



September 27, 2021

Ms. Vanessa Countryman
Secretary
Securities and Exchange Commission
100 F Street NE., Washington, DC 20549

Re: Release No. 34-92796; File No. SR-BOX-2021-06

Dear Ms. Countryman:

The Securities Industry and Financial Markets Association (“SIFMA”)¹ appreciates the opportunity to comment on the above-referenced proposed rule change (“Proposal”), as amended by Amendment No. 1, filed by BOX Exchange LLC (“BOX” or “Exchange”) with the Securities and Exchange Commission (“Commission”) under Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”).² In the Proposal, BOX is again seeking to adopt rules governing the listing and trading of a new type of equity security on a facility of the Exchange known as the Boston Security Token Exchange LLC (“BSTX”).

SIFMA’s comments on the Proposal are focused on BOX’s statement in the Proposal that it does not intend for “Securities” listed on BSTX to be fungible with any other class of securities from the same issuer, along with its apparent assertion in footnote 25 of the Proposal that an issuer can have two classes of securities that have identical voting and economic rights.³

¹ SIFMA is the leading trade association for broker-dealers, investment banks, and asset managers operating in the U.S. and global capital markets. On behalf of our industry’s nearly 1 million employees, we advocate for legislation, regulation and business policy, affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit <http://www.sifma.org>.

² See Exchange Act Release No. 92017 (May 25, 2021), 86 FR 29634 (June 2, 2021). On July 13, the Commission extended the time for its consideration of the Proposal to August 31, 2021. See Exchange Act Release No. 92387 (July 13, 2021), 86 FR 38140 (July 19, 2021). On August 18, 2021, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced and superseded the proposed rule change as originally filed. See Exchange Act Release No. 92796 (August 27, 2021), 86 FR 49416 (September 2, 2021).

³ Footnote 25 of the Proposal provides the following:

The Exchange notes that distinct classes of securities issued by an issuer that are Securities would not be fungible with another class of securities of the same issuer because no class of an issuer’s securities is fungible with a separate class of its securities – otherwise they would be the same class of security. To the extent that two classes of an issuer’s shares had identical voting and economic rights but were registered

Presumably, BSTX is contemplating that an issuer could list shares with identical voting and economic rights on BSTX and another exchange but designate the shares listed on BSTX as a separate class of the issuer's securities, with the only distinguishing factor between the two classes of securities being that the BSTX-listed securities would have the additional blockchain functionality provided by the Exchange. While BSTX states at the end of footnote 25 that nothing in the Proposal is seeking to change the existing framework for different classes of securities, additional BSTX's statements in the Proposal suggest otherwise.

We note that the definition of "class" of securities in Section 12(g)(5) of the Exchange Act contemplates that securities of an issuer that have identical economic and voting rights would be part of the same class of securities. In particular, that Section provides that "[f]or the purposes of this subsection the term 'class' shall include all securities of an issuer which are of substantially similar character and the holders of which enjoy substantially similar rights and privileges." We note that in the trading context, having two separate classes of an issuer's securities with identical economic and voting rights trading at the same time on different exchanges could result in investor and market confusion. We further note that issuers have dually-listed securities on two exchanges to meet the different listing standards of each of the exchanges, but the issuers have done so by listing the same class of securities on both exchanges.⁴ While we recognize this issue would be addressed when an issuer seeking to list on BSTX goes through the registration process for its securities, we nonetheless wanted to raise it for the Commission's consideration in the context of the Proposal because BSTX has included a discussion of it in the Proposal.

* * *

We greatly appreciate the Commission's consideration of these comments and would be pleased to discuss these comments in greater detail. If you have any questions or need any additional information, please contact Ellen Greene (212-313-1287 or egreene@sifma.org).

Sincerely,



Ellen Greene
Managing Director
Equities & Options Market Structure

with the Commission as separate classes (e.g., Class A shares and Class B shares), the two classes of shares could be economically fungible with one another insofar as they convey the same economic and beneficial rights and interests to investors, but this would not mean that ownership of a Class A share is the same as ownership of a Class B share notwithstanding that each class provides the same economic benefits. In any case, nothing herein proposes any change to the existing framework for different classes of securities.

⁴ See, e.g., the listing announcements related to Asana, Inc. and Twilio Inc. (<https://www.sec.gov/Archives/edgar/data/1477720/000147772021000035/asana8-k62421.htm>) and (<https://www.sec.gov/Archives/edgar/data/1447669/000144766921000167/twlo-20210624.htm>).