| OMB APPROVAL |
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| OMB Number: 3235-0045<br>Estimated average burden<br>hours per response............38 |

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Page 1 of * 27

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No.* SR - 2014 - * 068
Amendment No. (req. for Amendments *)

Filing by Chicago Board Options Exchange

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) * ☐

Pilot ☐

Extension of Time Period for Commission Action * ☐

Date Expires *

Rule

☐ 19b-4(f)(1) ☐ 19b-4(f)(4)
☐ 19b-4(f)(2) ☐ 19b-4(f)(5)
☐ 19b-4(f)(3) ☑ 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) * ☐ Section 806(e)(2) * ☐

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) * ☐

Exhibit 2 Sent As Paper Document ☐ Exhibit 3 Sent As Paper Document ☐

**Description**

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

Proposal to modify strike setting regime for SPY and DIA options.

**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 * William Last Name * Wallenstein
Title * Attorney
E-mail * Wallenstein@cboe.com
Telephone * (312) 786-8716 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.

Date 08/28/2014
By Corinne H Klott
(Name *)

(Title *)
Attorney

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.

Persona Not Validated - 1396541032712,

*Required fields are shown with yellow backgrounds and asterisks.*

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

| | |
|---|---|
| **Form 19b-4 Information *** <br> Add Remove View | 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 *** <br> Add Remove View | 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 *** <br> Add Remove View | 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** <br> Add Remove View <br> 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** <br> Add Remove View <br> 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** <br> Add Remove View | 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** <br> Add Remove View | 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** <br> Add Remove View | 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. |

**Item 1. Text of the Proposed Rule Change**

(a) Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") proposes to amend Interpretation and Policy .08 to Rule 5.5 (Series of Option Contracts Open for Trading) to modify the strike setting regimes for options on The Standard & Poor's Depository Receipts Trust ("SPY") and The DIAMONDS Trust ("DIA"). The text of the proposed rule change is provided below.

(additions are underlined; deletions are [bracketed])

* * * * *

**Chicago Board Options Exchange, Incorporated**
**Rules**

* * * * *

**Rule 5.5. – Series of Option Contracts Open for Trading**

RULE 5.5. (a) – (e) No change.

**. . .** ***Interpretations and Policies:***

**.01 - .07** No change.

**.08**

(a) Notwithstanding Interpretation and Policy .01 above, and except for options on Units covered under Interpretation and Policies .06 and .07 above, the interval between strike prices of series of options on Units, as defined under Interpretation and Policy .06 to Rule 5.3, will be $1 or greater where the strike price is $200 or less and $5.00 or greater where the strike price is greater than $200. For options on Units that are used to calculate a volatility index, the Exchange may open for trading $0.50 strike price intervals as provided for in Interpretation and Policy .19 to this Rule 5.5.

(b) Notwithstanding Interpretation and Policy .01 and Interpretation and Policy .08(a) above, the interval between strike prices of series of options on Units of the Standard & Poor's Depository Receipts Trust ("SPY") and The DIAMONDS Trust ("DIA") will be $1 or greater.

**.09 - .23** No change.

* * * * *

(b) The Exchange reasonably expects that the proposed rule change will have an effect on the application of Rule 5.5(d)(5) on SPY and DIA listed under the Short Term Option Series Program. Currently, under Rule 5.5.01, the Exchange is permitted to list series of SPY and DIA options with $1 strike price intervals up to $200 and $5 strike price intervals above $200. Under Rule 5.5(d)(5),

> The interval between strike prices on Short Term Option Series may be: (i) $0.50 or greater where the strike price is less than $75, and $1 or greater where the strike price is between $75 and $150 for all classes that participate in the Short Term Option Series Program; (ii) $0.50 for classes that trade in one dollar increments in non-Short Term Options and that participate in the Short Term Option Series Program; or (iii) $2.50 or greater where the strike price is above $150.

