

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-89151; File No. SR-NASDAQ-2020-033)

June 25, 2020

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Options 9, Sections 13 and 15 to Increase the Position and Exercise Limits for Options on the SPDR® S&P 500® ETF Trust

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 (“Commission”) the proposed rule change as described in Items I and II 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 the 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 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.

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.

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

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

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 proposed increase in position limits would create significant price movements. Also, the Exchange believes 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.

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, 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.

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”).

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.

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

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

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

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").

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 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

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.

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

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 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

²² 17 CFR 240.15c3-1.

²³ 15 U.S.C. 78f(b).

²⁴ 15 U.S.C. 78f(b)(5).

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 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

²⁵

Id.

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 [sic] (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

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.

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

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act³² normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)³³ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange states that waiver of the operative delay would be consistent with the protection of investors and the public interest because it would allow the Exchange to immediately increase its position and exercise limits for options on SPY to those of Cboe, which the Exchange believes will ensure fair competition among exchanges and provide consistency for

³⁰ 15 U.S.C. 78s(b)(3)(A).

³¹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of 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.

³² 17 CFR 240.19b-4(f)(6).

³³ 17 CFR 240.19b-4(f)(6)(iii).

Nasdaq Participants that are also members at Cboe where these increased position and exercise limits are currently in place. For this reason, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.³⁴

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 change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

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:

³⁴ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

- 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 website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, D.C. 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment 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.³⁵

J. Matthew DeLesDernier
Assistant Secretary

³⁵ 17 CFR 200.30-3(a)(12).