Education and Advocacy, Washington, DC 20549–0213.

Extension: Rule 35d–1, SEC File No. 270–491, OMB Control No. 3235–0548.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''Act''), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 35d–1 (17 CFR 270.35d–1) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) generally requires that investment companies with certain names invest at least 80% of their assets according to what their names suggests. The rule provides that an affected investment company must either adopt this 80% requirement as a fundamental policy or adopt a policy to provide notice to shareholders at least 60 days prior to any change in its 80% investment policy. This preparation and delivery of the notice to existing shareholders is a collection of information within the meaning of the Act.

The Commission estimates that there are 8,681 open-end and closed-end management investment companies and series that have descriptive names that are governed by the rule. The Commission estimates that of these 8,681 investment companies, approximately 29 provide prior notice to their shareholders of a change in their investment policies per year. The Commission estimates that the annual burden associated with the notice requirement of the rule is 20 hours per response. The total burden hours for Rule 35d–1 is 580 per year in the aggregate (29 responses × 20 hours per response). Estimates of average burden hours are made solely for the purposes of the Act, and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

The collection of information under Rule 35d–1 is mandatory. The information provided under Rule 35d–1 is not kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to Shagufta Ahmed at *Shagufta_Ahmed@omb.eop.gov;* and (ii) Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: August 18, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–20528 Filed 8–25–09; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension: Rule 12b–1, SEC File No. 270–188, OMB Control No. 3235–0212.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 12b–1 (17 CFR 270.12b–1) permits a registered open-end investment company (''mutual fund'') to distribute its own shares and pay the expenses of distribution out of the mutual fund's assets provided, among other things, that the mutual fund adopts a written plan (''Rule 12b–1 plan'') and has in writing any agreements relating to the implementation of the Rule 12b–1 plan. The rule in part requires that (i) the adoption or material amendment of a Rule 12b–1 plan be approved by the mutual fund's directors and shareholders; (ii) the board review quarterly reports of amounts spent under the Rule 12b–1 plan; and (iii) the board consider continuation of the Rule 12b–1 plan at least annually. Rule 12b–1 also requires funds relying on the rule to preserve for six years, the first two years in an easily accessible place, copies of the Rule 12b–1 plan, related agreements and reports, as well as minutes of board meetings that describe the factors considered and the basis for adopting or continuing a Rule 12b–1 plan.

The board and shareholder approval requirements of Rule 12b–1 are designed to ensure that fund shareholders and directors receive adequate information to evaluate and approve a 12b–1 plan. The requirement of quarterly reporting to the board is designed to ensure that the 12b–1 plan continues to benefit the fund and its shareholders. The recordkeeping requirements of the rule are necessary to enable Commission staff to oversee compliance with the rule.

Based on information filed with the Commission by funds, Commission staff estimates that there are approximately 6,871 mutual fund portfolios that have at least one share class subject to a rule 12b–1 plan.[1] However, many of these portfolios are part of an affiliated group of funds known as a ''mutual fund family'' that is overseen by a common board of directors. Although the board must review and approve the 12b–1 plan for each fund separately, we have allocated the costs and hourly burden related to rule 12b–1 based on the number of fund families that have at least one fund that charges 12b–1 fees, rather than on the total number of mutual fund portfolios that individually have a 12b–1 plan.[2] Based on information filed with the Commission, the staff estimates that there are approximately 371 fund families with common boards of directors that have at least one fund with a 12b–1 plan.

Based on conversations with fund representatives, Commission staff estimates that for each of the 371 mutual fund families with a portfolio that has a rule 12b–1 plan, the average annual burden of complying with the rule is 425 hours. This estimate takes into account the time needed to prepare quarterly reports to the board of directors, the board's consideration of those reports, and the board's annual consideration of whether to continue the plan.[3] We therefore estimate that the

[1] This estimate is based on information from the Commission's NSAR database.

[2] This allocation is based on conversations with fund representatives on how fund boards comply with the requirements of rule 12b–1. Despite this allocation of hourly burdens and costs, the number of annual responses each year will continue to depend on the number of fund portfolios with 12b–1 plans rather than the number of fund families with 12b–1 plans. The staff estimates that the number of annual responses per fund portfolio will be four per year (quarterly, with the annual reviews taking place at one of the quarterly intervals). Thus, we estimate that funds will make 27,484 responses (6871 fund portfolios × 4 responses per fund portfolio = 27,484 responses) each year.

[3] We do not estimate any costs or time burden related to the recordkeeping requirement, as funds are already required to maintain these records

total hourly burden per year for all funds to comply with current information collection requirements under rule 12b–1, is 157,675 hours (371 fund families × 425 hours per fund family = 157,675 hours) over the three year period for which we are requesting approval of the information collection burden).

If a currently operating fund seeks to (i) adopt a new Rule 12b–1 plan or (ii) materially increase the amount it spends for distribution under its Rule 12b–1 plan, Rule 12b–1 requires that the fund obtain shareholder approval. As a consequence, the fund will incur the cost of a proxy. Based on conversations with fund industry representatives, Commission staff estimates that approximately three funds per year prepare a proxy in connection with the adoption or material amendment of a Rule 12b–1 plan. The staff further estimates that the cost of each fund's proxy is $30,000. Thus the total annual cost burden of Rule 12b–1 to the fund industry is $90,000 (3 funds requiring a proxy × $30,000 per proxy).

The collections of information required by Rule 12b–1 are necessary to obtain the benefits of the rule. Notices to the Commission will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.*

pursuant to other rules, and would keep these records in any case as a matter of business practice.

Dated: August 19, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–20529 Filed 8–25–09; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60531; File No. 4–443]

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

August 19, 2009.

I. Introduction

On June 30, 2009, June 16, 2009, June 12, 2009, June 22, 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'')[1] and Rule 608 thereunder,[2] 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'').[3] Amendment No. 3 would apply uniform objective standards to the range of options series exercise (or strike) prices available for trading on the Plan Sponsor exchanges.

The proposed Amendment was published for comment in the **Federal Register** on July 28, 2009.[4] The Commission received no comment letters in response to the Notice. This order approves Amendment No. 3 to the OLPP.

II. Description of the Proposed Amendment

Amendment No. 3 would 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. 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.[5] 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 proposed Amendment provides for an objective basis upon which the underlying prices for the price range limitations described above would 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.

The proposal also allows each Plan Sponsor exchange to designate up to five underlying securities to except from the aforementioned 50 percent restriction and instead apply the 100 percent restriction. These designations would be made on an annual basis and could not be removed during the calendar year unless the option class was delisted by the designating exchange, in which case the designating exchange could designate another class to replace the delisted class. If a

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] 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).

[4] *See* Securities Exchange Act Release No. 60365 (July 22, 2009), 74 FR 37266 (''Notice'').

[5] This restriction would not prohibit the listing of at least three options series per expiration month in an option class.