

owns in excess of 20% of the ownership units ("Units") of BOX LLC and is approved by the BSE as an Options Participant on the BOX Market pursuant to the rules of the BSE. The Units owned by a Member in excess of 20% of the Units are referred to as "Excess Units." No Member who is also an Options Participant would be permitted to vote or give proxy rights to vote with respect to the Excess Units. However, the Excess Units may be considered for quorum purposes of any meeting of the BOX Board, and shall be voted in the same proportion as the Units held by other Members are voted.

The BSE believes that this provision would specifically prevent any Member from exercising undue control over BOX LLC. By specifically imposing a voting collar on any Member who owns more than 20% of the Units of BOX LLC and who is also an Options Participant, the Exchange is ensuring that it is, in all cases, able to maintain proper control over the exercise of its regulatory functions in relation to BOX, and is not subject to influence that may be adverse to its regulatory responsibilities from a Member who may own a substantial number of the outstanding Units of BOX LLC. This provision, along with other related provisions relating to notice and rule filing requirements for any Member who acquires certain Percentage Interests in BOX LLC (e.g., Section 8.4(g)) will serve to protect the sanctity of the Exchange's self-regulatory responsibilities and will allow the Commission to periodically review the ownership of BOX LLC.

Additionally, the BSE is proposing to extend a temporary exemption, until January 1, 2014, for Interactive Brokers, a Founding Member who is also an Options Participant of BOX, from the voting limitation on Excess Units, but only with respect to any vote regarding any merger, consolidation or dissolution of BOX or any sale of all or substantially all of the assets of BOX. This exemption is substantially similar to an exemption permitted for holders of Class A Common Stock on the International Securities Exchange when that organization restructured from an LLC to a Corporation.¹⁰ The BSE believes that such an exemption provides IB with reasonable voting participation in Board matters concerning any merger, consolidation, or dissolution of BOX or any sale of all or substantially all of the assets of BOX, in light of IB's ownership interest in BOX LLC. Regardless of this exemption, however, as previously

discussed, the BSE has the ultimate authority to veto any actions of the Board which conflict with its regulatory responsibilities.

Section 19.6(b)

The Members of BOX LLC, officers, directors, agents, and employees of such Members, including non-U.S. entities, irrevocably submit to the exclusive jurisdiction of the U.S. federal courts, the Commission, and the BSE, for the purposes of any suit, action or proceeding pursuant to U.S. federal securities laws, the rules or regulations thereunder, directly arising out of, or directly relating to, BOX activities or this proposed Chapter XIV of the BOX Rules, and hereby waives, and agrees not to assert by way of motion, as a defense or otherwise in any such suit, action, or proceeding, any claims that it is not personally subject to the jurisdiction of the Commission, that the suit, action, or proceeding is an inconvenient forum or that the venue of the suit, action, or proceeding is improper, or that the subject matter hereof may not be enforced in or by such courts or agency.

The Exchange believes that this provision would serve as notice to Members that they will be subject to the jurisdiction of the U.S. courts, the Commission, and the BSE. While Members may represent a diverse group of business interests, the BSE believes that it is imperative that regulatory cooperation is assured from all Members, regardless of each Member's business location, country of domicile, or other circumstance which the Commission may deem to have the potential to be adverse to the regulatory responsibilities and interests of the Exchange, the Commission, or the U.S. courts. Accordingly, this proposed provision, as also set forth in the Operating Agreement and ratified by each Member, ensures that, should an occasion arise which requires regulatory cooperation or jurisdictional submission from a Member, it would be forthcoming and uncontested.

2. Statutory Basis

The Exchange believes that this filing is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(1),¹¹ in particular, in that it enables the Exchange to be organized so as to have the capacity to be able to carry out the purposes of the Act and to comply, and (subject to any rule or order of the Commission pursuant to Section 17(d) or 19(g)(2) of the Act) to enforce

compliance by its exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that this filing furthers the objectives of Section 6(b)(5),¹² in particular, in that it is designed to facilitate transactions in securities; 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.

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

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

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Copies of

¹⁰ See Securities Exchange Act Release No. 45529 (March 8, 2002), 67 FR 11732 (March 15, 2002) (SR-ISE-2002-01).

¹¹ 15 U.S.C. 78f(b)(1).

¹² 15 U.S.C. 78f(b)(5).