

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83416; File No. SR–ISE–2018–53]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Position and Exercise Limits for Options on the SPY Exchange Traded Fund

June 12, 2018.

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 4, 2018, Nasdaq ISE, LLC (“ISE” or “Exchange”) filed with the Securities and Exchange Commission (“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 Rule 412, entitled “Position Limits” at Supplementary Material .01 and Rule 414, entitled “Exercise Limits” at Supplementary Material .01, to amend position and exercise limits for options on the SPDR® S&P 500® exchange-traded fund (“SPY ETF” or “SPY”),³ which list and trade under the symbol “SPY.”

The text of the proposed rule change is available on the Exchange’s website at <http://ise.cchwallstreet.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 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

ISE Rule 412, entitled “Position Limits” at Supplementary Material .01 and Rule 414, entitled “Exercise Limits” at Supplementary Material .01 establish positions for aggregate positions in option contracts traded on the Exchange. The rule lists specific position and exercise limits for certain select underlying securities. SPY is among the certain select underlying securities listed in each such Rule. Currently, these Rules provide that there are no position limits and there are no exercise limits on options overlying SPY pursuant to a pilot program, which is scheduled to expire on July 12, 2018 (“SPY Pilot Program”).⁴

The Exchange proposes to amend Rule 412 at Supplementary Material .01 and Rule 414 at Supplementary Material .01 to allow the SPY Pilot Program to terminate on July 12, 2018, the current expiration date of the SPY Pilot Program. In lieu of extending the SPY Pilot Program for another year, the Exchange proposes to allow the SPY Pilot Program to terminate and to establish position and exercise limits of 1,800,000 contracts, for options on SPY, with such change becoming operative on July 12, 2018, so that there is no lapse in time between termination of the SPY Pilot Program and the establishment of the new limits. Furthermore, as a result of the termination of the SPY Pilot Program, the Exchange does not believe it is necessary to submit a SPY Pilot Program Report at the end of the SPY Pilot Program. Based on the prior SPY Pilot Program Reports provided to the Commission,⁵ the Exchange believes it is appropriate to terminate the SPY Pilot Program and that permanent position and exercise limits should be established for SPY.

Position limits are designed to address potential manipulative schemes and adverse market impact surrounding the use of options, such as disrupting the market in the security underlying the options. The potential manipulative schemes and adverse market impact are balanced against the potential of setting the limits so low as to discourage participation in the options market. The level of those position limits must be balanced between curtailing potential manipulation and the cost of preventing potential hedging activity that could be used for legitimate economic purposes.

The SPY Pilot Program was established in 2012 in order to eliminate position and exercise limits for physically-settled SPY options.⁶ In 2005, the position limits for SPY options were increased from 75,000 contracts to 300,000 contracts on the same side of the market.⁷ In July 2011, the position limit for these options was again increased from 300,000 contracts to 900,000 contracts on the same side of the market.⁸ Then, in 2012, the position and exercise limits for SPY options were eliminated as part of the SPY Pilot Program.⁹

The underlying SPY tracks the performance of the S&P 500 Index and the Exchange notes that the SPY and SPY options have deep, liquid markets that reduce concerns regarding manipulation and disruption in the underlying markets. In support of this proposed rule change, the Exchange has collected the following trading statistics for SPY and SPY Options: (1) The average daily volume (“ADV”) to date (as of May 15, 2018) for SPY is 108.32 million shares; (2) the ADV to date in 2018 for SPY options is 3.9 million contracts per day; (3) the total shares outstanding for SPY are 965.43 million; and (4) the fund market cap for SPY is 261.65 billion. The Exchange represents further that there is tremendous liquidity in the securities that make up the S&P 500 Index.

Accordingly, the Exchange proposes to amend Rule 412 at Supplementary Material .01 and Rule 414 at Supplementary Material .01 to set forth that the position and exercise limits for options on SPY would be 1,800,000 contracts on the same side of the market. These position and exercise

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ “SPDR®,” “Standard & Poor’s®,” “S&P®,” “S&P 500®,” and “Standard & Poor’s 500” are registered trademarks of Standard & Poor’s Financial Services LLC. The SPY ETF represents ownership in the SPDR S&P 500 Trust, a unit investment trust that generally corresponds to the price and yield performance of the SPDR S&P 500 Index.