Accordingly, the Exchange currently lists SPY and DIA options under the Short Term Option Series Program in intervals of $0.50 between strike prices for strike prices up to $200 and intervals of $2.50 between strike prices for strike prices above $200. Under the Exchange's proposal, the Exchange would be permitted to list SPY and DIA options in intervals $1 or greater both above and below $200. Thus, pursuant to Rule 5.5(d)(5), under the Short Term Option Series Program, the Exchange would also be permitted to list series of SPY and DIA options with $0.50 intervals between strike prices above $200.

(c) The effect of the proposed rule on the Exchange's Short Term Options Series Program is further explained in File No. SR-CBOE-2014-052.[1]

**Item 2. <u>Procedures of the Self-Regulatory Organization</u>**

(a) The Exchange's President (or designee) pursuant to delegated authority approved the proposed rule change on August 13, 2014.

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[1] <u>See</u> Securities and Exchange Act Release No. 34–72539 (July 3, 2014), 79 FR 39447 (July 10, 2014) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amending Rules Governing the Short Term Option Series Program) (SR-CBOE-2014-052).

(b) Please refer questions and comments on the proposed rule change to Joanne Moffic-Silver, Executive Vice President, General Counsel, and Corporate Secretary, (312) 786-7462, Jenny Golding, (312) 786-7793, or William P. Wallenstein, (312) 786-8716, Chicago Board Options Exchange, Incorporated, 400 South LaSalle, Chicago, Illinois 60605.

**Item 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 Rule 5.5 (Series of Option Contracts Open for Trading) by modifying the strike setting regimes for SPY and DIA options. Specifically, the Exchange proposes to modify the interval setting regimes for SPY and DIA options to allow $1 strike price intervals above $200. The Exchange believes that the proposed rule change would make SPY and DIA options easier for investors and traders to use and more tailored to their investment needs. The Exchange's filing is substantially similar in all material respects to similar changes to Commentary .05 to NASDAQ OMX PHLX LLC Rule 1012 (Series of Options Open for Traded) that were recently proposed.[2]

The SPY and DIA exchange-traded funds ("ETFs") are designed to roughly track the performance of the S&P 500 Index and Dow Jones Industrial Average ("DJIA") with the price of SPY designed to roughly approximate 1/10th of the price of the S&P 500 Index and the price of DIA designed to roughly approximate 1/100th of the price of the DJIA. Accordingly, SPY strike prices reflect a value roughly equal to 1/10th of the value of the S&P 500 Index and DIA strike prices reflect a value roughly equal to 1/100th of the value of

[2] See Securities and Exchange Act Release 34-72664 (July 24, 2014), 79 FR 44231 (July 30, 2014) (Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, Relating to SPY and DIA Options) (SR-Phlx-2014-046).

the DJIA with each having a multiplier of $100. For example, if the S&P 500 Index is at 1972.56, SPY options might have a value of approximately 197.26 with a notional value of $19,726. If the DJIA is at 16,569.98, DIA options may have a value of 165.70 with a notional value of $16,570. In general, SPY and DIA options provide retail investors and traders with the benefit of trading the broad market in a manageably sized contract. As options with an ETP underlying, SPY and DIA options are listed in the same manner as equity options under the Rules.

Under current Interpretation and Policy .08 to Rule 5.5, the interval between strike prices in series of options on ETPs, including SPY and DIA options will be $1 or greater where the strike price is $200 or less and $5.00 or greater where the strike price is greater than $200." In addition, under Rule 5.5(d)(5),

> The interval between strike prices on Short Term Option Series may be: (i) $0.50 or greater where the strike price is less than $75, and $1 or greater where the strike price is between $75 and $150 for all classes that participate in the Short Term Option Series Program; (ii) $0.50 for classes that trade in one dollar increments in non-Short Term Options and that participate in the Short Term Option Series Program; or (iii) $2.50 or greater where the strike price is above $150.

The Exchange's proposal seeks to narrow the strike price intervals to $1 for SPY and DIA options above $200, in effect matching the strike setting regime for strike intervals in these products below $200.

