Data PPI is an appropriate

measure to be considered in the context of the proposed rule change to increase the fees for BOX Connectivity and Ports because BOX uses its "own computer systems" and "proprietary software," *i.e.*, its own servers and proprietary matching engine software, respectively, to collect, organize, store and report customers' transactions on BOX's proprietary trading platform. In other words, BOX is in the business of data processing and related services.

For the period from July 2018 to August 2024, the Data PPI had a starting value of 107 in July 2018 and an ending value of 116.022 in August 2024, an 8.43% increase.<sup>13</sup> This indicates that companies who are also in the data storage and processing business have generally increased prices for a specified service covered under NAICS 518210 by an average of 8.43% during this period. Based on that percentage change, the Exchange proposes to make a one-time fee increase of 8% for BOX Connectivity and Ports, which reflects an increase covering approximately the period since the last adjustment was made. The Exchange further believes the Data PPI is an appropriate measure for purposes of the proposed change on the basis that it is a stable metric with limited volatility, unlike other consumer-side inflation metrics. In fact, the Data PPI has not experienced a greater than 2.16% increase for any one calendar year period since Data PPI was introduced into the PPI in January 2002. The average calendar year change from January 2002 to December 2023 was .62%, with a cumulative increase of 15.67% over this 21-year period. The Exchange believes the Data PPI is considerably less volatile than other inflation metrics such as CPI, which has had individual calendar-year increases of more than 6.5%, and a cumulative increase of over 73% over the same period.<sup>14</sup> The Exchange believes the Data PPI, and significant investments into and enhanced performance of BOX, support the reasonableness of the proposed fee increases.<sup>15</sup>

<sup>13</sup> The Exchange used July 2018 as a starting point for measuring Data PPI because that is when the last of the Connectivity and Ports fees were established. See *supra* note 7.

<sup>14</sup> See <https://www.usinflationcalculator.com/inflation/consumer-price-index-and-annual-percent-changes-from-1913-to-2008/>.

<sup>15</sup> See *infra* discussion of system performance advancements. Additionally, other exchanges have filed for increases in certain fees, based in part on comparisons to inflation. See, e.g., Securities Exchange Act Release Nos. 101017 (September 12, 2024), 89 FR 76545 (September 18, 2024) (SR–ChoeBYX–2024–032); 100513 (July 12, 2024), 89 FR 58460 (July 18, 2024) (SR–Phlx–2024–27).

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the "Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act."<sup>16</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>17</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>18</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4)<sup>19</sup> of the Act, which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Participants and other persons using its facilities.

This belief is based on two factors. First, the current fees do not properly reflect the quality of the services and products, as the fees for the services and products in question have been static in nominal terms, and therefore falling in real terms due to inflation. Second, the Exchange believes that investments made in enhancing the capacity and speed of BOX systems increase the performance of the services and products.

As noted above, the Exchange has not increased any of the fees included in the proposal since 2018. However, in the years following the last fee increase BOX has made significant investments in upgrades to BOX systems, enhancing the quality of its services, as measured by, among other things, increased throughput and faster processing speeds. In other words, BOX customers have greatly benefitted, while the BOX's ability to recoup its investments has been hampered. Between 2018 and 2024, the inflation rate is 3.86% per year, on average, producing a

<sup>16</sup> 15 U.S.C. 78f(b).

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

<sup>18</sup> *Id.*

<sup>19</sup> 15 U.S.C. 78f(b)(4).

<sup>9</sup> See <https://www.bls.gov/ppi/overview.htm>.

<sup>10</sup> *Id.*

<sup>11</sup> NAICS appears in the PPI Detailed Report and is available at <https://data.bls.gov/dataViewer/view/timeseries/PCU5182--5182-->.

<sup>12</sup> See <https://www.bls.gov/ppi/factsheets/producer-price-index-for-the-data-processing-and-related-services-industry-naics-518210.htm>.

cumulative inflation rate of 25.50%.<sup>20</sup> Using the more targeted inflation number of Data PPI, the cumulative inflation rate was 8.43% during an approximately similar time period.<sup>21</sup> The Exchange believes the Data PPI is a reasonable metric to base this fee increase on because it is targeted to producer-side increases in the data processing industry, which based on the definition adopted by BLS would include BOX's Connectivity and Ports services. Notwithstanding inflation, as noted above, the Exchange has not increased its fees at all for over six years for the subject services. The proposed fee changes represent a modest increase from the current fees.

