Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICEEU–2023–017 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–ICEEU–2023–017. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at *https://www.theice.com/clear-europe/regulation.*

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–ICEEU–2023–017 and should be submitted on or before September 1, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–17211 Filed 8–10–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98073; File No. SR–BOX–2023–21]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 5020 (Criteria for Underlying Securities) To Accelerate the Listing of Options on Certain IPOs

August 7, 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 August 3, 2023, BOX Exchange LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend BOX Rule 5020 (Criteria for Underlying Securities) to permit an underlying security having a market capitalization of at least $3 billion based upon the offering price of its initial public offering, to be listed and traded starting on or after the second business day following the initial public offering day. 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 self-regulatory organization 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 self-regulatory organization 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 is proposing a listings rule change that is substantially similar in all material respects to the proposal approved for NYSE American LLC (''NYSE American'').[3] Specifically, the Exchange proposes to amend BOX Rule 5020 (Criteria for Underlying Securities) to permit an underlying security having a market capitalization of at least $3 billion based upon the offering price of its initial public offering, to be listed and traded starting on or after the second business day following the initial public offering day. This is a competitive filing that is based on a proposal recently submitted by NYSE American and approved by the Commission.[4]

The purpose of the proposed rule change is to amend Rule 5020 (Criteria for Underlying Securities) (the ''Rule'') as set forth below. Following discussions with other exchanges and a cross-section of industry participants and in coordination with the Listed Options Market Structure Working Group (''LOMSWG'') (collectively, the ''Industry Working Group''), the Exchange proposes to modify the standard set forth in the Rule for the listing and trading of options on ''covered securities'' to reduce the time to market.

Rule 5020(b)(5)(i) sets forth the guidelines to be considered in evaluating for option transactions underlying securities that are ''covered securities,'' as defined in Section 18(b)(1)(A) of the Securities Act of 1933 (hereinafter ''covered security'' or ''covered securities'').[5] Currently, the Exchange permits the listing of an option on an underlying covered

[13] 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. 98013 (July 27, 2023) (Order Approving SR–NYSEAMER–2023–27).

[4] *Id.*

[5] Rule 5020(a) requires that, for underlying securities to be eligible for option transactions, such securities must be duly registered and be an ''NMS stock'' as defined in Rule 600 of Regulation NMS under the Act and will be characterized by a substantial number of outstanding shares which are widely held and actively traded. *See* BOX Rules 5020(a)(1) and (2).

security that, amongst other things, has a market price of at least $3.00 per share for the previous three consecutive business days preceding the date on which the Exchange submits a certificate to The Options Clearing Corporation (''OCC'') to list and trade options on the underlying security (the ''three-day lookback period'').[6] Under the current rule, if an initial public offering (''IPO'') occurs on a Monday, the earliest date the Exchange could submit its listing certificate to OCC would be on Thursday, with the market price determined by the closing price over the three-day lookback period from Monday through Wednesday. The option on the IPO'd security would then be eligible for trading on the Exchange on Friday (*i.e.,* within four business days of the IPO inclusive of the day the listing certificate is submitted to OCC).

The Exchange notes that the three-day look back period helps ensure that options on underlying securities may be listed and traded in a timely manner while also allowing time for OCC to accommodate the certification request. However, there are certain large IPOs that issue high-priced securities—well above the $3.00 per share threshold—that would obviate the need for the three-day lookback period. In this regard, the Industry Working Group has recently identified proposed changes to Rule 5020(b)(5)(i) that would help options on covered securities that have a market capitalization of at least $3 billion based upon the offering price of its IPO come to market earlier.[7] The proposed change, which is intended to be harmonized across options exchanges, is designed to provide investors the opportunity to hedge their interest in IPO investments in a shorter amount of time than what is currently permitted.[8] The Exchange believes that options serve a valuable tool to the trading community and help markets function efficiently by mitigating risk. To that end, the Exchange believes that the absence of options in the early days after an IPO may heighten volatility in the trading of IPO'd securities.

