

preclude a different party from being responsible for the trade pursuant to the rules of the Clearing Corporation, any agreement between the applicable parties, or other applicable rules, regulations, arbitration, court proceedings, or otherwise.²⁴

Finally, CBOE proposes to eliminate language in Rule 6.50 that addresses financial responsibility of transactions clearing through CTPHs because financial responsibility is now addressed in new paragraph (h) to Rule 6.21.²⁵

III. Discussion and Commission Findings

After careful consideration of the proposal, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange,²⁶ and, in particular, the requirements of Section 6 of the Act.²⁷ Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,²⁸ which requires, among other things, that the rules of a national securities exchange be designed 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, in general, to protect investors and the public interest.

In particular, the Commission believes that by providing more detailed requirements relating to the give up process, the proposal is designed to bring greater operational certainty and efficiency to that process. For example, requiring TPHs and CTPHs to use standardized forms to designate give ups, reject a trade and change the give up on a trade, and accept a trade as a new give up should enhance CBOE's ability to efficiently monitor and enforce compliance with its rules relating to the give up process. Use of standardized forms also may make it easier for TPHs and CTPHs to comply with the proposed rules, and should benefit all members by providing a written confirmation to evidence any changes in clearing responsibility for a particular trade. In addition, the process specified

in the proposed rule should provide greater transparency and certainty to members about the expectations and requirements attendant to the give up process, and should help facilitate a common process among exchange members in the event that a change to a designated give up becomes necessary.

The Commission believes that the proposal addresses the role of different parties involved in the give up process in a balanced manner and is designed to provide a fair and reasonable methodology for the give up process. For example, the proposed rule change allows executing TPHs to designate any current CBOE CTPH as a designated give up while also obligating the Exchange to notify CTPHs of each TPH that has identified the CTPH as a designated give up. Moreover, the proposal creates procedures for a CTPH to reject a trade where the CTPH has a good faith belief that it has a valid reason not to accept the trade. Although a CTPH with a valid reason may reject a trade, the proposal ensures that there is finality to this process by prohibiting a CTPH that agrees to become the give up on a trade (or a guarantor that is assigned the trade) from subsequently rejecting the trade. In this manner, the proposed rule change is designed to ensure that there will always be a CPTH that will be financially responsible for a trade, which should promote greater operational certainty and facilitate cooperation and coordination with persons engaged in clearing transactions.

Accordingly, the Commission finds that the Exchange's proposal is consistent with the Act, including Section 6(b)(5) thereof, in that it is designed 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 in general, protect investors and the public interest.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²⁹ that the proposed rule change (SR-CBOE-2014-048), be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁰

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-72664; File No. SR-Phlx-2014-46]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, Relating to SPY and DIA Options

July 24, 2014.

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 July 9, 2014, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. On July 22, 2014, the Exchange filed Amendment No. 1 to the proposal.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

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

The Exchange proposes to amend Commentary .05 to Rule 1012 (Series of Options Open for Trading) to allow \$1 or greater strike price intervals for options on the SPDR® S&P 500® Exchange Traded Fund ("SPY") and the SPDR® Dow Jones® Industrial Average Exchange Traded Fund ("DIA").⁴

The text of the proposed rule change is available on the Exchange's Web site at <http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings>, at the principal office of the Exchange, and at

³⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, the Exchange modified *Exhibit 1* to the proposed rule change to make certain technical corrections and to add additional explanation of the proposed rule change to Section II.A.1.

⁴ S&P®, S&P 500®, Standard & Poor's®, and SPDR® are registered trademarks of Standard & Poor's® Financial Services LLC. Dow Jones®, DJIASM, and Dow Jones Industrial AverageSM are registered trade and service marks of Dow Jones® Trademark Holdings LLC.

²⁴ See Notice, *supra* note 3, at 33617.

²⁵ See *id.*

²⁶ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²⁷ 15 U.S.C. 78f.

²⁸ 15 U.S.C. 78f(b)(5).