The Exchange believes the proposed fee increase is reasonable in light of BOX's continued expenditure in maintaining a robust technology ecosystem. Furthermore, BOX continues to invest in maintaining and enhancing its Connectivity and Ports services—for the benefit and often at the behest of its Participants. Specifically, BOX has recently replaced trading servers and added additional servers to increase performance and capacity, to increase competitiveness, and to support growth. For example, the rapid growth of trading volumes from 2020 has increased the number of servers, network devices, and telecommunications lines required to keep pace with the growth of trade, order, and quote data. As part of another recent change, BOX deployed additional low latency network switches and increased its datacenter space. As a result of these initiatives, BOX increased its overall hardware footprint at the datacenters which directly results in increased support costs at the datacenter as well.

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

systems to support system capacity, reliability, and performance.

Further, the Exchange notes that Participants and non-Participants will continue to choose the method of connectivity based on their specific needs and no broker-dealer is required to become a Participant of, let alone connect directly to, BOX. Moreover, direct connectivity is not a requirement to participate on BOX. Participants may choose to connect indirectly to BOX via a third-party reseller of connectivity. This indirect connectivity is a viable alternative for market participants to consume market data from BOX without connecting directly to BOX (and thus not pay BOX's connectivity fees), which alternative is already being used by both Participants and non-Participants.

The Exchange believes that the proposed fee changes are equitably allocated and not unfairly discriminatory because the fee increase would be applied uniformly across all market participants that voluntarily subscribe to or purchase connectivity or ports. The Exchange also believes that the proposal represents an equitable allocation of reasonable dues, fees and other charges because Exchange fees have fallen in real terms during the relevant period. Finally, the Exchange believes that the proposed fee changes are not unfairly discriminatory because the fees would be assessed uniformly across all market participants, that voluntarily purchase connectivity or ports, in the same manner they are today. The Exchange also notes that its Connectivity and Ports services remain available for purchase by 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 proposed fee changes will not impact intramarket competition because it will apply to all similarly situated Participants and non-Participants equally (*i.e.*, all market participants that choose to purchase connectivity or ports).<sup>22</sup> As such, the Exchange believes that the proposed fees do not put any market participants at a relative disadvantage compared to other market participants. As noted above, the fee schedule would continue to apply to all market participants that choose to connect to BOX in the same manner as

it does today albeit at inflation-adjusted rates for certain fees, and market participants may choose whether to connect directly to BOX at all. The Exchange also believes that the level of the proposed fees neither favor nor penalize one or more categories of market participants in a manner that would impose an undue burden on competition.

The Exchange believes that the proposed fees do not impose a burden on intermarket competition that is not necessary or appropriate. In determining the proposed fees, the Exchange utilized an objective and stable metric with limited volatility. Utilizing Data PPI over a specified period of time is a reasonable means of recouping BOX's investment in maintaining and enhancing its Connectivity and Ports services. The Exchange believes utilizing Data PPI, a tailored measure of inflation, to increase certain fees for BOX connectivity to recoup BOX's investment in maintaining and enhancing its Connectivity and Ports services would not impose a burden on 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 Effectiveness**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act<sup>23</sup> and Rule 19b-4(f)(2) thereunder,<sup>24</sup> because it establishes or changes a due, or fee.

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

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

<sup>20</sup> See <https://www.officialdata.org/us/inflation/2018?amount=1>.

<sup>21</sup> The general CPI inflation rate was measured from the beginning of 2018 through October 24, 2024, while the Data PPI was measured from July 2018 through August 2024.

<sup>22</sup> The Exchange notes that only Participants may purchase FIX Ports, SAIL Ports, and Drop Copy Ports.

<sup>23</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>24</sup> 17 CFR 240.19b-4(f)(2).

Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include file number SR-BOX-2024-26 on the subject line.