⁴ See Securities Exchange Act Release No. 68000 (October 5, 2012), 77 FR 62300 (October 12, 2012) (SR–ISE–2012–81); 70967 (December 3, 2013), 78 FR 73912 (December 9, 2013) (SR–ISE–2013–62); 74224 (February 6, 2015), 80 FR 7892 (February 12, 2015) (SR–ISE–2015–05); 75411 (July 9, 2015), 80 FR 41543 (July 15, 2015) (SR–ISE–2015–22); 78295 (July 12, 2016), 81 FR 46728 (July 18, 2016) (SR–ISE–2016–16); and 81094 (July 7, 2017), 82 FR 32392 (July 13, 2017) (SR–ISE–2017–72).

⁵ *Id.*

⁶ See Securities Exchange Act Release No. 68000 (October 5, 2012), 77 FR 62300 (October 12, 2012) (SR–ISE–2012–81).

⁷ See Securities Exchange Act Release No. 51042 (January 14, 2005), 70 FR 3412 (January 24, 2005) (SR–ISE–2005–05).

⁸ See Securities Exchange Act Release No. 64760 (June 28, 2011), 76 FR 39143 (July 5, 2011) (SR–ISE–2011–34).

⁹ See note 4 above.

limits equal the current position and exercise limits for options on QQQQ, which the Commission previously approved to be increased from 900,000 contracts on the same side of the market, to 1,800,000 contracts on the same side of the market.¹⁰ The Exchange also notes that SPY is more liquid than QQQQ.¹¹ The Exchange believes that establishing position and exercise limits for the SPY options in the amount of 1,800,000 contracts on the same side of the market subject to this proposal would allow for the maintenance of the liquid and competitive market environment for these options, which will benefit customers interested in these products. Under the proposal, the reporting requirement for the options would be unchanged.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹² in general, and furthers the objectives of Section 6(b)(5) of the Act,¹³ in particular, in that it is designed to promote just and equitable principles of trade, 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. The Exchange believes that establishing permanent position and exercise limits for SPY options subject to this proposal will encourage Market Makers to continue to provide sufficient liquidity in SPY options on the Exchange, which will enhance the process of price discovery conducted on the Exchange. The proposal will also benefit institutional investors as well as retail traders, and public customers, by continuing to provide them with an effective trading and hedging vehicle. In addition, the Exchange believes that the structure of the SPY options subject to this proposal and the considerable liquidity of the market for those options diminishes the opportunity to manipulate this product and disrupt the underlying market that a lower position limit may protect against.

Increased position limits for select actively traded options, such as that proposed herein (increased as compared to the 900,000 limit in place prior to the

SPY Pilot Program),¹⁴ is not novel and has been previously approved by the Commission. For example, the Commission has previously approved a rule change permitting the Exchange to double the position and exercise limits for FXI, EEM, IWM, EFA, EWZ, TLT, QQQQ, and EWJ.¹⁵ Furthermore, as previously mentioned, the Commission specifically approved a proposal by the Exchange to increase the position and exercise limits for options on QQQQ from 900,000 contracts on the same side of the market to 1,800,000 contracts on the same side of the market; similar to the current proposal for options on SPY.¹⁶ The Exchange also notes that SPY is more liquid than QQQQ.¹⁷

Lastly, the Commission expressed the belief that implementing higher position and exercise limits may bring additional depth and liquidity without increasing concerns regarding intermarket manipulation or disruption of the options or the underlying securities.¹⁸ The Exchange's existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might arise from increasing position and exercise limits (increased as compared to the 900,000 limit in place prior to the SPY Pilot Program).¹⁹

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. The Exchange believes the entire proposal is consistent with Section (6)(b)(8) of the Act²⁰ in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. On the contrary, the Exchange believes the proposal promotes competition because it will enable the option exchanges to attract additional order flow from the over-the-counter market, who in turn compete for those orders. The Exchange believes that the proposed rule change will result in continued 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. The Exchange believes this

proposed rule change is necessary to permit fair competition among the options exchanges and to establish uniform position and exercise limits for additional multiply listed option classes. Furthermore, the Exchange believes that the other options exchanges will file similar proposals with the Commission.