Currently, the S&P 500 Index is hovering close to 2000. The DJIA is hovering near 17000. As the option strike prices for SPY and DIA options have continued to appreciate, the Exchange has received Trading Permit Holder ("TPH") requests to list additional strike prices in SPY and DIA options above $200. The S&P 500 Index is widely regarded as the best single gauge of large cap U.S. equities and the DJIA is the most popular, and is widely quoted as an indicator of stock prices and investor confidence in the securities market. As a result, individual investors often use S&P 500 Index- and DJIA-related products to diversify their portfolios and benefit from market trends – options on the SPY and DIA ETFs account for nearly 25% of all U.S. options trading volume. Moreover, the popularity of SPY and DIA options is reflected in the fact that they have options contracts reflecting monthly, quarterly, and weekly expiration cycles.[3] Accordingly, the Exchange believes that offering a wide range of S&P 500 Index- and DJIA-based options affords traders and investors important hedging and trading opportunities. The Exchange believes that not having the proposed $1 strike price intervals above $200 in SPY and DIA significantly constricts investors' hedging and trading possibilities.

The Exchange proposes to amend Interpretation and Policy .08 to Rule 5.5 to allow SPY and DIA options to trade in $1 increments above a strike price of $200. Specifically, the Exchange proposes to amend Interpretation and Policy .08 to Rule 5.5 to state that notwithstanding other provisions limiting the ability of the Exchange to list $1 increment strike prices on equity and ETF options above $200, the interval between strike prices of series of options on Units of SPY and DIA will be $1 or greater.[4] The Exchange believes

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3 See Rule 5.5.

4 The Exchange notes that the proposed rule change would also affect the strike setting regime of these products under the Short Term Option Series Program and permit the Exchange to list SPY and DIA Short Term Options in $0.50 increments above $200. Both SPY and DIA participate in the Short Term Option Series Program under Rule 5.5(d). Under Rule 5.5(d)(5), "[t]he interval between strike prices on Short Term Option Series may be: (i) $0.50 or greater where the strike price is less than $75, and $1 or greater where the strike price is between $75 and $150 for all classes that participate in the Short Term Option Series Program; (ii) $0.50 for classes that trade in one dollar increments in non-Short Term Options and that participate in the Short Term Option Series Program; or (iii) $2.50 or greater where the strike price is above $150." Accordingly, if the Exchange were to adopt the proposed rule change, SPY and DIA options would trade in $1 strike price increments above $200 increments and thus, be

that by having smaller strike intervals in SPY and DIA, investors would have more efficient hedging and trading opportunities due to the higher $1 interval ascension. The proposed $1 intervals, particularly above the $200 strike price, will result in having at-the-money series based upon the underlying SPY or DIA moving less than 1%. The Exchange believes that the proposed strike setting regime is in line with the slower movements of broad-based indices. Furthermore, the proposed $1 intervals would allow currently employed option trading strategies (such as, for example, risk reduction/hedging strategies using SPY weekly options), to remain viable. Considering the fact that $1 intervals already exist below the $200 price point and that SPY and DIA are approaching the $200 level, the Exchange believes that continuing to maintain the artificial $200 level (above which intervals increase 500% to $5), would have a negative effect on investing, trading and hedging opportunities, and volume. The Exchange believes that the continued demand for highly liquid options such as options on 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 the $200 price point.

The proposed strike setting regime would permit strikes to be set to more closely reflect values in the underlying S&P 500 Index and DJIA and allow investors and traders 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. Accordingly, 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

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subject to the parameters described in Rule 5.5(d)(5)(ii), which permit the listing of $0.50 strike prices above $200 under the Short Term Options Program.

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. The proposed rule change will allow the Exchange to better respond to customer demand for SPY strike prices more precisely aligned with current S&P 500 Index values and allow the Exchange to respond similarly with additional $1 interval strike prices above $200 in DIA should the DJIA approach corresponding levels. The Exchange believes that the proposed rule change, like the other strike price programs currently offered by the Exchange, will benefit investors by providing investors the flexibility to more closely tailor their investment and hedging decisions using SPY and DIA options.

By allowing series of SPY and DIA options to be listed in $1 intervals between strike prices over $200, the proposal will moderately augment the potential 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 also believes that Trading Permit Holders will not have a capacity issue due to the proposed rule change. In addition, the Exchange represents that it does not believe that this expansion with cause fragmentation of liquidity.

