

Required fields are shown with yellow backgrounds and asterisks.

Filing by The Nasdaq Stock Market LLC
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
			Rule		
Pilot	Extension of Time Period for Commission Action *	Date Expires *	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>	<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) *	Section 806(e)(2) *
<input type="checkbox"/>	<input type="checkbox"/>
	Section 3C(b)(2) *
	<input type="checkbox"/>

Exhibit 2 Sent As Paper Document	Exhibit 3 Sent As Paper Document
<input type="checkbox"/>	<input type="checkbox"/>

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Proposal to Amend SPY Position Limits

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Angela	Last Name * Dunn
Title * Principal Associate General Counsel	
E-mail * angela.dunn@nasdaq.com	
Telephone * (215) 496-5692	Fax

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title *)

Date 06/17/2020	EVP and Chief Legal Officer
By John Zecca	
(Name *)	



NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information *

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposal to amend The Nasdaq Options Market LLC’s (“NOM”) Options 9, Section 13, Position Limits, to increase position limits for options on the SPDR® S&P 500® ETF Trust (“SPY”), and similarly increase exercise limits within Options 9, Section 15, Exercise Limits.

A notice of the proposed rule change for publication in the Federal Register is attached as Exhibit 1. The text of the proposed rule change is attached as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of the Exchange pursuant to authority delegated by the Board of Directors of the Exchange (the “Board”) on September 25, 2019. Exchange staff will advise the Board of any action taken pursuant to delegated authority. No other action is necessary for the filing of the rule change.

Questions and comments on the proposed rule change may be directed to:

Angela Saccomandi Dunn
Principal Associate General Counsel
Nasdaq, Inc.
215-496-5692

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

a. Purpose

The Exchange proposes to amend Options 9, Section 13, Position Limits, to increase position limits for options on SPY. The Exchange’s position limits are incorporated by reference to Cboe Exchange, Inc. (“Cboe”), except for SPY.³ The proposed amendments to SPY are based on the similar proposal by Cboe.⁴ The Exchange also proposes to make minor non-substantive technical corrections to Options 9, Section 13 and Options 9, Section 15. Each change will be described below.

Position limits are designed to address potential manipulative schemes and adverse market impacts surrounding the use of options, such as disrupting the market in the security underlying the options. While position limits should address and discourage the potential for manipulative schemes and adverse market impact, if such limits are set too low, participation in the options market may be discouraged. The Exchange believes

³ See Options 9, Section 13(a)(1). The Exchange notes that with respect to U.S. Dollar-Settled Foreign Currency Options, those position limits are incorporated by reference to Phlx. See Options 9, Section 13(a)(4).

⁴ See Securities Exchange Act Release No. 88768 (April 29, 2020)(SR-CBOE-2020-015) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Increase Position Limits for Options on Certain Exchange-Traded Funds and Indexes). The Cboe proposal also proposed to increase position limits for options overlying a number of ETFs as well as the MSCI Emerging Markets Index (“MXEF”) and the MSCI EAFE Index (“MXEA”). The Exchange’s proposal only proposes an increase to the position (and exercise limits) for options overlying SPY. NOM does not list options on MXEF and MXEA. Also, other options and Exchange-Traded Fund position limits, which were amended in Cboe’s rule change, have already been increased on NOM because NOM’s rules at Options 9, Section 13 and Options 9, Section 15 incorporate its position limits and exercise limits to Cboe, except for SPY. Accordingly, this proposal is limited to SPY.

that position limits must therefore be balanced between mitigating concerns of any potential manipulation and the cost of inhibiting potential hedging activity that could be used for legitimate economic purposes.

The Exchange has observed an ongoing increase in demand in options on the SPDR[®] S&P 500[®] ETF Trust (“SPY”) for both trading and hedging purposes. Though the demand for options on SPY appear to have increased, position limits (and corresponding exercise limits) for options on SPY have remained the same. The Exchange believes these unchanged position limits may have impeded, and may continue to impede, trading activity and strategies of investors, such as use of effective hedging vehicles or income generating strategies (e.g., buy-write or put-write), and the ability of Market Makers to make liquid markets with tighter spreads in these options, resulting in the transfer of volume to over-the-counter (“OTC”) markets. OTC transactions occur through bilateral agreements, the terms of which are not publically disclosed to the marketplace. As such, OTC transactions do not contribute to the price discovery process on a public exchange or other lit markets. Therefore, the Exchange believes that the proposed increase for position limits (and exercise limits) on options on SPY may enable liquidity providers to provide additional liquidity to the Exchange and other market participants to transfer their liquidity demands from OTC markets to the Exchange, as well as other options exchange on which they participate. As described in further detail below, the Exchange believes that the continuously increasing market capitalization of SPY and SPY component securities, as well as the highly liquid markets for those securities, reduces the concerns for potential market manipulation and/or disruption in the underlying markets upon increasing position limits, while the rising demand for trading

options on SPY for legitimate economic purposes compels an increase in position limits (and corresponding exercise limits).

Proposed Position Limits for Options on SPY

Options 9, Section 13 sets forth the position limit for options on SPY. The Exchange proposes to amend Options 9, Section 13 to double the position limits for options on SPY. The current position limit for options on SPY is 1,800,000 and the proposed position limit for options on SPY is 3,600,000. The Exchange represents that SPY qualifies for the initial listing criteria set forth in Options 4, Section 3(i) for ETFs. In addition, the Exchange is making corresponding amendments to exercise limits for options on SPY within Options 9, Section 15.

Composition and Growth Analysis for SPY

As stated above, position (and exercise) limits are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate the underlying market so as to benefit options positions. The Commission has recognized that these limits are designed to minimize the potential for mini-manipulations and for corners or squeezes of the underlying market, as well as serve to reduce the possibility for disruption of the options market itself, especially in illiquid classes.⁵

SPY as well as SPY components are highly liquid, and are based on a broad set of highly liquid securities and other reference assets, as demonstrated through the trading statistics presented in this proposal. Indeed, the Commission recognized the liquidity of

⁵ See Securities Exchange Act Release No. 67672 (August 15, 2012), 77 FR 50750 (August 22, 2012) (SR-NYSEAmex-2012-29).

the securities comprising the underlying interest of SPY and permitted no position limits on SPY options from 2012 through 2018.⁶

To support the proposed position limit increase (and corresponding increase in exercise limit), the Exchange considered both the liquidity of SPY and the component securities of SPY, as well as the availability of economically equivalent products to the overlying option and its respective position limit. SPY is based upon S&P 500 Index, and therefore the options on SPY are economically equivalent to the options on the index, which have no position limits. Accordingly, the Exchange believes the position limit of 3,600,000 contracts is appropriate for options on SPY.