Accordingly, the Exchange proposes to modify Rule 5020 to waive the three-day lookback period for covered securities that have a market capitalization of at least $3 billion based upon the offering price of the IPO of such securities and to allow options on such securities to be listed and traded starting on or after the second business day following the initial public offering day (*i.e.,* not inclusive of the day of the IPO).[9] NYSE American has reviewed trading data for IPO'd securities dating back to 2017 and stated that it is unaware of any such security that achieved a market capitalization of $3 billion based upon the offering price of its IPO that would not have also qualified for listing options based on the three-day lookback requirement. Specifically, NYSE American determined that 202 of the 1,179 IPOs that took place between January 1, 2017, and October 21, 2022, met the $3 billion market capitalization/IPO offering price threshold. Options on all 202 of those IPO shares subsequently satisfied the three-day lookback requirement for listing and trading, *i.e.,* none of these large IPOs closed below the $3.00/share threshold during its first three days of its trading. As such, the Exchange believes the proposed capitalization threshold of $3 billion based upon the offering price of its IPO is appropriate.

Under the proposed rule, if an IPO for a company with a market capitalization of $3 billion based upon the offering price of its IPO occurs on a Monday, the Exchange could submit its listing certificate to OCC (to list and trade options on the IPO'd security) as soon as all the other requirements for listing are satisfied. If, on Tuesday, all requirements are deemed satisfied, the IPO'd security could then be eligible for trading on the Exchange on Wednesday (*i.e.,* starting on or after the second business day following the IPO day). Thus, the proposal could potentially accelerate the listing of options on IPO'd securities by two days.

The Exchange believes the proposed change would allow options on IPO'd securities to come to market sooner without sacrificing investor protection. The Exchange represents that trading in IPO'd securities—like all other securities traded on the Exchange—is subject to surveillances administered by the Exchange and to cross-market surveillances administered by FINRA on behalf of the Exchange. Those surveillances are designed to detect violations of Exchange rules and applicable federal securities laws.[10] The Exchange represents that those surveillances are adequate to reasonably monitor Exchange trading of IPO'd securities in all trading sessions and to reasonably deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.[11] As such, the Exchange believes that its existing surveillance technologies and procedures, coupled with NYSE American's findings related to the IPOs reviewed as described herein, adequately address potential concerns regarding possible manipulation or price stability.

Implementation Date

The Exchange will announce the effective date of the proposed change by Notice distributed to all Participants.[12] The Exchange will coordinate the effective date to coincide with the implementation of the proposed change on the other options exchanges.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[13] in general, and Section 6(b)(5) of the Act,[14] in particular, in that it is 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 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. In particular, the Exchange believes the proposed change would facilitate options transactions and would remove impediments to and perfect the mechanism of a free and

[6] *See* BOX Rule 5020(b)(5)(i). The Exchange is not proposing to make any changes to the guidelines for listing securities that are not a ''covered security.'' *See* BOX Rule 5020(b)(5)(ii).

[7] *See* proposed Rule 5020(b)(5)(i)(2). The Exchange proposes a non-substantive change to number the existing and proposed criteria for covered securities as (1) and (2) of paragraph (5)(i). *See* proposed Rule 5020(b)(5)(i).

[8] While the Exchange acknowledges that market participants may utilize options for speculative purposes (in addition to as a hedging tool), the Exchange believes (as set forth below) that its existing surveillance technologies and procedures adequately address potential violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

[9] The Exchange acknowledges that the Options Listing Procedures Plan (or ''OLPP'') requires that the listing certificate be provided to OCC no earlier than 12:01 a.m. and no later than 11:00 a.m. (Chicago time) on the trading day prior to the day on which trading is to begin. See the OLPP, at p. 3, available here: *https://www.theocc.com/getmedia/198bfc93-5d51-443c-9e5b-fd575a0a7d0f/options_listing_procedures_plan.pdf.* The OLPP is a national market system plan that, among other things, sets forth procedures governing the listing of new options series.