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 Act²¹ and subparagraph (f)(6) of Rule 19b-4 thereunder.²²

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.

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

²¹ 15 U.S.C. 78s(b)(3)(A)(iii).

²² 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.

¹⁰ See Securities Exchange Act Release No. 83156 (May 2, 2018), 83 FR 20875 (May 8, 2018) (SR-ISE-2018-39).

¹¹ From the beginning of the year, through May 15, 2018, the ADV for SPY was 108.32 million shares while the ADV for QQQQ was 46.64 million shares (calculated using data from Yahoo Finance as of May 15, 2018).

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ See note 8.

¹⁵ See note 10 above.

¹⁶ *Id.*

¹⁷ See note 11 above.

¹⁸ See note 10 above.

¹⁹ See note 8 above.

²⁰ 15 U.S.C. 78f(b)(8).

• Send an email to rule-comments@sec.gov. Please include File Number SR-ISE-2018-53 on the subject line.

Paper Comments

• Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2018-53. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet 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. 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-ISE-2018-53 and should be submitted on or before July 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Eduardo A. Aleman,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange

Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736.

Extension:

Exchange Act Rules 13n-1—13n-12; Form SDR, SEC File No. 270-629, OMB Control No. 3235-0719

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for approval of extension of the previously approved collection of information provided for in Rules 13n-1 through 13n-12 (17 CFR 240.13n-1 through 240.13n-12) and Form SDR ("Rules"), under the Securities Exchange Act of 1934 (15 U.S.C. 78m(n)(3) *et seq.*).

Under the Rules, security-based swap data repositories ("SDRs") are required to register with the Commission by filing a completed Form SDR (the filing of a completed Form SDR also constitutes an application for registration as a securities information processor ("SIP")). SDRs are also required to abide by certain minimum standards set out in the Rules, including a requirement to update Form SDR, abide by certain duties and core principles, maintain data in accordance with the rules, keep systems in accordance with the Rules, keep records, provide reports to the Commission, maintain the privacy of security-based swaps ("SBSs") data, make certain disclosures, and designate a Chief Compliance Officer. In addition, there are a number of collections of information contained in the Rules. The information collected pursuant to the Rules is necessary to carry out the mandates of the Dodd-Frank Act and help ensure an orderly and transparent market for SBSs.

The Commission staff estimates that it will take an SDR approximately 481 hours to complete the initial Form SDR and any amendments thereto. This burden is composed of a one-time reporting burden that reflects the applicant's staff time (*i.e.* internal labor costs) to prepare and submit the Form to the Commission and includes the burden of responding to additional provisions incorporated from Form SIP and finally includes responding to the revised disclosure of business affiliations burden. Assuming a maximum of ten SDRs, the aggregate one-time estimated dollar cost to complete Form SDR and any amendments thereto will be \$793,840 ((Compliance Attorney at \$334 per hour

for 180 hours) + (Compliance Clerk at \$64 per hour for 301 hours) × (10 registrants)) and the aggregate ongoing cost per year will be \$55,440 to comply with the rule.

The Commission staff estimates that the average initial paperwork cost of filing a Form SDR to withdraw from registration will be 12 hours per SDR with an estimated dollar cost of \$4,008 to comply with the rule. The Commission estimates that an SDR will assign these responsibilities to a Compliance Attorney, calculated as follows: (Compliance Attorney at \$334 per hour for 12 hours) × (1 SDR withdrawing) = \$4,008.

In addition, the Commission staff estimates that the average initial paperwork cost for each non-resident SDR to comply with Rule 13n-1(f) will be 1 hour and \$900 per SDR. Assuming a maximum of three non-resident SDRs, the aggregate one-time estimated dollar cost to comply with the rule will be \$3,840, calculated as follows: (\$900 for outside legal services + (Attorney at \$380 per for 1 hour)) × (3 non-resident registrants). Finally, the Commission believes that the costs of filing Form SDR in a tagged data format beyond the costs of collecting the required information will be minimal.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: www.reginfo.gov. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: ShaguftaAhmed@omb.eop.gov; and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549, or by sending an email to: PRA_Mailbox@sec.gov. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 13, 2018.

Eduardo A. Aleman,

Assistant Secretary.

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²³ 17 CFR 200.30-3(a)(12).