The Exchange is presenting data collected by Cboe as part of its initial filing to increase the position and exercise limit on SPY, that the Commission approved,⁷ following trading statistics regarding shares of and options on SPY, as well as the component securities:

⁶ See Securities Exchange Act Release No. 69180 (March 19, 2013), 78 FR 17962 (March 25, 2013) (SR-NASDAQ-2013-046), which implemented a pilot program that ran through 2017, during which there were no position limits for options on SPY. The Exchange notes that throughout the duration of the pilot program it was not aware of any problems created or adverse consequences as of result of the pilot program. See also Securities Exchange Act Release No. 83421 (June 13, 2018), 83 FR 28474 (June 19, 2018) (SR-NASDAQ-2018-044).

⁷ See supra note 3.

Product	ADV⁸ (ETF shares)	ADV (option contracts)	Shares Outstanding (ETFs)⁹	Fund Market Cap (USD)	Total Market Cap of ETF Components¹⁰
SPY	70.3 million	2.8 million	968.7 million	312.9 billion	29.3 trillion

The Exchange is presenting the following data collected by Cboe as part of its initial filing, that the Commission has approved,¹¹ for the same trading statistics, where applicable, as above regarding a sample of other ETFs, as well as the current position limits for options on such ETFs pursuant to Options 9, Section 13, to draw comparisons in support of a proposed position limit increase for options on SPY (see further discussion below):

Product	ADV (ETF shares)	ADV (option contracts)	Shares Outstanding (ETFs)	Fund Market Cap (USD)	Total Market Cap of ETF Components	Current Position Limits
QQQ	30.2 million	670,200	410.3 million	88.7 billion	10.1 trillion	1,800,000

The Exchange believes that, overall, the liquidity in the shares of SPY and in the component securities of SPY and in its overlying options, as well as the large market capitalizations and structure of SPY support the proposal to increase the position limit for SPY (and corresponding exercise limit). Given the robust liquidity and capitalization in SPY and in the component securities of SPY the Exchange does not anticipate that the

⁸ Cboe's Average daily volume (ADV) data for ETF shares and options contracts are for all of 2019. Additionally, reference to ADV in ETF shares, and ETF options herein this proposal are for all of 2019, unless otherwise indicated.

⁹ See Amendment No. 1 to SR-CBOE-2020-015, at page 4, available at <https://www.sec.gov/comments/sr-cboe-2020-015/srcboe2020015-7081714-215592.pdf> ("Amendment No. 1").

¹⁰ See Amendment No. 1, at page 4.

¹¹ See supra note 4.

proposed increase in position limits would create significant price movements. Also, the Exchange believes the market capitalization of the underlying component securities of the S&P 500 Index are large enough to adequately absorb potential price movements that may be caused by large trades.

The following analysis for SPY, which the Exchange agrees with in support of this proposal, as well as the statistics presented in support thereof, were presented by Cboe in their initial filing, which was approved by the Commission.¹² The Exchange notes that SPY tracks the performance of the S&P 500 Index, which is an index of diversified large cap U.S. companies.¹³ It is composed of 505 selected stocks spanning over approximately 24 separate industry groups. The S&P 500 is one of the most commonly followed equity indices, and is widely considered to be the best indicator of stock market performance as a whole. SPY is one of the most actively traded ETFs, and, since 2017,¹⁴ its ADV has increased from approximately 64.6 million shares to 70.3 million shares by the end of 2019. Similarly, its ADV in options contracts has increased from 2.6 million to 2.8 million through 2019.¹⁵ As noted, the demand for options trading on SPY has continued to increase, however, the position limits have remained the same,

¹² See supra note 4.

¹³ See SPDR S&P 500 ETF Trust, available at <https://www.ssga.com/us/en/individual/etfs/funds/spdr-sp-500-etf-trust-spy> (January 21, 2020).

¹⁴ See supra note 4.

¹⁵ See also Securities Exchange Act Release No. 83421 (June 13, 2018), 83 FR 28474 (June 19, 2018) (SR-NASDAQ-2018-044). (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend The Nasdaq Options Market LLC (“NOM”) Rules at Supplementary Material to Chapter III, Section 7, Entitled “Position Limits,” and Section 9, Entitled “Exercise Limits”).

which the Exchange believes may have impacted growth in SPY option volume from 2017 through 2019. The Exchange also notes that SPY shares are more liquid than INVESCO QQQ TrustSM, Series 1 (“QQQ”) shares, which is also currently subject to a position limit of 1,800,000 contracts. Specifically, SPY currently experiences over twice the ADV in shares and over four times the ADV in options than that of QQQ.¹⁶

Creation and Redemption for ETFs

The Exchange believes that the creation and redemption process for ETFs will lessen the potential for manipulative activity with options on SPY. When an ETF provider wants to create more shares, it looks to an Authorized Participant (generally a market maker or other large financial institution) to acquire the securities the ETF is to hold. For instance, when an ETF is designed to track the performance of an index, the Authorized Participant can purchase all the constituent securities in the exact same weight as the index, then deliver those shares to the ETF provider. In exchange, the ETF provider gives the Authorized Participant a block of equally valued ETF shares, on a one-for-one fair value basis. The price is based on the net asset value, not the market value at which the ETF is trading. The creation of new ETF units can be conducted during an entire trading day, and is not subject to position limits. This process works in reverse where the ETF provider seeks to decrease the number of shares that are available to trade. The creation and redemption process, therefore, creates a direct link to the underlying components of the ETF, and serves to mitigate potential price impact of the ETF shares that might otherwise result from increased position limits for the ETF options.