(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 the Exchange and, in particular, the requirements of Section 6(b) of the Act.[5]

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[5] 15 U.S.C. 78f(b).

Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[6] 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)[7] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change would add consistency to the options markets and allow investors to more easily use SPY and DIA options. Moreover, the proposed rule change would allow investors 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 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, 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.

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[6] 15 U.S.C. 78f(b)(5).
[7] Id.

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

The Exchange believes that the proposed rule change, like other strike price programs currently offered by the Exchange, will benefit investors by giving them increased flexibility to more closely tailor their investment and hedging decisions. Moreover, the proposed rule change is consistent with changes proposed by other exchanges.[8]

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.

**Item 4. <u>Self-Regulatory Organization's Statement on Burden on Competition</u>**

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. Rather, the Exchange believes that the proposed rule change will result in

[8] <u>See</u> Securities and Exchange Act Release 34-72664 (July 24, 2014), 79 FR 44231 (July 30, 2014) (Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, Relating to SPY and DIA Options) (SR-Phlx-2014-046).

additional investment options and opportunities to achieve the investment and trading objectives of market participants seeking efficient trading and hedging vehicles, to the benefit of investors, market participants, and the marketplace in general. Specifically, the Exchange believes that SPY and DIA option investors and traders will significantly benefit from the availability of finer strike price intervals above a $200 price point. Furthermore, the Exchange's filing is substantially similar in all material respects to, and consistent with, similar changes to Commentary .05 to NASDAQ OMX PHLX LLC Rule 1012 (Series of Options Open for Traded) that were recently proposed.[9] As such, the Exchange believes that the proposed rule change is essential for intermarket competitive purposes and to promote a free and open market for the benefit of investors and traders.

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

The Exchange neither solicited nor received comments on the proposed rule change.

**Item 6. Extension of Time Period for Commission Action**

Not applicable.

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

(a) The proposed rule change is filed for immediate effectiveness pursuant to Section 19(b)(3)(A) of Act[10] and Rule 19b-4(f)(6)[11] thereunder.

(b) The Exchange designates that the proposed rule change effects a change that (i) does not significantly affect the protection of investors or the public interest;

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9 Id.
10 15 U.S.C. 78s(b)(3)(A).
11 17 CFR 240.19b-4(f)(6).

(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. Additionally, the Exchange has given 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 proposed rule would allow the Exchange to modify the interval setting regimes for SPY and DIA options to allow $1 strike price intervals above $200 as these indices ascend. The Exchange believes that the proposed rule change is necessary to tailor SPY and DIA options investors' and traders' needs. The Exchange does not believe that the proposed rule changes raise any novel or unique substantive issues. Additionally, the Exchange's filing is substantially similar in all material respects to, and consistent with, similar changes to Commentary .05 to NASDAQ OMX PHLX LLC Rule 1012 (Series of Options Open for Traded) that were recently proposed.[12] As such, the Exchange believes that the proposed rule change is essential for competitive purposes and to promote a free and open market for the benefit of investors and traders. The Exchange does not believe that the proposed rule changes raise any novel or unique substantive issues. For the foregoing reasons, this rule filing qualifies for immediate effectiveness as a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4 of the Act.

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[12] See Securities and Exchange Act Release 34-72664 (July 24, 2014), 79 FR 44231 (July 30, 2014) (Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, Relating to SPY and DIA Options) (SR-Phlx-2014-046).

The Exchange respectfully requests that the Commission waive the 30-day operative delay period after which a proposed rule change under Rule 19b-4(f)(6) becomes effective. Waiver of the pre-filing period and operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to respond to current customer demand for strike prices in SPY options that are scaled to roughly match movements in the S&P 500 Index-related markets and more effectively tailor their investing, trading, and hedging decisions in respect of SPY and DIA options by using finer $1 increments. Given the current level of the S&P 500 Index, the Exchange believes that it is important to be able to list the requested strikes as soon as possible so that investors have the hedging tools they need given the current market conditions.

(c) Not applicable.

(d) Not applicable.

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

The proposed rule change is based on similar changes to Commentary .05 to NASDAQ OMX PHLX LLC Rule 1012 (Series of Options Open for Traded) that were recently proposed.[13]

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

Not applicable.

