

change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEMKT-2013-85 on the subject line.

*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 SR-NYSEMKT-2013-85. 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 Web site (<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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEMKT-2013-85 and should be submitted on or before November 22, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>22</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-70765; File No. 4-443]

**Joint Industry Plan; Notice of Filing and Immediate Effectiveness of Amendment to the Plan for the Purpose of Developing and Implementing Procedures Designed To Facilitate the Listing and Trading of Standardized Options To Add Topaz Exchange, LLC as a Plan Sponsor**

October 28, 2013.

Pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 608 thereunder,<sup>2</sup> notice is hereby given that on August 7, 2013, Topaz Exchange, LLC ("Topaz" or "Exchange") filed with the Securities and Exchange Commission ("Commission") an amendment to the Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options ("OLPP").<sup>3</sup> The amendment proposes to add Topaz as a Sponsor of the OLPP. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Description and Purpose of the Amendment**

The current Sponsors of the OLPP are BATS, BOX, BX, CBOE, C2, ISE, MIAX, Nasdaq, NYSE Amex, NYSE Arca, OCC, and Phlx. The proposed amendment to the OLPP would add Topaz as a Sponsor of the OLPP. A national

<sup>1</sup> 15 U.S.C. 78k-1(a)(3).

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

<sup>3</sup> On July 6, 2001, the Commission approved the OLPP, which was proposed by the American Stock Exchange LLC ("Amex"), Chicago Board Options Exchange, Incorporated ("CBOE"), International Securities Exchange LLC ("ISE"), Options Clearing Corporation ("OCC"), Philadelphia Stock Exchange, Inc. ("Phlx"), and Pacific Exchange, Inc. ("PCX") (n/k/a NYSE Arca). See Securities Exchange Act Release No. 44521, 66 FR 36809 (July 13, 2001). On February 5, 2004, Boston Stock Exchange, Inc. ("BSE") was added as a Sponsor to OLPP. See Securities Exchange Act Release No. 49199, 69 FR 7030 (February 12, 2004). On March 21, 2008, the NASDAQ Stock Market, LLC ("Nasdaq") was added as a Sponsor to the OLPP. See Securities Exchange Act Release No. 57546, 73 FR 16393 (March 27, 2008). On February 17, 2010, BATS Exchange, Inc. ("BATS") was added as a Sponsor to the OLPP. See Securities Exchange Act Release No. 61528, 75 FR 8415 (February 24, 2010). On October 22, 2010, C2 Options Exchange Incorporated ("C2") was added as a Sponsor to the OLPP. See Securities Exchange Act Release No. 63162, 75 FR 66401 (October 28, 2010). On May 9, 2012, BOX Options Exchange LLC ("BOX") was added as a Sponsor to the OLPP. See Securities Exchange Act Release No. 66952, 77 FR 28641 (May 15, 2012). On June 29, 2012, Nasdaq OMX BX, Inc. ("BX") was added as a Sponsor to the OLPP. See Securities Exchange Act Release No. 67327, 77 FR 40125 (July 6, 2012). On December 5, 2012, Miami International Securities Exchange, LLC ("MIAX") was added as a Sponsor to the OLPP.

securities exchange may become a Sponsor if it satisfies the requirement of Section 7 of the OLPP. Specifically an Eligible Exchange<sup>4</sup> may become a Sponsor of the OLPP by: (i) Executing a copy of the OLPP, as then in effect; (ii) providing each current Plan Sponsor with a copy of such executed Plan; and (iii) effecting an amendment to the OLPP, as specified in Section 7(ii) of the OLPP.

Section 7(ii) of the OLPP sets forth the process by which an Eligible Exchange may effect an amendment to the OLPP. Specifically, an Eligible Exchange must: (a) Execute a copy of the OLPP with the only change being the addition of the new sponsor's name in Section 8 of the OLPP;<sup>5</sup> and (b) submit the executed OLPP to the Commission. The OLPP then provides that such an amendment will be effective at the later of either the amendment being approved by the Commission or otherwise becoming effective pursuant to Section 11A of the Act. Topaz has submitted a signed copy of the OLPP to the Commission and to each Plan Sponsor in accordance with the procedures set forth in the OLPP regarding new Plan Sponsors.

**II. Effectiveness of the Proposed Linkage Plan Amendment**

The foregoing proposed OLPP amendment has become effective pursuant to Rule 608(b)(3)(iii)<sup>6</sup> because it involves solely technical or ministerial matters. At any time within sixty days of the filing of this amendment, the Commission may summarily abrogate the amendment and require that it be refiled pursuant to paragraphs (a)(1) of Rule 608,<sup>7</sup> if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act.

<sup>4</sup> The OLPP defines an "Eligible Exchange" as a national securities exchange registered with the Commission pursuant to Section 6(a) of the Exchange Act, 15 U.S.C. 78f(a), that (1) has effective rules for the trading of options contracts issued and cleared by the OCC approved in accordance with the provisions of the Exchange Act and the rules and regulations thereunder and (2) is a party to the Plan for Reporting Consolidated Options Last Sale Reports and Quotation Information (the "OPRA Plan"). Topaz has represented that it has met both the requirements for being considered an Eligible Exchange.

<sup>5</sup> The Commission notes that the list of plan sponsors is set forth in Section 9 of the OLPP.

<sup>6</sup> 17 CFR 242.608(b)(3)(iii).

<sup>7</sup> 17 CFR 242.608(a)(1).

<sup>22</sup> 17 CFR 200.30-3(a)(12).