²⁹ 15 U.S.C. 78s(b)(2).

the Commission's Public Reference Room.

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 purpose of this proposed rule change is to amend Commentary .05 to Rule 1012 by modifying the interval setting regime for SPY and DIA options listed on the SPDR S&P 500 Exchange Traded Fund ("ETF") and the SPDR Dow Jones Industrial Average ETF, respectively, to allow \$1 or greater strike price intervals.⁵ Through this filing, the Exchange intends to make SPY and DIA options more tailored and easier for investors and traders to use.

Under current Rule 1012, the interval of strike prices of series of options on ETFs is \$1 or greater where the strike price is 200 or less and \$5 or greater where the strike price is more than 200.⁶ The Proposal seeks to narrow those strike intervals to \$1 apart for SPY and DIA options, in effect matching the interval for these products to ETF option strike prices at or below 200.

The strike prices for SPY and DIA options are approaching the 200 price point. By the end of June 2014, for example, SPY was trading at more than \$195 per share and DIA was trading at more than \$168 per share. As the option strike prices continue to appreciate, investor and member demands to list additional SPY and DIA option series continue to increase. SPY is the most heavily traded and liquid exchange-traded product in the U.S., and SPY options represent 13% of the total option volume in the U.S. and 12% of the options volume on the Exchange. DIA options represent 11% of the

options volume on the Exchange and less than 1% of the options volume in the U.S. Moreover, the popularity of DIA and SPY options is reflected in the fact that they have options contracts reflecting monthly, quarterly, and weekly expiration cycles.⁷ Not having the proposed \$1 intervals above a 200 strike price will significantly limit investors' hedging and trading possibilities, particularly when it comes to executing strategies that are effective in \$1 intervals; and may, as a result, constrict trading and hedging activity. The Exchange therefore proposes to amend Commentary .05 to Rule 1012 to allow SPY and DIA options to trade in \$1 increments.

Specifically, the Exchange proposes to add Commentary .05(a)(iv)(C) to state that notwithstanding any other provision regarding the interval of strike prices of series of options on ETFs in Rule 1012, the interval of strike prices on SPY and DIA options will be \$1 or greater. By having smaller strike intervals in SPY and DIA, investors will have more efficient hedging and trading opportunities due to the higher \$1 interval ascension. The proposed \$1 intervals, particularly above a 200 strike price, will result in having at-the-money series based upon the underlying SPY or DIA moving less than 1%, which falls in line with slower price movements of a broad-based index. Furthermore, the proposed \$1 intervals will allow currently employed option trading strategies (such as, for example, risk reduction/hedging strategies using SPY weekly options) to remain in play. Considering that \$1 intervals already exist below the 200 price point and that SPY and DIA are approaching the 200 level, continuing to maintain the artificial 200 level (above which intervals increase 500%, to \$5), will have a negative effect on investing, trading and hedging opportunities and volume. The continued demand for highly liquid options such as SPY and DIA, and the investing, trading, and hedging opportunities they represent, far outweighs any potential negative impact of allowing SPY and DIA options to trade in more finely tailored intervals above a 200 price point.

With the proposal, for example, investors and traders would be able to roll open positions from a lower strike to a higher strike in conjunction with the price movement of the underlying. Under the current rule, where the next higher available series would be \$5

away above a 200 strike price, the ability to roll such positions is effectively negated. Thus, to move a position from a 200 strike to a 205 strike under the current rule, an investor would need for the underlying product to move 2.5%, and would not be able to execute a roll up until such a large movement occurred. With the proposed rule change, however, the investor would be in a significantly safer position of being able to roll his open options position from a 200 to a 201 strike price, which is only a 0.5% move for the underlying.

By allowing SPY and DIA options in \$1 intervals over a 200 strike price, the proposal will moderately augment the total number of options series available on the Exchange. However, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to handle any potential additional traffic associated with this proposed rule change. The Exchange believes that its members will not have a capacity issue as a result of this proposal. The Exchange also represents that it does not believe this expansion will cause fragmentation of liquidity. The Exchange's beliefs are supported by the limited nature of the proposal, which applies to two symbols rather than to all ETF products. Moreover, while under the current rule-set there is ample liquidity, it is constricted above 200. This proposal only enhances liquidity at more rational strike intervals necessary to benefit investors as the stock market improves in value.