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

Not applicable.

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13 Id.

**Item 11. <u>Exhibits</u>**

<u>Exhibit 1</u>. Completed Notice of Proposed Rule Change for publication in the <u>Federal Register</u>.

<u>Exhibit 5</u>. Proposed rule text.

EXHIBIT 1

**SECURITIES AND EXCHANGE COMMISSION**

Release No. 34-          ; File No. SR-CBOE-2014-068

[Insert date]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Strike Setting Regimes for SPY and DIA Options

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on August 28, 2014, Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "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 Interpretation .08 to Rule 5.5 (Series of Option Contracts Open for Trading) to modify the strike setting regimes for options on The Standard & Poor's Depository Receipts Trust ("SPY") and The DIAMONDS Trust ("DIA"). The text of the proposed rule change is provided below.

(additions are underlined; deletions are [bracketed])

* * * * *

**Chicago Board Options Exchange, Incorporated**
**Rules**

* * * * *

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1 15 U.S.C. 78s(b)(1).
2 17 CFR 240.19b-4.

**Rule 5.5. – Series of Option Contracts Open for Trading**

RULE 5.5. (a) – (e) No change.

**. . .** ***Interpretations and Policies:***

**.01 - .07** No change.

**.08**

(a) Notwithstanding Interpretation and Policy .01 above, and except for options on Units covered under Interpretation and Policies .06 and .07 above, the interval between strike prices of series of options on Units, as defined under Interpretation and Policy .06 to Rule 5.3, will be $1 or greater where the strike price is $200 or less and $5.00 or greater where the strike price is greater than $200. For options on Units that are used to calculate a volatility index, the Exchange may open for trading $0.50 strike price intervals as provided for in Interpretation and Policy .19 to this Rule 5.5.

(b) Notwithstanding Interpretation and Policy .01 and Interpretation and Policy .08(a) above, the interval between strike prices of series of options on Units of the Standard & Poor's Depository Receipts Trust ("SPY") and The DIAMONDS Trust ("DIA") will be $1 or greater.

**.09 - .23** No change.

* * * * *

The text of the proposed rule change is also available on the Exchange's website (http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx), at the Exchange's Office of the Secretary, 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

The Exchange proposes to amend Interpretation and Policy .08 to Rule 5.5 to modify the strike setting regimes for SPY and DIA options. Specifically, the Exchange proposes to modify the interval setting regimes for SPY and DIA options to allow $1 strike price intervals above $200. The Exchange believes that the proposed rule change would make SPY and DIA options easier for investors and traders to use and more tailored to their investment needs. The Exchange's filing is substantially similar in all material respects to similar changes to Commentary .05 to NASDAQ OMX PHLX LLC Rule 1012 (Series of Options Open for Traded) that were recently proposed.[3]

The SPY and DIA exchange-traded funds ("ETFs") are designed to roughly track the performance of the S&P 500 Index and Dow Jones Industrial Average ("DJIA") with the price of SPY designed to roughly approximate 1/10th of the price of the S&P 500 Index and the price of DIA designed to roughly approximate 1/100th of the price of the DJIA. Accordingly, SPY strike prices reflect a value roughly equal to 1/10th of the value of the S&P 500 Index and DIA strike prices reflect a value roughly equal to 1/100th of the value of the DJIA with each having a multiplier of $100. For example, if the S&P 500 Index is at 1972.56, SPY options might have a value of approximately 197.26 with a notional value of $19,726. If the DJIA is at 16,569.98, DIA options may have a value of 165.70 with a notional value of $16,570. In general, SPY and DIA options provide retail investors and traders with the benefit of trading the broad market in a manageably sized contract. As

[3] See Securities and Exchange Act Release 34-72664 (July 24, 2014), 79 FR 44231 (July 30, 2014) (Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, Relating to SPY and DIA Options) (SR-Phlx-2014-046).

options with an ETP underlying, SPY and DIA options are listed in the same manner as equity options under the Rules.

