

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-58205; File No. 4-443)

July 22, 2008

Joint Industry Plan; Order Granting Permanent Approval to Amendment No. 1 to the Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options

I. Introduction

On May 15, 2008, May 15, 2008, May 13, 2008, May 6, 2008, May 13, 2008, May 7, 2008, May 13, 2008, and May 8, 2008, the American Stock Exchange LLC (“Amex”), the Boston Stock Exchange, Inc. (“BSE”), Chicago Board Options Exchange, Incorporated (“CBOE”), the International Securities Exchange, LLC (“ISE”), The NASDAQ Stock Market LLC (“Nasdaq”), NYSE Arca Inc. (“NYSE Arca”), the Philadelphia Stock Exchange, Inc. (“Phlx”), and the Options Clearing Corporation (“OCC”) respectively, filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 11A of the Securities Exchange Act¹ of 1934 (“Act”) and Rule 608 thereunder,² Amendment No. 1 to the Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options (“the Options Listing Procedures Plan” or “OLPP”).³ Amendment No. 1 would provide a uniform time frame for the introduction of new Long-term Equity Anticipation

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 Amex, CBOE, ISE, OCC, 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, BSE 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).

(“LEAP” or “LEAPS”) series on equity option classes, options on Exchange Traded Funds (“ETFs”), or options on Trust Issued Receipts (“TIRs”).

On May 22, 2008, the Commission issued notice of and approved Amendment No. 1 on a temporary basis not to exceed 120 days, and solicited comment on the proposal.⁴ The Commission received no comment letters in response to the Temporary Approval Order. This order approves Amendment No. 1 on a permanent basis.

II. Description of the Proposal

Currently, new January LEAPS are introduced shortly after the groups of LEAPS with the least time to expiration are converted to a conventional expiration symbol, generally when they have less than nine months to expiration. The proposal provides for a uniform time frame for the introduction of new LEAP series on equity option classes, options on ETFs, or options on TIRs.

By agreeing to a uniform time frame for the introduction of new LEAP series, the Participants to the OLPP intend to mitigate the number of option series available for trading during certain times of the year. The Participants to the OLPP intend that this will in turn lessen the rate of increase in quote traffic, because quotes will not be generated in the not-yet-available series.

The Participants to the OLPP represent that, for example, in 2007, if this proposal had been in effect, the industry would have eliminated one and a half billion (1,500,000,000) quotes over the three months of June, July, and August, out of just less than 100 billion quotes over all, for a savings of 1.5%. The affected series, however, generated less than three million (3,000,000) contracts traded in the same period, out of more than seven hundred eighty million (780,000,000) contracts total industry volume, or approximately .38%. The exchanges agree that the benefit from reduced quoting levels greatly exceeds the small cost in missed business.

⁴ See Securities Exchange Act Release No. 57848 (May 22, 2008), 73 FR 30985 (May 29, 2008) (“Temporary Approval Order”).

In addition, the Participants to the OLPP may coordinate the date of introduction of new LEAP classes, so as to provide the least disruption on the options industry by having the flexibility to avoid holidays, expiration periods, and industry-wide tests which are scheduled from time to time.

III. Discussion

After careful review, the Commission finds that Amendment No. 1 is consistent with the requirements of the Act and the rules and regulations thereunder.⁵ Specifically, the Commission finds that Amendment No. 1 to the OLPP is consistent with Section 11A of the Act⁶ and Rule 608 thereunder⁷ in that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets. Specifically, the Commission believes that by adopting a uniform time frame for the introduction of new LEAP series on equity option classes, options on ETFs, and options on TIRs, the options exchanges should reduce the number of option series available for trading during certain times of the year, and thus may reduce increases in the options quote rate because market participants would not be submitting quotes in the not-yet-available LEAP series. Accordingly, the Commission believes that it is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanisms of, a national market system to approve Amendment No. 1 to the OLPP on a permanent basis.

⁵ In approving this proposed OPRA Plan Amendment, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78k-1.

⁷ 17 CFR 242.608.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 11A of the Act,⁸ and Rule 608 thereunder,⁹ that proposed Amendment No. 1 to the OLPP be, and it hereby is, approved on a permanent basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Florence E. Harmon
Acting Secretary

⁸ 15 U.S.C. 78k-1.

⁹ 17 CFR 242.608.

¹⁰ 17 CFR 200.30-3(a)(29).