¹⁶ The 2019 ADV for QQQ shares is 30.2 million and for options on QQQ is 670,200.

The Exchange understands that the ETF creation and redemption process seeks to keep an ETF's share price trading in line with the ETF's underlying net asset value. Because an ETF trades like a stock, its share price will fluctuate during the trading day, due to simple supply and demand. If demand to buy an ETF is high, for instance, the ETF's share price might rise above the value of its underlying securities. When this happens, the Authorized Participant believes the ETF may now be overpriced, so it may buy shares of the component securities and then sell ETF shares in the open market (i.e. creations). This may drive the ETF's share price back toward the underlying net asset value. Likewise, if the ETF share price starts trading at a discount to the securities it holds, the Authorized Participant can buy shares of the ETF and redeem them for the underlying securities (i.e. redemptions). Buying undervalued ETF shares may drive the share price of the ETF back toward fair value. This arbitrage process helps to keep an ETF's share price in line with the value of its underlying portfolio.

Surveillance and Reporting Requirements

The Exchange believes that increasing the position limits for the options on SPY would lead to a more liquid and competitive market environment for these options, which will benefit customers interested in trading these products. The reporting requirement for the options on SPY would remain unchanged. Thus, the Exchange would still require that each Participant that maintains positions in the options on the same side of the market, for its own account or for the account of a customer, report certain information to the Exchange. This information would include, but would not be limited to, the options' positions, whether such positions are hedged and, if so, a description of the hedge(s). Market Makers would continue to be exempt from this reporting requirement, however,

the Exchange may access Market-Maker position information.¹⁷ Moreover, the Exchange's requirement that Participants file reports with the Exchange for any customer who held aggregate large long or short positions on the same side of the market of 200 or more options contracts of any single class for the previous day will remain at this level for the options subject to this proposal and will continue to serve as an important part of the Exchange's surveillance efforts.¹⁸

The Exchange believes that the existing surveillance procedures and reporting requirements at the Exchange and other SROs are capable of properly identifying disruptive and/or manipulative trading activity. The Exchange also represents that it has adequate surveillances in place to detect potential manipulation, as well as reviews in place to identify potential changes in composition of SPY and continued compliance with the Exchange's listing standards. These procedures utilize daily monitoring of market activity via automated surveillance techniques to identify unusual activity in both options and the underlyings, as applicable.¹⁹ The Exchange also notes that large stock holdings must be disclosed to the Commission by way of Schedules 13D or 13G,²⁰ which are used

¹⁷ The Options Clearing Corporation ("OCC") through the Large Option Position Reporting ("LOPR") system acts as a centralized service provider for Participant compliance with position reporting requirements by collecting data from each Participant, consolidating the information, and ultimately providing detailed listings of each Participant's report to the Exchange, as well as Financial Industry Regulatory Authority, Inc. ("FINRA"), acting as its agent pursuant to a regulatory services agreement ("RSA").

¹⁸ See Options 6E, Section 2 for reporting requirements.

¹⁹ The Exchange believes these procedures have been effective for the surveillance of trading the options subject to this proposal, and will continue to employ them.

²⁰ 17 CFR 240.13d-1.

to report ownership of stock which exceeds 5% of a company's total stock issue and may assist in providing information in monitoring for any potential manipulative schemes.

The Exchange believes that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns regarding potentially large, unhedged positions in the options on SPY. Current margin and risk-based haircut methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a Participant must maintain for a large position held by itself or by its customer.²¹ In addition, Rule 15c3-1²² imposes a capital charge on Participants to the extent of any margin deficiency resulting from the higher margin requirement.

Technical Corrections

The Exchange proposes to: (1) update the Chicago Board Options Exchange to Cboe Exchange, Inc. ("Cboe") as the name of this self-regulatory organization has changed; (2) rename the SPDR® S&P 500® exchange-traded fund ("SPY ETF" or "SPY") as "SPDR® S&P 500® ETF Trust (SPY) to update the name of this product; (3) amend "Customer" to "customer" as this reference refers to the customer of a Participant; and (4) amend "PHLX" to "Phlx."

(b) Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to

²¹ See Options 6C, Section 3 for a description of margin requirements.

²² 17 CFR 240.15c3-1.

the Exchange and, in particular, the requirements of Section 6(b) of the Act.²³

Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁴ 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)²⁵ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed increase in position limit for options on the SPY will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, because it will provide market participants with the ability to more effectively execute their trading and hedging activities. The proposed increase will allow market participants to more fully implement hedging strategies in related derivative products and to further use options to achieve investment strategies (e.g., there are Exchange-Traded Products (“ETPs”) that use options on SPY as part of their investment strategy, and the applicable position limits (and corresponding exercise limits) as they stand today may

²³ 15 U.S.C. 78f(b).

²⁴ 15 U.S.C. 78f(b)(5).

²⁵ Id.

inhibit these ETPs in achieving their investment objectives, to the detriment of investors). Also, increasing the applicable position limits may allow Market Makers to provide the markets for these options with more liquidity in amounts commensurate with increased consumer demand in such markets. The proposed position limit increases may also encourage other liquidity providers to shift liquidity, as well as encourage consumers to shift demand, from over the counter markets onto the Exchange, which will enhance the process of price discovery conducted on the Exchange through increased order flow.

In addition, the Exchange believes that the structure of SPY, the considerable market capitalization of the fund, underlying component securities and the liquidity of the markets for the applicable options and underlying component securities will mitigate concerns regarding potential manipulation of the products and/or disruption of the underlying markets upon increasing the relevant position limits. As a general principle, increases in market capitalizations, active trading volume, and deep liquidity of securities deters manipulation and/or disruption. This general principle applies to the recently observed increased levels of market capitalization, trading volume, and liquidity in SPY, and the components of the Underlying ETFs (as described above). The Exchange does not believe that the options markets or underlying markets would become susceptible to manipulation and/or disruption as a result of the proposed position limit increases. Indeed, the Commission has previously expressed the belief that removing position and exercise limits may bring additional depth and liquidity to the options markets without

increasing concerns regarding intermarket manipulation or disruption of the options or the underlying securities.²⁶

Further, the Exchange notes that the proposed rule change to increase position limits for select actively traded options, is not novel and has been previously approved by the Commission. The proposed increase to the position and exercise limits on SPY has recently been approved by the Commission.²⁷ The Commission has previously approved, on a pilot basis, eliminating position limits for options on SPY.²⁸ In approving increases in position limits in the past, the Commission relied heavily upon the exchange's surveillance capabilities, expressing trust in the enhanced surveillances and reporting safeguards that the exchange took in order to detect and deter possible manipulative behavior which might arise from eliminating position and exercise limits.

