

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-72998; File No. SR-ISE-2014-42)

September 4, 2014

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change Regarding Strike Price Intervals for SPY and DIA Options

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on September 3, 2014, the International Securities Exchange, LLC (the “Exchange” or the “ISE”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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 ISE proposes to amend its rules to allow \$1 or greater strike price intervals for options on certain Exchange-Traded Fund Shares approved for options trading pursuant to Rule 502(h). The text of the proposed rule change is available on the Exchange’s website (<http://www.ise.com>), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the self-regulatory organization 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

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The purpose of this proposed rule change is to amend ISE rules to allow \$1 or greater strike price intervals for options listed on the SPDR S&P 500 ETF (“SPY”) and the SPDR Dow Jones Industrial Average ETF (“DIA”), consistent with recent changes proposed by NASDAQ OMX PHLX (“Phlx”) and approved by the Commission.⁴ Options on SPY and DIA have historically traded on the ISE with \$1 intervals up to a strike price of \$200 pursuant to Rule 504(h), which permits options on Exchange-Traded Fund Shares to be traded in intervals that were established on other exchanges prior to listing on the ISE.⁵ Above \$200 these options classes trade with significantly wider \$5 strike price intervals. As the underlying securities have been steadily approaching, and in the case of SPY has recently surpassed, the \$200 mark, and in response to increased investor and member demand to list additional strikes in these heavily traded options classes, the Exchange now proposes to list options on SPY and DIA in dollar intervals regardless of the strike price.

Specifically, the Exchange proposes to add Supplementary Material .14 to state that notwithstanding any other provision regarding the interval of strike prices of series of options on Exchange-Traded Fund Shares in Rule 504, the interval of strike prices on SPY and DIA options will be \$1 or greater. By having smaller strike intervals in SPY and DIA, investors will have

⁴ See Securities Exchange Act Release No.[sic] 72664 (July 24, 2014), 79 FR 44231 (July 30, 2014) (SR-Phlx-2014-46) (Notice); 72949 (August 29, 2014) (SR-Phlx-2014-46) (Approval).

⁵ See Securities Exchange Act Release No. 44037 (March 2, 2001), 66 FR 14613 (March 13, 2001) (SR-ISE-01-08).

more efficient hedging and trading opportunities. The proposed \$1 intervals above a \$200 strike price will result in having at-the-money series based on the underlying SPY or DIA moving less than 1%, which falls in line with slower price movements of a broad-based index. Furthermore, the proposed \$1 intervals will allow members to continue to employ current option trading and hedging strategies in SPY and DIA. Considering that \$1 intervals already exist below the \$200 price point, and that SPY and DIA are both trading close to or at the \$200 level, continuing to maintain the artificial \$200 ceiling (above which intervals increase 500% to \$5), will have a negative effect on investing, trading and hedging opportunities and volume. The continued demand for highly liquid options such as SPY and DIA, and the investing, trading, and hedging opportunities they represent, far outweighs any potential negative impact of allowing SPY and DIA options to trade in more finely tailored intervals above a \$200 price point.

With the proposal, for example, investors and traders would be able to roll open positions from a lower strike to a higher strike in conjunction with the price movement of the underlying. Under the current rule, where the next higher available series would be \$5 away above a \$200 strike price, the ability to roll such positions is effectively negated. Thus, to move a position from a \$200 strike to a \$205 strike under the current rule, an investor would need for the underlying product to move 2.5%, and would not be able to execute a roll up until such a large movement occurred. With the proposed rule change, however, the investor would be in a significantly safer position of being able to roll his open options position from a \$200 to a \$201 strike price, which is only a 0.5% move for the underlying.

By allowing SPY and DIA options in \$1 intervals over a \$200 strike price, the proposal will moderately augment the total number of options series available on the Exchange. However, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting

Authority (“OPRA”) have the necessary systems capacity to handle any potential additional traffic associated with this proposed rule change. The Exchange believes that its members will not have a capacity issue as a result of this proposal. The Exchange also represents that it does not believe this expansion will cause fragmentation of liquidity. The Exchange's beliefs are supported by the limited nature of the proposal, which applies to two symbols rather than to all Exchange-Traded Fund Shares. Moreover, while under current rules there is ample liquidity, such liquidity is constricted above \$200. This proposal enhances liquidity by offering more rational strike price intervals as the stock market appreciates in value.

The Exchange believes that the proposed rule change, like the other strike price programs currently offered by the Exchange, will benefit investors by giving them more flexibility to more closely tailor their investment and hedging decisions.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Securities Exchange Act of 1934 (the “Act”),⁶ in general, and with Section 6(b)(5) of the Act,⁷ in particular, in that it is 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.

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78f(b)(5).

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

The Exchange also believes the proposed rule change is consistent with Section 6(b)(1) of the Act,⁸ which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and the rules and regulations thereunder, and the rules of the Exchange. The rule change proposal allows the Exchange to respond to customer demand to allow SPY and DIA options to trade in \$1 intervals above a \$200 strike price. The Exchange does not believe that the proposed rule would create additional capacity issues or affect market functionality.

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

⁸ 15 U.S.C. 78f(b)(5).

The Exchange believes that the proposed rule change, like other strike price programs currently offered by the Exchange, will benefit investors by giving them increased flexibility to more closely tailor their investment and hedging decisions. Moreover, the proposed rule change is consistent with changes proposed by Phlx and approved by the Commission.⁹

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

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the proposed rule change is a competitive response to a recent Phlx filing approved by the Commission.¹⁰ The Exchange believes that the proposed rule change is essential to ensure fair competition between markets, and will result in additional investment options and opportunities to achieve the investment and trading objectives of market participants seeking efficient trading and hedging vehicles, to the benefit of investors, market participants, and the marketplace in general.

C. 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.

⁹ See supra note 4.

¹⁰ Id.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and Rule 19b-4(f)(6) thereunder.¹²

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that waiver of this requirement will ensure fair competition among options exchanges by allowing the Exchange to establish smaller strike price intervals in these highly traded products at the same time as at least one other options exchange. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest; and will allow the Exchange to remain competitive with other exchanges. Therefore, the Commission designates the proposed rule change to be operative upon filing.¹³

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

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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 Commission has waived the pre-filing requirement in this case.

¹³ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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.

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-ISE-2014-42 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-ISE-2014-42. 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, 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-ISE-2014-42 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.¹⁴

Kevin M. O’Neill
Deputy Secretary

¹⁴ 17 CFR 200.30-3(a)(12).