Under current Interpretation and Policy .08 to Rule 5.5, the interval between strike prices in series of options on ETPs, including SPY and DIA options will be $1 or greater where the strike price is $200 or less and $5.00 or greater where the strike price is greater than $200." In addition, under Rule 5.5(d)(5),

> The interval between strike prices on Short Term Option Series may be: (i) $0.50 or greater where the strike price is less than $75, and $1 or greater where the strike price is between $75 and $150 for all classes that participate in the Short Term Option Series Program; (ii) $0.50 for classes that trade in one dollar increments in non-Short Term Options and that participate in the Short Term Option Series Program; or (iii) $2.50 or greater where the strike price is above $150.

The Exchange's proposal seeks to narrow the strike price intervals to $1 for SPY and DIA options above $200, in effect matching the strike setting regime for strike intervals in these products below $200.

Currently, the S&P 500 Index is hovering close to 2000. The DJIA is hovering near 17000. As the option strike prices for SPY and DIA options have continued to appreciate, the Exchange has received Trading Permit Holder ("TPH") requests to list additional strike prices in SPY and DIA options above $200. The S&P 500 Index is widely regarded as the best single gauge of large cap U.S. equities and the DJIA is the most popular, and is widely quoted as an indicator of stock prices and investor confidence in the securities market. As a result, individual investors often use S&P 500 Index- and DJIA-related products to diversify their portfolios and benefit from market trends – options on the SPY and DIA ETFs account for nearly 25% of all U.S. options trading volume. Moreover, the popularity of SPY and DIA options is reflected in the fact that they have options contracts reflecting monthly, quarterly, and weekly expiration cycles.[4] Accordingly, the Exchange believes that offering a wide range of S&P 500 Index- and DJIA-based options affords traders and investors important hedging and trading opportunities. The Exchange believes that not having the proposed $1 strike price intervals above $200 in SPY and DIA significantly constricts investors' hedging and trading possibilities.

The Exchange proposes to amend Interpretation and Policy .08 to Rule 5.5 to allow SPY and DIA options to trade in $1 increments above a strike price of $200. Specifically, the Exchange proposes to amend Interpretation and Policy .08 to Rule 5.5 to state that notwithstanding other provisions limiting the ability of the Exchange to list $1 increment strike prices on equity and ETF options above $200, the interval between strike prices of series of options on Units of SPY and DIA will be $1 or greater.[5] The Exchange believes that by having smaller strike intervals in SPY and DIA, investors would have more efficient hedging and trading opportunities due to the higher $1 interval ascension. The proposed $1 intervals, particularly above the $200 strike price, will result in having at-the-money series based upon the underlying SPY or DIA moving less than 1%. The Exchange believes that

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4 See Rule 5.5.

5 The Exchange notes that the proposed rule change would also affect the strike setting regime of these products under the Short Term Option Series Program and permit the Exchange to list SPY and DIA Short Term Options in $0.50 increments above $200. Both SPY and DIA participate in the Short Term Option Series Program under Rule 5.5(d). Under Rule 5.5(d)(5), "[t]he interval between strike prices on Short Term Option Series may be: (i) $0.50 or greater where the strike price is less than $75, and $1 or greater where the strike price is between $75 and $150 for all classes that participate in the Short Term Option Series Program; (ii) $0.50 for classes that trade in one dollar increments in non-Short Term Options and that participate in the Short Term Option Series Program; or (iii) $2.50 or greater where the strike price is above $150." Accordingly, if the Exchange were to adopt the proposed rule change, SPY and DIA options would trade in $1 strike price increments above $200 increments and thus, be subject to the parameters described in Rule 5.5(d)(5)(ii), which permit the listing of $0.50 strike prices above $200 under the Short Term Options Program.

the proposed strike setting regime is in line with the slower movements of broad-based indices. Furthermore, the proposed $1 intervals would allow currently employed option trading strategies (such as, for example, risk reduction/hedging strategies using SPY weekly options), to remain viable. Considering the fact that $1 intervals already exist below the $200 price point and that SPY and DIA are approaching the $200 level, the Exchange believes that continuing to maintain the artificial $200 level (above which intervals increase 500% to $5), would have a negative effect on investing, trading and hedging opportunities, and volume. The Exchange believes that the continued demand for highly liquid options such as options on 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 the $200 price point.