The Exchange's surveillance and reporting safeguards continue to be designed to deter and detect possible manipulative behavior that might arise from increasing or eliminating position and exercise limits in certain classes. The Exchange believes that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns regarding potentially large, unhedged position in the options on SPY, further promoting just and equitable principles of trading, the maintenance of a fair and orderly market, and the protection of investors.

Technical Corrections

The Exchange's proposal to make various technical amendments, within Options

²⁶ See Securities Exchange Act Release No. 62147 (October 28, 2005) (SR-CBOE-2005-41), at 62149.

²⁷ See supra note 4.

²⁸ See supra notes 9 and 10.

9, Section 13 and Options 9, Section 15 to: (1) update the Chicago Board Options Exchange to Cboe Exchange, Inc. (“Cboe”) as the name of this self-regulatory organization has changed; (2) rename the SPDR® S&P 500® exchange-traded fund (“SPY ETF” or “SPY”) as “SPDR® S&P 500® ETF Trust (SPY) to update the name of this product; (3) amend “Customer” to “customer” as this reference refers to the customer of a Participant; and (4) amend “PHLX” to “Phlx.” Accordingly, these amendments are non-substantive technical changes which add clarity to the Rulebook and are consistent with the Act.

4. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose an unnecessary burden on intra-market competition because it will apply to all market participants. The Exchange does not believe the proposed rule change will impose any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because the increased position limit (and exercise limit) will be available to all market participants and apply to each in the same manner. The Exchange believes that the proposed rule change will provide additional opportunities for market participants to more efficiently achieve their investment and trading objectives of market participants.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the Act. On the contrary, the Exchange believes the proposal promotes competition because it may attract additional order flow from the OTC market to exchanges, which

would in turn compete amongst each other for those orders.²⁹ The Exchange believes market participants would benefit from being able to trade options with increased position limits in an exchange environment in several ways, including but not limited to the following: (1) enhanced efficiency in initiating and closing out position; (2) increased market transparency; and (3) heightened contra-party creditworthiness due to the role of OCC as issuer and guarantor. The Exchange understands that other options exchanges intend to file similar proposed rule changes with the Commission to increase position limits on options on SPY. This may further contribute to fair competition among exchanges for multiply listed options.

Technical Corrections

The Exchange's proposal to make various technical amendments, within Options 9, Section 13 and Options 9, Section 15 to: (1) update the Chicago Board Options Exchange to Cboe Exchange, Inc. ("Cboe") as the name of this self-regulatory organization has changed; (2) rename the SPDR® S&P 500® exchange-traded fund ("SPY ETF" or "SPY") as "SPDR® S&P 500® ETF Trust (SPY) to update the name of this product; (3) amend "Customer" to "customer" as this reference refers to the customer of a Participant; and (4) amend "PHLX" to "Phlx." Accordingly, these amendments are non-substantive technical changes which add clarity to the Rulebook and do not impose a burden on competition.

²⁹ Additionally, several other options exchanges have the same position limits as the Exchange is proposing, as they incorporate by reference to Cboe's position limits, and as a result the position limits for options on SPY and will increase at those exchanges.

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

6. Extension of Time Period for Commission Action

Not Applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii)³⁰ of the Act and Rule 19b-4(f)(6) thereunder³¹ in that it effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

The proposed rule change would not significantly affect the protection of investors or the public interest because it will enable liquidity providers to provide additional liquidity to the Exchange and other market participants to transfer their liquidity demands from OTC markets to the Exchange, as well as other options exchange on which they participate. The Exchange believes that increasing the position limits for the options subject to this proposal would lead to a more liquid and competitive market environment for these options, which will benefit customers interested in these products.

³⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

³¹ 17 CFR 240.19b-4(f)(6).

Additionally, the Exchange believes that it is appropriate to establish the same position limit on SPY recently established by Cboe pursuant to the Cboe proposal, as it will provide more consistency to Participants in that Participants of both Cboe and the Exchange will be subject to the same position limit on SPY. The Exchange believes that the proposed rule change would not significantly affect the protection of investors or the public interest because it furthers aligns the Exchange's position limit and exercise limit rules with competing options exchanges.³² Accordingly, the Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act³³ and paragraph (f)(6) of Rule 19b-4 thereunder. The one technical amendment is non-substantive.

Furthermore, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change under that subsection at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The Exchange has provided such notice.

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b-4(f)(6)(iii), however, permits

³² See supra note 4.

³³ 15 U.S.C. 78s(b)(3)(A).

the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange respectfully requests that the Commission waive the 30-day operative delay and designate the proposed rule change to become operative upon filing. Waiver of the operative delay is consistent with the protection of investors and the public interest because it will ensure fair competition among exchanges by allowing the Exchange to increase its position and exercise limit, regarding SPY, to those of Cboe. The Exchange believes this will provide consistency and uniformity among Participants of both Cboe and the Exchange by subjecting market participants of both exchanges to the same position and exercise limits for these multiply-listed options classes. The Exchange believes that the 30-day operative delay should be waived because it would ensure fair competition among exchanges by allowing the Exchange to amend the position and exercise limits and immediately benefit a greater number of participants who are Exchange members and members of Cboe by ensuring consistency and uniformity among the competing options exchanges as to the position and exercise limits for these multiply-listed options classes.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The Exchange notes that its proposal is based on a proposal by Cboe.³⁴

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

³⁴ See supra note 4.

