

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-56893; File No. 4-429)

December 4, 2007

Joint Industry Plan; Notice of Summary Effectiveness on a Temporary Basis of Joint Amendment No. 25 to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage Relating to Response Time for Certain Orders Sent Through the Linkage, and Notice of Filing of Such Amendment

I. Introduction

On November 13, 2007, November 28, 2007, November 29, 2007, November 9, 2007, November 9, 2007, and November 23, 2007, the American Stock Exchange LLC (“Amex”), the Boston Stock Exchange, Inc. (“BSE”), the Chicago Board Options Exchange, Incorporated (“CBOE”), the International Securities Exchange, LLC (“ISE”), the NYSE Arca, Inc., and the Philadelphia Stock Exchange, Inc. (“Phlx”) (collectively, “Participants”), 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 thereunder² an amendment (“Joint Amendment No. 25”) to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage (“Linkage Plan”).³ In Joint Amendment No. 25, the Participants propose to reduce (i) the amount of time a member must wait after sending a Linkage Order⁴ to a market

¹ 15 U.S.C. 78k-1.

² 17 CFR 242.608.

³ On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating an intermarket options market linkage (“Linkage”) proposed by Amex, CBOE, and ISE. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). Subsequently, Phlx, Pacific Exchange, Inc. (n/k/a NYSE Arca, Inc.), and BSE 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); and 49198 (February 5, 2004), 69 FR 7029 (February 12, 2004).

⁴ See Section 2(16) of the Linkage Plan. For the purposes of this Joint Amendment No. 25 only, references to “Linkage Orders” herein pertain to P/A Orders and Principal Orders. For definitions of “P/A Order” and “Principal Order,” see note 6 infra.

before the member can trade through that market and (ii) the timeframe within which a Participant must respond to a Linkage Order after receipt of that Order. This order summarily puts into effect Joint Amendment No. 25 on a temporary basis not to exceed 120 days and solicits comment on Joint Amendment No. 25 from interested persons.⁵

II. Description of the Proposed Amendment

First, the purpose of Joint Amendment No. 25 is to reduce the amount of time a member must wait after sending a Linkage Order to a market before the member can trade through that market. The Participants propose to decrease this time period from 5 seconds to 3 seconds.

Second, Joint Amendment No. 25 will also reduce the time frame in which a Participant must respond to a Linkage Order from 5 to 3 seconds after receipt of that Order. Because the Linkage is highly automated and a Participant should receive a response to a Linkage Order within seconds after it is sent, the Participants do not believe it is necessary to wait the current 5 seconds for such a response. In addition, especially in fast-moving markets like the options market, the Participants believe that amending the time period to 3 seconds for the rejection of a P/A Order or Principal Order⁶ due to an untimely response will provide an opportunity for the transmittal of responses while also allowing a Participant's members to execute orders on their own exchanges in a timely manner.

⁵ A proposed amendment may be put into effect summarily upon publication of notice of such amendment, on a temporary basis not to exceed 120 days, if the Commission finds 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 mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act. See 17 CFR 242.608(b)(4).

⁶ See Section 2(16)(a) and (b) of the Linkage Plan, respectively.

III. Discussion

After careful consideration, the Commission finds that the proposed amendment to the Linkage Plan is consistent with the requirements of the Act and the rules and regulations thereunder.⁷ Specifically, the Commission finds that the proposed amendment to the Linkage Plan is consistent with Section 11A of the Act⁸ and Rule 608 of Regulation NMS thereunder⁹ in that it is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets. Specifically, the Commission believes that reducing the time required by a Participant to respond to a Linkage Order and the amount of time a member sending a Linkage Order must wait before trading through a nonresponsive Participant should facilitate the more timely execution of orders across the options markets. In addition, the Commission finds that it is appropriate to summarily put into effect Joint Amendment No. 25 upon publication of this notice on a temporary basis for 120 days. The Commission believes that such action is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, because it will facilitate implementation of the Joint Amendment No. 25 in conjunction with the recent expansion of the options penny quoting pilot program.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether proposed Joint Amendment No. 25 is consistent with the Act. Comments may be submitted by any of the following methods:

⁷ In summarily putting into effect this Joint Amendment No. 25, the Commission has considered its impact on efficiency, competition, and capital formation.

⁸ 15 U.S.C. 78k-1.

⁹ 17 CFR 242.608.

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. Please include File Number 4-429 on the subject line.

Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, 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 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 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 10:00 am and 3:00 pm. Copies of such filings also will be available for inspection and copying at the principal offices of the Amex, BSE, CBOE, ISE, NYSE Arca, and Phlx. 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 publicly available. All submissions should refer to File Number 4-429 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 11A of the Act¹⁰ and Rule 608(b)(4) thereunder,¹¹ that Joint Amendment No. 25 is summarily put into effect until [insert date 120 days from the date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

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Deputy Secretary

¹⁰ 15 U.S.C. 78k-1.

¹¹ 17 CFR 242.608(b)(4).

¹² 17 CFR 200.30-3(a)(29).