

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-56596; File No. 4-429)

October 2, 2007

Joint Industry Plan; Notice of Filing of Joint Amendment No. 24 to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage Regarding Elimination of the Class Gate

Pursuant to Section 11A of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 608 of Regulation NMS thereunder,<sup>2</sup> notice is hereby given that on September 14, 2007, September 19, 2007, August 29, 2007, August 29, 2007, August 30, 2007, and September 26, 2007, American Stock Exchange LLC (“Amex”), Boston Stock Exchange, Inc. (“BSE”), Chicago Board Options Exchange, Incorporated (“CBOE”), International Securities Exchange, LLC (“ISE”), NYSE Arca, Inc. (“NYSE Arca”), and Philadelphia Stock Exchange, Inc. (“Phlx”) (collectively, the “Participants”), respectively, submitted to the Securities and Exchange Commission (“Commission”) Amendment No. 24 to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage (“Linkage Plan”).<sup>3</sup> The amendment proposes to eliminate the “Class Gate” restriction on Principal Order access through the Linkage. The Commission is publishing this notice to solicit comments from interested persons on the proposed Joint Amendment to the Linkage Plan.

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

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

<sup>3</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 (“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), 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).

## I. Description of the Proposed Amendment

The Participants are proposing to modify Section 7(a)(ii)(C) of the Linkage Plan so as to eliminate the “Class Gate” restriction on Principal Order access through the Linkage. Currently, Section 7(a)(ii)(C) of the Linkage Plan provides that, once a Participant automatically executes a Principal Order in a series of an Eligible Option Class, it may reject any other Principal Orders sent in the same Eligible Option Class by the same Participant for 15 seconds after the initial execution unless there is a price change in the receiving Participant’s disseminated offer (bid) in the series in which there was the initial execution and such price continues to be the NBBO. After the 15 second period, and until the sooner of one minute after the initial execution or a change in its disseminated offer (bid), the Section provides that the Participant that provided the initial execution is not obligated to execute any Principal Orders received from the same Participant in the same Eligible Option Class in its automatic execution system.

The Participants represent that a change to the “Class Gate” provision is appropriate because, at the time of the creation of the Linkage, various markets had restrictions on non-customer access to the automatic execution systems. Since then, all of the exchanges have removed those restrictions and allow access for orders on behalf of non-member market makers to their trading platforms, thus eliminating the need for the “Class Gate.”

## II. Implementation of the Plan Amendment

The proposed amendment to the Linkage Plan will be effective upon approval by the Commission pursuant to Rule 608 of Regulation NMS under the Act.<sup>4</sup>

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<sup>4</sup> 17 CFR 242.608.

### III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed amendment to the Linkage Plan 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 e-mail to [rule-comments@sec.gov](mailto: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 Joint Amendment No. 24 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 filing also will be available for inspection and copying at the principal office 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 available publicly. All submissions should refer to Joint Amendment No. 24 to File No. 4-429 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

Nancy M. Morris  
Secretary

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<sup>5</sup> 17 CFR 200.30-3(a)(29).