11. Exhibits

1. Notice of Proposed Rule Change for publication in the Federal Register.
5. Text of the proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. _____ ; File No. SR-NASDAQ-2020-033)

June __, 2020

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend SPY Position Limits

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 June 17, 2020, The Nasdaq Stock Market LLC (“Nasdaq” 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. 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 The Nasdaq Options Market LLC’s (“NOM”) Options 9, Section 13, Position Limits, to increase position limits for options on the SPDR® S&P 500® ETF Trust (“SPY”), and similarly increase exercise limits within Options 9, Section 15, Exercise Limits.

The text of the proposed rule change is available on the Exchange’s Website at <http://nasdaq.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Options 9, Section 13, Position Limits, to increase position limits for options on SPY. The Exchange's position limits are incorporated by reference to Cboe Exchange, Inc. ("Cboe"), except for SPY.³ The proposed amendments to SPY are based on the similar proposal by Cboe.⁴ The

³ See Options 9, Section 13(a)(1). The Exchange notes that with respect to U.S. Dollar-Settled Foreign Currency Options, those position limits are incorporated by reference to Phlx. See Options 9, Section 13(a)(4).

⁴ See Securities Exchange Act Release No. 88768 (April 29, 2020)(SR-CBOE-2020-015) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Increase Position Limits for Options on Certain Exchange-Traded Funds and Indexes). The Cboe proposal also proposed to increase position limits for options overlying a number of ETFs as well as the MSCI Emerging Markets Index ("MXEF") and the MSCI EAFE Index ("MXEA"). The Exchange's proposal only proposes an increase to the position (and exercise limits) for options overlying SPY. NOM does not list options on MXEF and MXEA. Also, other options and Exchange-Traded Fund position limits, which were amended in Cboe's rule change, have already been increased on NOM because NOM's rules at Options 9, Section 13 and Options 9, Section 15 incorporate its position limits and exercise limits to Cboe, except for SPY. Accordingly, this proposal is limited to SPY.

Exchange also proposes to make minor non-substantive technical corrections to Options 9, Section 13 and Options 9, Section 15. Each change will be described below.

Position limits are designed to address potential manipulative schemes and adverse market impacts surrounding the use of options, such as disrupting the market in the security underlying the options. While position limits should address and discourage the potential for manipulative schemes and adverse market impact, if such limits are set too low, participation in the options market may be discouraged. The Exchange believes that position limits must therefore be balanced between mitigating concerns of any potential manipulation and the cost of inhibiting potential hedging activity that could be used for legitimate economic purposes.

The Exchange has observed an ongoing increase in demand in options on the SPDR[®] S&P 500[®] ETF Trust (“SPY”) for both trading and hedging purposes. Though the demand for options on SPY appear to have increased, position limits (and corresponding exercise limits) for options on SPY have remained the same. The Exchange believes these unchanged position limits may have impeded, and may continue to impede, trading activity and strategies of investors, such as use of effective hedging vehicles or income generating strategies (e.g., buy-write or put-write), and the ability of Market Makers to make liquid markets with tighter spreads in these options, resulting in the transfer of volume to over-the-counter (“OTC”) markets. OTC transactions occur through bilateral agreements, the terms of which are not publically disclosed to the marketplace. As such, OTC transactions do not contribute to the price discovery process on a public exchange or other lit markets. Therefore, the Exchange believes that the proposed increase for position limits (and exercise limits) on options on SPY may enable

liquidity providers to provide additional liquidity to the Exchange and other market participants to transfer their liquidity demands from OTC markets to the Exchange, as well as other options exchange on which they participate. As described in further detail below, the Exchange believes that the continuously increasing market capitalization of SPY and SPY component securities, as well as the highly liquid markets for those securities, reduces the concerns for potential market manipulation and/or disruption in the underlying markets upon increasing position limits, while the rising demand for trading options on SPY for legitimate economic purposes compels an increase in position limits (and corresponding exercise limits).

Proposed Position Limits for Options on SPY

Options 9, Section 13 sets forth the position limit for options on SPY. The Exchange proposes to amend Options 9, Section 13 to double the position limits for options on SPY. The current position limit for options on SPY is 1,800,000 and the proposed position limit for options on SPY is 3,600,000. The Exchange represents that SPY qualifies for the initial listing criteria set forth in Options 4, Section 3(i) for ETFs. In addition, the Exchange is making corresponding amendments to exercise limits for options on SPY within Options 9, Section 15.

Composition and Growth Analysis for SPY

As stated above, position (and exercise) limits are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate the underlying market so as to benefit options positions. The Commission has recognized that these limits are designed to minimize the potential for mini-manipulations and for corners or squeezes of the underlying market, as well as serve to

reduce the possibility for disruption of the options market itself, especially in illiquid classes.⁵

SPY as well as SPY components are highly liquid, and are based on a broad set of highly liquid securities and other reference assets, as demonstrated through the trading statistics presented in this proposal. Indeed, the Commission recognized the liquidity of the securities comprising the underlying interest of SPY and permitted no position limits on SPY options from 2012 through 2018.⁶

To support the proposed position limit increase (and corresponding increase in exercise limit), the Exchange considered both the liquidity of SPY and the component securities of SPY, as well as the availability of economically equivalent products to the overlying option and its respective position limit. SPY is based upon S&P 500 Index, and therefore the options on SPY are economically equivalent to the options on the index, which have no position limits. Accordingly, the Exchange believes the position limit of 3,600,000 contracts is appropriate for options on SPY.

The Exchange is presenting data collected by Cboe as part of its initial filing to increase the position and exercise limit on SPY, that the Commission approved,⁷

⁵ See Securities Exchange Act Release No. 67672 (August 15, 2012), 77 FR 50750 (August 22, 2012) (SR-NYSEAmex-2012-29).

⁶ See Securities Exchange Act Release No. 69180 (March 19, 2013), 78 FR 17962 (March 25, 2013) (SR-NASDAQ-2013-046), which implemented a pilot program that ran through 2017, during which there were no position limits for options on SPY. The Exchange notes that throughout the duration of the pilot program it was not aware of any problems created or adverse consequences as of result of the pilot program. See also Securities Exchange Act Release No. 83421 (June 13, 2018), 83 FR 28474 (June 19, 2018) (SR-NASDAQ-2018-044).