The proposed strike setting regime would permit strikes to be set to more closely reflect values in the underlying S&P 500 Index and DJIA and allow investors and traders 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. Accordingly, 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. The proposed rule change will allow the Exchange to better respond to customer demand for SPY strike prices more precisely aligned with current S&P 500 Index values and allow the Exchange to respond similarly with additional $1 interval strike prices above $200 in DIA should the DJIA approach corresponding levels. The Exchange believes that the proposed rule change, like the other strike price programs currently offered by the Exchange, will benefit investors by providing investors the flexibility to more closely tailor their investment and hedging decisions using SPY and DIA options.

By allowing series of SPY and DIA options to be listed in $1 intervals between strike prices over $200, the proposal will moderately augment the potential 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 also believes that Trading Permit Holders will not have a capacity issue due to the proposed rule change. In addition, the Exchange represents that it does not believe that this expansion with cause fragmentation of liquidity.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[6] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] 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

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[6] 15 U.S.C. 78f(b).
[7] 15 U.S.C. 78f(b)(5).

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)[8] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change would add consistency to the options markets and allow investors to more easily use SPY and DIA options. Moreover, the proposed rule change would allow investors 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 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, which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and the rules and regulations thereunder, and the rules of the Exchange. The rule change proposal allows the Exchange to respond to customer demand to allow SPY and DIA options to trade in $1 intervals above a $200 strike price. The Exchange does not believe that the proposed rule would create additional capacity issues or affect market functionality.

As noted above, ETF options trade in wider $5 intervals above a $200 strike price, whereby options at or below a $200 strike price trade in $1 intervals. This creates a situation where contracts on the same option class effectively may not be able to execute certain strategies such as, for example, rolling to a higher strike price, simply because of the arbitrary $200 strike price above which options intervals increase by 500%. This

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[8] Id.

proposal remedies the situation by establishing an exception to the current ETF interval regime, for SPY and DIA options only, to allow such options to trade in $1 or greater intervals at all strike prices.

The Exchange believes that the proposed rule change, like other strike price programs currently offered by the Exchange, will benefit investors by giving them increased flexibility to more closely tailor their investment and hedging decisions. Moreover, the proposed rule change is consistent with changes proposed by other exchanges.[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. Rather, the Exchange believes that the proposed rule change will result in additional investment options and opportunities to achieve the investment and trading objectives of market participants seeking efficient trading and hedging vehicles, to the benefit of investors, market participants, and the marketplace in general. Specifically, the Exchange believes that SPY and DIA option investors and traders will significantly benefit from the availability of finer strike price intervals above a $200 price point.

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[9] See Securities and Exchange Act Release 34-72664 (July 24, 2014), 79 FR 44231 (July 30, 2014) (Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, Relating to SPY and DIA Options) (SR-Phlx-2014-046).

Furthermore, the Exchange's filing is substantially similar in all material respects to, and consistent with, similar changes to Commentary .05 to NASDAQ OMX PHLX LLC Rule 1012 (Series of Options Open for Traded) that were recently proposed.[10] As such, the Exchange believes that the proposed rule change is essential for intermarket competitive purposes and to promote a free and open market for the benefit of investors and traders.

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

The Exchange neither solicited nor received comments on the proposed rule change.

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

Because the foregoing proposed rule change does not:

A. significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. 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 Act[11] and Rule 19b-4(f)(6)[12] thereunder. 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 will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

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10 Id.

11 15 U.S.C. 78s(b)(3)(A).

12 17 CFR 240.19b-4(f)(6).

## IV. <u>Solicitation of Comments</u>

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:

<u>Electronic comments:</u>

- Use the Commission's Internet comment form (http://www.sec.gov/rules/sro.shtml); or
- Send an e-mail to rule-comments@sec.gov. <u>Please include File Number SR-CBOE-2014-068 on the subject line.</u>

<u>Paper comments</u>:

- 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-CBOE-2014-068. 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 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-CBOE-2014-068 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.[13]

Secretary

[13] 17 CFR 200.30-3(a)(12).