[10] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[11] *See supra* note 8.

[12] The term ''Participant'' means a firm, or organization that is registered with the Exchange pursuant to the Rule 2000 Series for purposes of participating in trading on a facility of the Exchange and includes an ''Options Participant'' and ''BSTX Participant.'' *See* BOX Rule 100(a)(42).

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

open market and a national market system, which would, in turn, protect investors and the public interest by providing an avenue for options on IPO'd securities to come to market earlier. The Exchange notes that the three-day look back period helps ensure that options on underlying securities may be listed and traded in a timely manner while also allowing time for OCC to accommodate the certification request. However, there are certain large IPOs that issue high-priced securities—well above the $3.00 per share threshold—that would obviate the need for the three-day lookback period. As noted above, NYSE American has reviewed trading data for IPO'd securities dating back to 2017 and it is unaware of an IPO'd security with a market capitalization of $3 billion or more (based upon the offering price of its IPO) that subsequently would have failed to qualify for listing and trading as options under the three-day lookback requirement. The Exchange believes that the proposed amendment, which would be harmonized across options exchanges, would remove impediments to and perfect the mechanism of a free and open market and a national market system by providing an avenue for investors to hedge their interest in IPO investments in a shorter amount of time than what is currently permitted. The Exchange believes that options serve a valuable tool to the trading community and help markets function efficiently by mitigating risk. To that end, the Exchange believes that the absence of options in the early days after an IPO may heighten volatility to IPO'd securities.[15]

Further, as noted herein, the Exchange believes the proposed change would allow options on IPO'd securities to come to market sooner (*i.e.,* at least two business days post-IPO not inclusive of the day of the IPO) without sacrificing investor protection. The Exchange represents that trading in IPO'd securities—like all other securities traded on the Exchange—is subject to surveillances administered by the Exchange and to cross-market surveillances administered by FINRA on behalf of the Exchange. Those surveillances are designed to detect violations of Exchange rules and applicable federal securities laws.[16] The Exchange represents that those surveillances are adequate to reasonably monitor Exchange trading of IPO'd securities in all trading sessions and to reasonably deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange, including wrongful efforts to manipulate the prices of those securities in order to bring them in compliance with the $3.00/share threshold for the listing of options. As such, the Exchange believes that its existing surveillance technologies and procedures, coupled with NYSE American's findings related to the IPOs reviewed as described herein, would adequately address potential concerns regarding possible manipulation or price stability.

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. In this regard and as indicated above, the Exchange notes that the rule change is being proposed as a competitive response to a filing submitted by NYSE American that was recently approved by the Commission.[17] The Exchange anticipates that the other options exchanges will adopt substantively similar proposals, such that there would be no burden on intermarket competition from the Exchange's proposal. Accordingly, the proposed change is not meant to affect competition among the options exchanges. For these reasons, the Exchange believes that the proposed rule change reflects this competitive environment and does not impose any undue burden on intermarket competition.

C. 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.

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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[18] and Rule 19b–4(f)(6) thereunder.[19]

A proposed rule change filed under Rule 19b–4(f)(6)[20] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[21] 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 asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that this proposed rule change is substantially similar in all material respects to a proposal submitted by NYSE American that was recently approved by the Commission.[22] The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change does not raise any new or novel issues. The Exchange represents that it will coordinate the effective date to coincide with the implementation of the proposed change on the other options exchanges. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.

At any time within 60 days of the filing of the 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:

[15] *See supra* note 8.

[16] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[17] *See supra* note 3.

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

[19] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

[20] *Id.*

[21] 17 CFR 240.19b–4(f)(6)(iii).

[22] *See supra* note 3.

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–2023–21 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–2023–21. 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–2023–21 and should be submitted on or before September 1, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–17212 Filed 8–10–23; 8:45 am]

BILLING CODE 8011–01–P

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98071; File No. SR–ICEEU–2023–010]

Self-Regulatory Organizations; ICE Clear Europe Limited; Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1 and Amendment No. 2, to the ICE Clear Europe Clearing Rules Relating to Non-Default Losses

August 7, 2023.