⁷ See supra note 3.

following trading statistics regarding shares of and options on SPY, as well as the component securities:

Product	ADV⁸ (ETF shares)	ADV (option contracts)	Shares Outstanding (ETFs)⁹	Fund Market Cap (USD)	Total Market Cap of ETF Components¹⁰
SPY	70.3 million	2.8 million	968.7 million	312.9 billion	29.3 trillion

The Exchange is presenting the following data collected by Cboe as part of its initial filing, that the Commission has approved,¹¹ for the same trading statistics, where applicable, as above regarding a sample of other ETFs, as well as the current position limits for options on such ETFs pursuant to Options 9, Section 13, to draw comparisons in support of a proposed position limit increase for options on SPY (see further discussion below):

Product	ADV (ETF shares)	ADV (option contracts)	Shares Outstanding (ETFs)	Fund Market Cap (USD)	Total Market Cap of ETF Components	Current Position Limits
QQQ	30.2 million	670,200	410.3 million	88.7 billion	10.1 trillion	1,800,000

The Exchange believes that, overall, the liquidity in the shares of SPY and in the component securities of SPY and in its overlying options, as well as the large market capitalizations and structure of SPY support the proposal to increase the position limit for

⁸ Cboe's Average daily volume (ADV) data for ETF shares and options contracts are for all of 2019. Additionally, reference to ADV in ETF shares, and ETF options herein this proposal are for all of 2019, unless otherwise indicated.

⁹ See Amendment No. 1 to SR-CBOE-2020-015, at page 4, available at <https://www.sec.gov/comments/sr-cboe-2020-015/srcboe2020015-7081714-215592.pdf> ("Amendment No. 1").

¹⁰ See Amendment No. 1, at page 4.

¹¹ See supra note 4.

SPY (and corresponding exercise limit). Given the robust liquidity and capitalization in SPY and in the component securities of SPY the Exchange does not anticipate that the proposed increase in position limits would create significant price movements. Also, the Exchange believes the market capitalization of the underlying component securities of the S&P 500 Index are large enough to adequately absorb potential price movements that may be caused by large trades.

The following analysis for SPY, which the Exchange agrees with in support of this proposal, as well as the statistics presented in support thereof, were presented by Cboe in their initial filing, which was approved by the Commission.¹² The Exchange notes that SPY tracks the performance of the S&P 500 Index, which is an index of diversified large cap U.S. companies.¹³ It is composed of 505 selected stocks spanning over approximately 24 separate industry groups. The S&P 500 is one of the most commonly followed equity indices, and is widely considered to be the best indicator of stock market performance as a whole. SPY is one of the most actively traded ETFs, and, since 2017,¹⁴ its ADV has increased from approximately 64.6 million shares to 70.3 million shares by the end of 2019. Similarly, its ADV in options contracts has increased from 2.6 million to 2.8 million through 2019.¹⁵ As noted, the demand for options trading

¹² See supra note 4.

¹³ See SPDR S&P 500 ETF Trust, available at <https://www.ssga.com/us/en/individual/etfs/funds/spdr-sp-500-etf-trust-spy> (January 21, 2020).

¹⁴ See supra note 4.

¹⁵ See also Securities Exchange Act Release No. 83421 (June 13, 2018), 83 FR 28474 (June 19, 2018) (SR-NASDAQ-2018-044). (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend The Nasdaq

on SPY has continued to increase, however, the position limits have remained the same, which the Exchange believes may have impacted growth in SPY option volume from 2017 through 2019. The Exchange also notes that SPY shares are more liquid than INVESCO QQQ TrustSM, Series 1 (“QQQ”) shares, which is also currently subject to a position limit of 1,800,000 contracts. Specifically, SPY currently experiences over twice the ADV in shares and over four times the ADV in options than that of QQQ.¹⁶

Creation and Redemption for ETFs

The Exchange believes that the creation and redemption process for ETFs will lessen the potential for manipulative activity with options on SPY. When an ETF provider wants to create more shares, it looks to an Authorized Participant (generally a market maker or other large financial institution) to acquire the securities the ETF is to hold. For instance, when an ETF is designed to track the performance of an index, the Authorized Participant can purchase all the constituent securities in the exact same weight as the index, then deliver those shares to the ETF provider. In exchange, the ETF provider gives the Authorized Participant a block of equally valued ETF shares, on a one-for-one fair value basis. The price is based on the net asset value, not the market value at which the ETF is trading. The creation of new ETF units can be conducted during an entire trading day, and is not subject to position limits. This process works in reverse where the ETF provider seeks to decrease the number of shares that are available to trade. The creation and redemption process, therefore, creates a direct link to the underlying

Options Market LLC (“NOM”) Rules at Supplementary Material to Chapter III, Section 7, Entitled “Position Limits,” and Section 9, Entitled “Exercise Limits”).

¹⁶ The 2019 ADV for QQQ shares is 30.2 million and for options on QQQ is 670,200.

components of the ETF, and serves to mitigate potential price impact of the ETF shares that might otherwise result from increased position limits for the ETF options.

The Exchange understands that the ETF creation and redemption process seeks to keep an ETF's share price trading in line with the ETF's underlying net asset value. Because an ETF trades like a stock, its share price will fluctuate during the trading day, due to simple supply and demand. If demand to buy an ETF is high, for instance, the ETF's share price might rise above the value of its underlying securities. When this happens, the Authorized Participant believes the ETF may now be overpriced, so it may buy shares of the component securities and then sell ETF shares in the open market (i.e. creations). This may drive the ETF's share price back toward the underlying net asset value. Likewise, if the ETF share price starts trading at a discount to the securities it holds, the Authorized Participant can buy shares of the ETF and redeem them for the underlying securities (i.e. redemptions). Buying undervalued ETF shares may drive the share price of the ETF back toward fair value. This arbitrage process helps to keep an ETF's share price in line with the value of its underlying portfolio.

