

directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Purchasing Management Company may invest. These findings and their basis will be recorded fully in the minute books of the appropriate Purchasing Management Company.

18. No Fund will acquire securities of any investment company or companies relying on sections 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of a money market fund for short-term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

**Florence E. Harmon,**  
Deputy Secretary.

[FR Doc. E9-17884 Filed 7-27-09; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60360; File No. 4-429]

### Joint Industry Plan; Chicago Board Options Exchange, Incorporated, International Securities Exchange, LLC, The NASDAQ Stock Market LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX, Inc., NYSE Amex LLC, and NYSE Arca, Inc.; Notice of Filing of Amendments to the Intermarket Options Linkage Plan To Withdraw From the Plan

July 21, 2009.

#### I. Introduction

Pursuant to Section 11A of the Securities Exchange Act of 1934 (the "Act")<sup>1</sup> and Rule 608 of Regulation NMS thereunder ("Rule 608"),<sup>2</sup> notice is hereby given that on June 25, 2009, June 25, 2009, July 2, 2009, July 2, 2009, July 7, 2009, July 17, 2009, July 20, 2009, NYSE Arca, Inc. ("NYSE Arca"), NYSE Amex, LLC ("NYSE Amex"), International Securities Exchange, LLC ("ISE"), Chicago Board Options Exchange, Incorporated ("CBOE"), NASDAQ OMX BX, Inc. ("BX"), NASDAQ OMX PHLX, Inc. ("Phlx"), and The NASDAQ Stock Market LLC ("Nasdaq") (collectively,

"Participants")<sup>3</sup> respectively submitted to the Securities and Exchange Commission ("Commission") amendments to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage ("Linkage Plan") ("Amendments").<sup>4</sup> Each Amendment proposes to modify Section 4(a) of the Linkage Plan to delete the name of the submitting Participant. The Commission is publishing this notice to solicit comments from interested persons on the proposed Amendments to the Linkage Plan.

#### II. Description of the Proposed Amendments

The purpose of each Amendment is for the Participant submitting such Amendment to withdraw from the Linkage Plan. Pursuant to Section 4(d) of the Linkage Plan, a Participant may withdraw by: (i) Providing not less than 30 days' prior written notice to each of the other Participants and to The Options Clearing Corporation ("OCC," the facilities manager) of such intent to withdraw; and (ii) effecting an amendment to the Linkage Plan as specified in Section 5(c)(iii) of the Linkage Plan. In turn, Section 5(c)(iii) of the Linkage Plan states that a Participant can withdraw from the Linkage Plan by filing an amendment deleting its name in Section 4(a) of the Linkage Plan and submitting such amendment to the Commission for approval. The submitting Participant must state how it plans to accomplish, by alternate means, the goals of the Linkage Plan regarding

<sup>3</sup> See letter from Peter G. Armstrong, NYSE Arca, to Elizabeth Murphy, Secretary, Commission, dated June 24, 2009; letter from Michael Babel, NYSE Amex, to Elizabeth Murphy, Secretary, Commission, dated June 24, 2009; letter from Michael J. Simon, ISE, to Elizabeth Murphy, Secretary, Commission, dated July 1, 2009; letter from Edward J. Joyce, CBOE, to Elizabeth Murphy, Secretary, Commission, dated July 1, 2009; letter from Maura A. Looney, Associate Vice President, BX, to Elizabeth Murphy, Secretary, Commission, dated July 6, 2009; letter from Richard S. Rudolph, Assistant General Counsel, Phlx, to Elizabeth Murphy, Secretary, Commission, dated July 16, 2009; and letter from Jeffrey S. Davis, Vice President and Deputy General Counsel, Nasdaq, to Elizabeth Murphy, Secretary, Commission, dated July 17, 2009.