### III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed amendment is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number 4-443 on the subject line.

#### *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 4-443. 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 Web site (<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 Web site 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 such filing also will be available for inspection and copying at Topaz's principal office. 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 No. 4-443 and should be submitted on or before November 22, 2013.

By the Commission.

**Kevin M. O'Neill,**  
*Deputy Secretary.*

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70763; File No. 4-546]

#### **Joint Industry Plan; Notice of Filing and Immediate Effectiveness of Amendment to the Options Order Protection and Locked/Crossed Market Plan To Add Topaz Exchange, LLC as a Participant**

October 28, 2013.

Pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 608 thereunder,<sup>2</sup> notice is hereby given that on August 7, 2013, Topaz Exchange, LLC ("Topaz" or "Exchange") filed with the Securities and Exchange Commission ("Commission") an amendment to the Options Order Protection and Locked/Crossed Market Plan ("Plan").<sup>3</sup> The amendment added Topaz as a Participant<sup>4</sup> to the Plan. The Commission is publishing this notice to solicit comments on the amendment from interested persons.

#### **I. Description and Purpose of the Amendment**

The current Participants in the Linkage Plan are BOX Options, C2, CBOE, BATS, ISE, Nasdaq, BOX, Phlx, NYSE Amex,<sup>5</sup> NYSE Arca, and MIAX. The amendment to the Plan added Topaz as a Participant in the Plan. Topaz has submitted a signed copy of the Plan to the Commission in accordance with the procedures set forth in the Plan regarding new Participants. Section 3(c) of the Plan

<sup>1</sup> 15 U.S.C. 78k-1(a)(3).

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

<sup>3</sup> On July 30, 2009, the Commission approved a national market system plan relating to Options Order Protection and Locked/Crossed Markets proposed by Chicago Board Options Exchange, Incorporated ("CBOE"), International Securities Exchange, LLC ("ISE"), The NASDAQ Stock Market LLC ("Nasdaq"), NASDAQ OMX BX, Inc. ("BOX"), NASDAQ OMX PHLX, Inc. ("Phlx"), NYSE Amex, LLC ("NYSE Amex"), and NYSE Arca, Inc. ("NYSE Arca"). See Securities Exchange Act Release No. 60405 (July 30, 2009), 74 FR 39362 (August 6, 2009). See also Securities Exchange Act Release Nos. 61546 (February 19, 2010), 75 FR 8762 (February 25, 2010) (adding BATS Exchange, Inc. ("BATS") as a Participant); 63119 (October 15, 2010), 75 FR 65536 (October 25, 2010) (adding C2 Options Exchange, Incorporated ("C2") as a Participant); 66969 (May 11, 2012), 77 FR 29396 (May 17, 2012) (adding BOX Options Exchange LLC ("BOX Options") as a Participant). Miami International Securities Exchange, LLC ("MIAX") joined the Plan on December 5, 2012.

<sup>4</sup> The term "Participant" is defined as an Eligible Exchange whose participation in the Plan has become effective pursuant to Section 3(c) of the Plan.

<sup>5</sup> NYSE Amex was recently renamed NYSE MKT LLC. See Securities Exchange Act Release No. 67037 (May 21, 2012), 77 FR 31415 (May 25, 2012) (SR-NYSEAmex-2012-32).

provides for the entry of new Participants to the Plan. Specifically an Eligible Exchange<sup>6</sup> may become a Participant in the Plan by: (i) Executing a copy of the Plan, as then in effect; (ii) providing each current Participant with a copy of such executed Plan; (iii) effecting an amendment to the Plan, as specified in Sections 3(c) and 4(b) of the Plan.

Section 4(b) of the Plan puts forth the process by which an Eligible Exchange may effect an amendment to the Plan. Specifically, an Eligible Exchange must: (a) Execute a copy of the Plan with the only change being the addition of the new participant's name in Section 3(a) of the Plan; and (b) submit the executed Plan to the Commission. The Plan then provides that such an amendment will be effective when the amendment is approved by the Commission or otherwise becomes effective pursuant to Section 11A of the Act and Rule 608 thereunder.

#### **II. Effectiveness of the Linkage Plan Amendment**

The foregoing Plan amendment has become effective pursuant to Rule 608(b)(3)(iii) of the Act<sup>7</sup> because it involves solely technical or ministerial matters. At any time within sixty days of the filing of this amendment, the Commission may summarily abrogate the amendment and require that it be refiled pursuant to paragraph (b)(1) of Rule 608,<sup>8</sup> if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act.

#### **III. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing,

<sup>6</sup> Section 2(6) of the Plan defines an "Eligible Exchange" as a national securities exchange registered with the Commission pursuant to Section 6(a) of the Act, 15 U.S.C. 78f(a), that: (a) Is a "Participant Exchange" in the Options Clearing Corporation ("OCC") (as defined in OCC By-laws, Section VII); (b) is a party to the Options Price Reporting Authority ("OPRA") Plan (as defined in the OPRA Plan, Section 1); and (c) if the national securities exchange chooses not to become party to this Plan, is a participant in another plan approved by the Commission providing for comparable Trade-Through and Locked and Crossed Market protection. Topaz has represented that it has met the requirements for being considered an Eligible Exchange. See letter from Michael Simon, Secretary, Topaz Exchange, LLC to Elizabeth Murphy, Secretary, Commission, dated August 1, 2013.

<sup>7</sup> 17 CFR 242.608(b)(3)(iii).

<sup>8</sup> 17 CFR 242.608(b)(1).