Surveillance and Reporting Requirements

The Exchange believes that increasing the position limits for the options on SPY would lead to a more liquid and competitive market environment for these options, which will benefit customers interested in trading these products. The reporting requirement for the options on SPY would remain unchanged. Thus, the Exchange would still require that each Participant that maintains positions in the options on the same side of the market, for its own account or for the account of a customer, report certain information to the Exchange. This information would include, but would not be limited to, the options' positions, whether such positions are hedged and, if so, a description of the hedge(s).

Market Makers would continue to be exempt from this reporting requirement, however, the Exchange may access Market-Maker position information.¹⁷ Moreover, the Exchange's requirement that Participants file reports with the Exchange for any customer who held aggregate large long or short positions on the same side of the market of 200 or more options contracts of any single class for the previous day will remain at this level for the options subject to this proposal and will continue to serve as an important part of the Exchange's surveillance efforts.¹⁸

The Exchange believes that the existing surveillance procedures and reporting requirements at the Exchange and other SROs are capable of properly identifying disruptive and/or manipulative trading activity. The Exchange also represents that it has adequate surveillances in place to detect potential manipulation, as well as reviews in place to identify potential changes in composition of SPY and continued compliance with the Exchange's listing standards. These procedures utilize daily monitoring of market activity via automated surveillance techniques to identify unusual activity in both options and the underlyings, as applicable.¹⁹ The Exchange also notes that large stock holdings must be disclosed to the Commission by way of Schedules 13D or 13G,²⁰ which are used

¹⁷ The Options Clearing Corporation ("OCC") through the Large Option Position Reporting ("LOPR") system acts as a centralized service provider for Participant compliance with position reporting requirements by collecting data from each Participant, consolidating the information, and ultimately providing detailed listings of each Participant's report to the Exchange, as well as Financial Industry Regulatory Authority, Inc. ("FINRA"), acting as its agent pursuant to a regulatory services agreement ("RSA").

¹⁸ See Options 6E, Section 2 for reporting requirements.

¹⁹ The Exchange believes these procedures have been effective for the surveillance of trading the options subject to this proposal, and will continue to employ them.

²⁰ 17 CFR 240.13d-1.

to report ownership of stock which exceeds 5% of a company's total stock issue and may assist in providing information in monitoring for any potential manipulative schemes.

The Exchange believes that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns regarding potentially large, unhedged positions in the options on SPY. Current margin and risk-based haircut methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a Participant must maintain for a large position held by itself or by its customer.²¹ In addition, Rule 15c3-1²² imposes a capital charge on Participants to the extent of any margin deficiency resulting from the higher margin requirement.

Technical Corrections

The Exchange proposes to: (1) update the Chicago Board Options Exchange to Cboe Exchange, Inc. ("Cboe") as the name of this self-regulatory organization has changed; (2) rename the SPDR® S&P 500® exchange-traded fund ("SPY ETF" or "SPY") as "SPDR® S&P 500® ETF Trust (SPY) to update the name of this product; (3) amend "Customer" to "customer" as this reference refers to the customer of a Participant; and (4) amend "PHLX" to "Phlx."

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to

²¹ See Options 6C, Section 3 for a description of margin requirements.

²² 17 CFR 240.15c3-1.

the Exchange and, in particular, the requirements of Section 6(b) of the Act.²³

Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁴ 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)²⁵ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed increase in position limit for options on the SPY will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, because it will provide market participants with the ability to more effectively execute their trading and hedging activities. The proposed increase will allow market participants to more fully implement hedging strategies in related derivative products and to further use options to achieve investment strategies (e.g., there are Exchange-Traded Products (“ETPs”) that use options on SPY as part of their investment strategy, and the applicable position limits (and corresponding exercise limits) as they stand today may

²³ 15 U.S.C. 78f(b).

²⁴ 15 U.S.C. 78f(b)(5).

²⁵ Id.

inhibit these ETPs in achieving their investment objectives, to the detriment of investors). Also, increasing the applicable position limits may allow Market Makers to provide the markets for these options with more liquidity in amounts commensurate with increased consumer demand in such markets. The proposed position limit increases may also encourage other liquidity providers to shift liquidity, as well as encourage consumers to shift demand, from over the counter markets onto the Exchange, which will enhance the process of price discovery conducted on the Exchange through increased order flow.

In addition, the Exchange believes that the structure of SPY, the considerable market capitalization of the fund, underlying component securities and the liquidity of the markets for the applicable options and underlying component securities will mitigate concerns regarding potential manipulation of the products and/or disruption of the underlying markets upon increasing the relevant position limits. As a general principle, increases in market capitalizations, active trading volume, and deep liquidity of securities deters manipulation and/or disruption. This general principle applies to the recently observed increased levels of market capitalization, trading volume, and liquidity in SPY, and the components of the Underlying ETFs (as described above). The Exchange does not believe that the options markets or underlying markets would become susceptible to manipulation and/or disruption as a result of the proposed position limit increases. Indeed, the Commission has previously expressed the belief that removing position and exercise limits may bring additional depth and liquidity to the options markets without

increasing concerns regarding intermarket manipulation or disruption of the options or the underlying securities.²⁶

Further, the Exchange notes that the proposed rule change to increase position limits for select actively traded options, is not novel and has been previously approved by the Commission. The proposed increase to the position and exercise limits on SPY has recently been approved by the Commission.²⁷ The Commission has previously approved, on a pilot basis, eliminating position limits for options on SPY.²⁸ In approving increases in position limits in the past, the Commission relied heavily upon the exchange's surveillance capabilities, expressing trust in the enhanced surveillances and reporting safeguards that the exchange took in order to detect and deter possible manipulative behavior which might arise from eliminating position and exercise limits.

The Exchange's surveillance and reporting safeguards continue to be designed to deter and detect possible manipulative behavior that might arise from increasing or eliminating position and exercise limits in certain classes. The Exchange believes that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns regarding potentially large, unhedged position in the options on SPY, further promoting just and equitable principles of trading, the maintenance of a fair and orderly market, and the protection of investors.

Technical Corrections

The Exchange's proposal to make various technical amendments, within Options

²⁶ See Securities Exchange Act Release No. 62147 (October 28, 2005) (SR-CBOE-2005-41), at 62149.