<sup>4</sup> On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating an intermarket options market linkage proposed by the American Stock Exchange LLC (n/k/a Amex), CBOE, and ISE. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). Subsequently, Philadelphia Stock Exchange, Inc. (n/k/a Phlx), Pacific Exchange, Inc. (n/k/a NYSE Arca), Boston Stock Exchange, Inc. (n/k/a BX), and Nasdaq joined the Linkage Plan. See Securities Exchange Act Release Nos. 43573 (November 16, 2000), 65 FR 70851 (November 28, 2000); 43574 (November 16, 2000), 65 FR 70850 (November 28, 2000); 49198 (February 5, 2004), 69 FR 7029 (February 12, 2004); and 57545 (March 21, 2008), 73 FR 16394 (March 27, 2008).

limiting Trade-Throughs. The amendment is effective upon Commission approval.

The Participants plan to accomplish the Linkage Plan's goals through membership in the Options Order Protection and Locked/Crossed Market Plan ("New Plan"). The Commission has published the New Plan for comment.<sup>5</sup> The participants to the New Plan currently plan to begin implementing that plan on August 31st, subject to Commission approval. The New Plan contains a requirement that each participant establish, maintain and enforce written procedures and policies that are reasonably designed to prevent Trade-Throughs.<sup>6</sup> The New Plan will accomplish this in a more efficient manner than the Linkage Plan. Specifically, the New Plan eliminates a central hub and addresses Trade-Through compliance through the use of intermarket sweep orders. This is based on the concepts of Regulation NMS, which, among other things, addresses trade-throughs in the equity market. The New Plan also requires its participants to conduct surveillance of their markets to ascertain the effectiveness of these policies and procedures.<sup>7</sup> Finally, the New Plan contains provisions requiring its participants to establish, maintain and enforce written rules addressing locked and crossed markets.<sup>8</sup> The Participants believe that the New Plan will fully accomplish the same goals of the Plan, including imposing limits on Trade-Throughs.

#### III. Implementation of the Plan Amendment

The proposed Amendments to the Linkage Plan will be effective upon approval by the Commission pursuant to Rule 608.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the Amendments to the Linkage Plan are 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](mailto:rule-comments@sec.gov). Please include File Number 4-429 on the subject line.

<sup>5</sup> See Securities Exchange Act Release No. 59647 (March 30, 2009), 74 FR 15010 (April 2, 2009).

<sup>6</sup> Section 5(a)(i) of the New Plan.

<sup>7</sup> Section 5(a)(ii) of the New Plan.

<sup>8</sup> Section 6 of the New Plan.

<sup>1</sup> 15 U.S.C. 78k-1(a).

<sup>2</sup> 17 CFR 242.608.

### Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number 4-429. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the Amendments that are filed with the Commission, and all written communications relating to the Amendments 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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the Amendments also will be available for inspection and copying at the respective principal office of BX, CBOE, ISE, Nasdaq, Phlx, NYSE Amex, and NYSE Arca. 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 4-429 and should be submitted on or before August 18, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E9-17880 Filed 7-27-09; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60365; File No. 4-443]

### Joint Industry Plan; Notice of Filing of Amendment No. 3 to the Plan for the Purpose of Developing and Implementing Procedures Designed To Facilitate the Listing and Trading of Standardized Options

July 22, 2009.

#### I. Introduction

On June 30, 2009, June 16, 2009, June 12, 2009, June 22, 2009, June 12, 2009, June 18, 2009, June 23, 2009, July 8, 2009, the Chicago Board Options Exchange, Incorporated ("CBOE"), International Securities Exchange, LLC ("ISE"), NASDAQ Stock Market LLC ("NASDAQ"), NASDAQ OMX BX, Inc. ("BX"), NASDAQ OMX PHLX ("Phlx"), NYSE Amex LLC ("NYSE Amex"), NYSE Arca Inc. ("NYSE Arca"), and The Options Clearing Corporation ("OCC"), respectively, filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 608 thereunder,<sup>2</sup> Amendment No. 3 to the Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options ("Plan" or "OLPP").<sup>3</sup> The amendment would apply uniform objective standards to the range of options series exercise (or strike) prices available for trading on the Plan Sponsor exchanges. This notice solicits comment on Amendment No. 3 from interested persons.