*Paper Comments*

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

All submissions should refer to file number SR-BOX-2024-26. 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-2024-26 and should be submitted on or before December 5, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>25</sup>

**Sherry R. Haywood,**  
Assistant Secretary.

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-101571; File No. SR-ISE-2024-35]

**Self-Regulatory Organizations; Nasdaq ISE, LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To List and Trade Options on the iShares Ethereum Trust**

November 8, 2024.

**I. Introduction**

On July 22, 2024, Nasdaq ISE, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to allow the listing and trading of options on iShares Ethereum Trust ("Trust").<sup>3</sup> The proposed rule change was published for comment in the **Federal Register** on August 12, 2024.<sup>4</sup> The Commission has received no comments regarding the proposal.

On September 30, 2024, pursuant to Section 19(b)(2) of the Exchange Act,<sup>5</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 disapprove the proposed rule change.<sup>6</sup> This order institutes proceedings under Section 19(b)(2)(B) of the Act<sup>7</sup> to determine whether to approve or disapprove the proposed rule change.

**II. Description of the Proposed Rule Change**

As described more fully in the Notice,<sup>8</sup> the Exchange proposes to amend Options 4, Section 3(h)(iv), to add the Trust to the list of Exchange-Traded Fund Shares ("Exchange-Traded Funds Shares" or "ETFs") that are appropriate for options trading.<sup>9</sup> The

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

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

<sup>3</sup> The Commission approved proposals by several exchanges to list and trade shares of trusts that hold Ether, including the Trust. See Securities Exchange Act Release No. 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024).

<sup>4</sup> See Securities Exchange Act Release No. 100661 (Aug. 6, 2024), 89 FR 65690 ("Notice").

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> See Securities Exchange Act Release No. 1001154 (Sept. 24, 2024) 89 FR 79664 (designating November 10, 2024, as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change).

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

<sup>8</sup> See *supra* note 4.

<sup>9</sup> See Notice, 89 FR at 65691. The Exchange states that the Trust is not an investment company

Exchange states that the investment objective of the Trust is to reflect generally the performance of the price of ether before payment of the Trust's expenses and liabilities. The Exchange states that shares of the Trust are intended to constitute a simple means of making an investment similar to an investment in ether through the public securities market rather than by acquiring, holding, and trading ether directly on a peer-to-peer or other basis or via a digital asset platform.<sup>10</sup> The Exchange further states that shares of the Trust have been designed to remove the obstacles represented by the complexities and operational burdens involved in a direct investment in ether, while at the same time having an intrinsic value that reflects, at any given time, the investment exposure to the ether owned by the Trust at such time, less the Trust's expenses and liabilities.<sup>11</sup> The Exchange states that although shares in the Trust are not the exact equivalent of a direct investment in ether, they provide investors with an alternative method of achieving investment exposure to ether through the public securities market, which may be more familiar to them.<sup>12</sup> The Exchange states that offering options on the Trust will benefit investors by providing them with an additional, relatively lower cost investing tool to gain exposure to spot ether as well as a hedging vehicle to meet their investment needs in connection with ether products and positions.<sup>13</sup> In addition, the Exchange states that, similar to other commodity ETFs in which options may be listed on ISE (e.g. SPDR® Gold Trust, the iShares COMEX Gold Trust, the iShares Silver Trust, or the ETFS Gold Trust), the proposed ETF is a trust that essentially offers the same objectives and benefits to investors.<sup>14</sup>

The Exchange states that options on the Trust will trade in the same manner as options on other ETFs on the Exchange, and that Exchange rules that currently apply to the listing and trading of all options on ETFs on the Exchange, including, for example, rules that govern listing criteria, expirations, exercise prices, minimum increments, position and exercise limits, margin requirements, customer accounts and trading halt procedures, will apply to the listing and trading of options on the

registered under the Investment Company Act of 1940, as amended. See *id.*

<sup>10</sup> See *id.*

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

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

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

<sup>14</sup> See *id.* at 65691-2 and ISE Options 4, Section 3(h)(iv).

<sup>25</sup> 17 CFR 200.30-3(a)(12).