The Exchange believes that the proposed rule change, like the other strike price programs currently offered by the Exchange, will benefit investors by giving them more flexibility to more closely tailor their investment and hedging decisions by allowing SPY and DIA options to trade in finer \$1 intervals.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.⁸ In particular, the proposal is consistent with Section 6(b)(5) of the Act,⁹ because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market

⁵ The SPDR S&P 500 ETF is based on the broad-based S&P 500 Index, and the SPDR Dow Jones Industrial Average ETF is based on the Dow Jones Industrial Average.

⁶ See Commentary .05(a)(iv)(A) to Rule 1012.

⁷ For rules regarding quarterly options and weekly options (also known as Short Term Options), see Commentaries .08 and .11, respectively, to Rule 1012.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

and a national market system and, in general, to protect investors and the public interest.

In particular, the proposed rule change would add consistency to the SPY and DIA options markets and allow investors to use SPY and DIA options more easily and effectively. Moreover, the proposed rule change would allow investors and traders, whether big or small, to better trade and hedge positions in SPY and DIA options where the strike price is greater than 200, and ensure that SPY and DIA options investors and traders are not at a disadvantage simply because of the strike price.

The Exchange also believes the proposed rule change is consistent with Section 6(b)(1) of the Act,¹⁰ which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and the rules and regulations thereunder, and the rules of the Exchange. The rule change proposal allows the Exchange to respond to customer demand to allow SPY and DIA options to trade in \$1 intervals above a 200 strike price. The Exchange does not believe that the proposed rule would create additional capacity issues or affect market functionality.

As noted above, ETF options trade in wider \$5 intervals above a 200 strike price, whereby options at or below a 200 strike price trade in \$1 intervals. This creates a situation where contracts on the same option class, namely SPY and DIA options, effectively may not be able to execute certain strategies such as, for example, rolling to a higher strike price, simply because of the arbitrary 200 strike price above which options intervals increase by 500%. This proposal remedies the situation by establishing an exception to the current ETF interval regime, for SPY and DIA options only, to allow such options to trade in \$1 or greater intervals at all strike prices.

The Exchange believes that the proposed rule change, like other strike price programs currently offered by the Exchange, will benefit investors by giving them increased flexibility to more closely tailor their investment and hedging decisions. Moreover, the proposed rule change is consistent with changes proposed by at least one other exchange.¹¹

With regard to the impact of this proposal on system capacity, the

Exchange has analyzed its capacity and represents that it and OPRA have the necessary systems capacity to handle any potential additional traffic associated with this proposed rule change. The Exchange believes that its members will not have a capacity issue as a result of this proposal.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposed rule change will result in additional investment options and opportunities to achieve the investment and trading objectives of market participants seeking efficient trading and hedging vehicles, to the benefit of investors, market participants, and the marketplace in general. Specifically, the Exchange believes that SPY and DIA option investors and traders will significantly benefit from the availability of finer strike price intervals above a 200 price point.

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 45 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 shall: (a) By order approve or disapprove 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, as modified by Amendment No. 1, is consistent with the Act. 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-Phlx-2014-46 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-Phlx-2014-46. 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 Web site (<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 Web site 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 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2014-46 and should be submitted on or before August 20, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Kevin M. O'Neill,

Deputy Secretary.

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¹⁰ 15 U.S.C. 78f(b)(1).

¹¹ See, e.g., Securities Exchange Act Release No. 72482 (June 26, 2014), 79 FR 37825 (July 2, 2014) (SR-CBOE-2014-051) (notice of filing and immediate effectiveness modifying the strike price regime for Mini-S&P 500 Index (XSP) options).

¹² 17 CFR 200.30-3(a)(12).