I. Introduction

On April 21, 2023, ICE Clear Europe Limited (''ICE Clear Europe'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4,[2] a proposed rule change to amend the ICE Clear Europe Clearing Rules (the ''Rules'') regarding the treatment of non-default losses. On May 2, 2023, ICE Clear Europe filed Amendment No. 1 to the proposed rule change.[3] Notice of the proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on May 10, 2023.[4] On June 21, 2023, the Commission designated a longer period for Commission action on the proposed rule change until August 8, 2023.[5] On June 30, 2023, ICE Clear Europe filed Amendment No. 2 to the proposed rule change.[6] Notice of Amendment No. 2 to the proposed rule change was published for comment in the **Federal Register** on July 12, 2023.[7] The Commission did not receive comments regarding the proposed rule change, as modified by Amendment Nos. 1 and 2 (hereafter, the ''proposed rule change''). For the reasons discussed below, the Commission is approving the proposed rule change on an accelerated basis.

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

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 amended and restated in its entirety the Form 19b–4 and Exhibit 1A in order to correct the narrative description of the proposed rule change.

[4] Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, Relating to Amendments to the Clearing Rules, Exchange Act Release No. 97429 (May 4, 2023); 88 FR 30187 (May 10, 2023) (SR–ICEEU–2023–010) (''Notice'').

[5] Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change, as Modified by Amendment No. 1, Relating to Amendments to the Clearing Rules; Exchange Act Release No. 97780 (June 21, 2023), 88 FR 41711 (June 27, 2023) (File No. SR–ICEEU–2023–010).

[6] Amendment No. 2 modified Exhibit 5 to clarify when certain funds are considered available to ICE Clear Europe to be applied in accordance with the Rules as proposed to be amended.

[7] Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Amendment No. 2 to Proposed Rule Change, as Modified by Amendment No. 1, Relating to Amendments to the Clearing Rules, Exchange Act Release No. 97851 (July 7, 2023); 88 FR 44418 (July 12, 2023) (SR–ICEEU–2023–010).

II. Description of the Proposed Rule Change

A. Background

ICE Clear Europe is registered with the Commission as a clearing agency for the purpose of clearing security-based swaps.[8] In its role as a clearing agency for clearing security-based swaps, ICE Clear Europe provides services to its Clearing Members, and Clearing Members in turn transfer assets to ICE Clear Europe. For example, ICE Clear Europe's Clearing Members transfer to ICE Clear Europe cash and other assets to satisfy their margin and Guaranty Fund requirements. ICE Clear Europe maintains these assets at banks for settlement and custodianship and also invests the assets on behalf of Clearing Members.

Maintaining and investing Clearing Members' assets exposes those assets to risk. For example, if ICE Clear Europe's custodial bank were to default, ICE Clear Europe could lose access to, or suffer a decline in value of, assets that it maintains at the bank. Similarly, if an investment counterparty were to default, ICE Clear Europe could lose access to, or suffer a decline in value of, assets invested with that counterparty. These potential losses can be described generally as non-default losses because they do not arise from the default of a Clearing Member, but rather from the default of another counterparty to which ICE Clear Europe is exposed through its custody and investment of assets.

As explained in more detail below, ICE Clear Europe's Rules currently define and categorize non-default losses. The Rules also specify ICE Clear Europe's responsibility to pay for such losses, set aside financial resources to cover such losses, and allocate non-default losses among Clearing Members in certain situations.

The proposed rule change would amend the Rules to revise this overall framework for non-default losses. As described more fully below, the proposed rule change would: (i) add new types of non-default losses and amend the definitions of the existing types; (ii) define the responsibilities of ICE Clear Europe and of Clearing Members with respect to the different types of non-default losses, including the amount of financial resources put

[8] Capitalized terms not otherwise defined herein have the meanings assigned to them in ICE Clear Europe's Clearing Rules.