²⁷ See supra note 4.

²⁸ See supra notes 9 and 10.

9, Section 13 and Options 9, Section 15 to: (1) update the Chicago Board Options Exchange to Cboe Exchange, Inc. (“Cboe”) as the name of this self-regulatory organization has changed; (2) rename the SPDR® S&P 500® exchange-traded fund (“SPY ETF” or “SPY”) as “SPDR® S&P 500® ETF Trust (SPY) to update the name of this product; (3) amend “Customer” to “customer” as this reference refers to the customer of a Participant; and (4) amend “PHLX” to “Phlx.” Accordingly, these amendments are non-substantive technical changes which add clarity to the Rulebook and are consistent with the Act.

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

The Exchange does not believe that the proposed rule change will impose an unnecessary burden on intra-market competition because it will apply to all market participants. The Exchange does not believe the proposed rule change will impose any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because the increased position limit (and exercise limit) will be available to all market participants and apply to each in the same manner. The Exchange believes that the proposed rule change will provide additional opportunities for market participants to more efficiently achieve their investment and trading objectives of market participants.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the Act. On the contrary, the Exchange believes the proposal promotes competition because it may attract additional order flow from the OTC market to exchanges, which

would in turn compete amongst each other for those orders.²⁹ The Exchange believes market participants would benefit from being able to trade options with increased position limits in an exchange environment in several ways, including but not limited to the following: (1) enhanced efficiency in initiating and closing out position; (2) increased market transparency; and (3) heightened contra-party creditworthiness due to the role of OCC as issuer and guarantor. The Exchange understands that other options exchanges intend to file similar proposed rule changes with the Commission to increase position limits on options on SPY. This may further contribute to fair competition among exchanges for multiply listed options.

Technical Corrections

The Exchange's proposal to make various technical amendments, within Options 9, Section 13 and Options 9, Section 15 to: (1) update the Chicago Board Options Exchange to Cboe Exchange, Inc. ("Cboe") as the name of this self-regulatory organization has changed; (2) rename the SPDR® S&P 500® exchange-traded fund ("SPY ETF" or "SPY") as "SPDR® S&P 500® ETF Trust (SPY) to update the name of this product; (3) amend "Customer" to "customer" as this reference refers to the customer of a Participant; and (4) amend "PHLX" to "Phlx." Accordingly, these amendments are non-substantive technical changes which add clarity to the Rulebook and do not impose a burden on competition.

²⁹ Additionally, several other options exchanges have the same position limits as the Exchange is proposing, as they incorporate by reference to Cboe's position limits, and as a result the position limits for options on SPY and will increase at those exchanges.

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

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)(iii) of the Act³⁰ and subparagraph (f)(6) of Rule 19b-4 thereunder.³¹

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.

³⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

³¹ 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.

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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2020-033 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-NASDAQ-2020-033. This file number should be included on the subject line if e-mail 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 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 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-NASDAQ-2020-033 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³²

J. Matthew DeLesDernier
Assistant Secretary

³² 17 CFR 200.30-3(a)(12).

EXHIBIT 5

New text is underlined; deleted text is in brackets.

The Nasdaq Stock Market LLC Rules

* * * * *

Options Rules

* * * * *

Options 9 Business Conduct

* * * * *

Section 13. Position Limits

(a) No Options Participant shall make, for any account in which it has an interest or for the account of any [C]customer, an opening transaction on any exchange if the Options Participant has reason to believe that as a result of such transaction the Options Participant or its [C]customer would, acting alone or in concert with others, directly or indirectly:

(1) exceed the applicable position limit fixed from time to time by [the Chicago Board Options Exchange] Cboe Exchange, Inc. (“Cboe”) for any options contract traded on NOM and [the Chicago Board Options Exchange]Cboe, notwithstanding the foregoing options contracts overlying SPDR® S&P 500® ETF Trust (SPY) [exchange-traded fund (“SPY ETF” or “SPY”)] shall have a position limit of [1,800,000]3,600,000 contracts on the same side of the market;

(2) exceed the position limit fixed by NOM from time to time for any options contract traded on NOM, but not traded on Cboe[the Chicago Board Options Exchange]; or

(3) exceed the applicable position limit fixed from time to time by another exchange for an options contract not traded on NOM, when the Options Participant is not a member of the other exchange on which the transaction was effected; or

(4) exceed the applicable position limit fixed from time to time by [PHLX]Phlx with respect to U.S. Dollar-Settled Foreign Currency Options.

(b) Should an Options Participant have reason to believe that a position in any account in which it has an interest or for the account of any [C]customer of such Options Participant is in excess of the applicable limit, such Options Participant shall promptly take the action necessary to bring the position into compliance.

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Section 15. Exercise Limits

(a) No Options Participant shall exercise, for any account in which it has an interest or for the account of any [C]customer, a long position in any options contract where such Options Participant or [C]customer, acting alone or in concert with others, directly or indirectly, has or will have:

(1) exceed the applicable exercise limit fixed from time to time by [the Chicago Board Options Exchange] Cboe Exchange, Inc. (“Cboe”) for any options contract traded on NOM and [the Chicago Board Options Exchange]Cboe, notwithstanding the foregoing options contracts overlying SPDR® S&P 500® ETF Trust (SPY) [exchange-traded fund (“SPY ETF” or “SPY”)] shall have an exercise limit of [1,800,000]3,600,000 contracts on the same side of the market;

(2) exceed the exercise limit fixed by NOM from time to time for any options contract traded on NOM, but not traded on Cboe[the Chicago Board Options Exchange]; or

(3) exceed the applicable exercise limit fixed from time to time by another exchange for an options contract not traded on NOM, when the Options Participant is not a member of the other exchange on which the transaction was effected; or

(4) exceed the applicable exercise limit fixed from time to time by [PHLX]Phlx with respect to U.S. Dollar-Settled Foreign Currency Options.

(b) an Options Market Maker that has been granted an exemption to position limits pursuant to Options 9, Section 14 (Exemption to Position Limits), the number of contracts which can be exercised over a five (5) business day period shall equal the Market Maker's exempted position.

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