#### II. Description of the Proposed Amendment

Amendment No. 3 proposes to apply uniform objective standards to the range of options series exercise (or strike) prices available for trading on the Plan Sponsor exchanges as a quote mitigation strategy.<sup>4</sup> According to the Plan

<sup>1</sup> 15 U.S.C. 78k-1.

<sup>2</sup> 17 CFR 242.608.

<sup>3</sup> On July 6, 2001, the Commission approved the OLPP, which was originally proposed by the American Stock Exchange LLC (k/n/a NYSE Amex), CBOE, ISE, OCC, Philadelphia Stock Exchange, Inc. (k/n/a Phlx), and Pacific Exchange, Inc. (k/n/a NYSE Arca). See Securities Exchange Act Release No. 44521, 66 FR 36809 (July 13, 2001). On February 5, 2004, the Boston Stock Exchange, Inc. (k/n/a BX) was added as a sponsor to the OLPP. See Securities Exchange Act Release No. 49199, 69 FR 7030 (February 12, 2004). On March 21, 2008, NASDAQ was added as a sponsor to the OLPP. See Securities Exchange Act Release No. 57546 (March 21, 2008), 73 FR 16393 (March 27, 2008).

<sup>4</sup> CBOE, ISE, NASDAQ, BX, Phlx, NYSE Amex, and OCC have represented that the Penny Pilot Program has resulted in an explosion of quote traffic.

Sponsors, by agreeing to uniform standards, the Plan Sponsor exchanges intend to reduce the overall number of option series available for trading, which will in turn lessen the rate of increase in quote traffic.

Specifically, the proposal applies certain "range limitations" to the addition of new series strike prices for options classes overlying equity securities, Exchange Traded Fund Shares, or Trust Issued Receipts. As proposed, if the price of the underlying security is less than or equal to \$20, the Series Selecting Exchange would not list new option series with an exercise price more than 100 percent above or below the price of the underlying security.<sup>5</sup> If the price of the underlying security is greater than \$20, the Series Selecting Exchange would not list new option series with an exercise price more than 50 percent above or below the price of the underlying security.

The proposal provides for an objective basis upon which the underlying prices for the price range limitations described above shall be determined, specifically, in regards to intra-day add-on series and next-day series additions, new expiration months and for option series to be added as a result of pre-market trading. Furthermore, 8 a.m. Chicago time is proposed as the earliest permissible time at which a Series Selecting Exchange may notify the OCC, and each other exchange also trading the same options class, that it has commenced trading new series as a result of pre-market trading. This earliest permissible time is established to ensure that outlier prices for the underlying security which occur at 6 a.m. Chicago time, for example (*i.e.*, well in advance of the opening of the standard trading session), are not relied upon for purposes of the exercise price range limitations.

*Example:* XYZ closes on Tuesday at \$20, but trades in the evening aftermarket trading session from a range of \$35-\$40 on speculation of a merger. At 8:15 a.m. Chicago time the next day (Wednesday), the exchanges wish to list additional series, for trading that day, with strike prices that reflect the anticipated price increase in XYZ relative to the previous trading day. There is no official high/low price since the market has not yet opened for trading for Wednesday, so the exchanges use the most recent pre-open trade price of \$40. The exchanges could therefore add series with strike prices from \$20-\$60 based upon the proposed exercise price range limitations.

As of 2 p.m. Chicago time during the Wednesday standard trading session XYZ has traded from a range of a low price of \$40 to

<sup>5</sup> This restriction would not prohibit the listing of at least three options series per expiration month in an option class.

<sup>9</sup> 17 CFR 200.30-3(a)(29).