

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-57848; File No. 4-443)

May 22, 2008

Joint Industry Plan; Notice of Filing and Order Approving on a Temporary Basis 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 The amendment would provide a uniform time frame for the introduction of new Long-term Equity Anticipation (“LEAP” or “LEAPS”) series on equity option classes, options on Exchange Traded Funds

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).

(“ETFs”), or options on Trust Issued Receipts (“TIRs”). This order summarily puts into effect Amendment No. 1 on a temporary basis not to exceed 120 days and solicits comment on Amendment No. 1 from interested persons.⁴

II. Description of the Proposed Amendment

Amendment No. 1 proposes to adopt a uniform time frame for the introduction of new LEAP series on equity option classes, options on ETFs, or options on TIRs.⁵ 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.

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.

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

⁴ 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 mechanism of, a national market system or otherwise in furtherance of the purposes of the Act. See 17 CFR 242.608(b)(4).

⁵ In Item 3, “Implementation of Amendments,” of their respective submissions, the Participants to the OLPP inadvertently included a sentence indicating that (in addition to Amendment No. 1) each Exchange would need to submit proposed rule changes for Commission approval to implement Amendment No. 1. The Participants to the OLPP have subsequently concluded that no rule changes are necessary for Amendment No. 1 to be implemented and submitted letters to correct the inadvertent reference in Item 3.

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.

Previously, in an order dated September 8, 1999, as confirmed in a letter from the Director of the Division of Market Regulation dated September 13, 2000, the Commission directed the then-current options exchanges to act jointly to develop strategies to address overall capacity concerns.

The amendment also grants authority to the Participants to the OLPP to 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 consideration, the Commission finds that the proposed amendment to the OLPP is consistent with the requirements of the Act and the rules and regulations thereunder.⁶ In particular, the Commission finds that the proposed amendment is consistent with the provisions of Section 11A of the Act⁷ and Rule 608 of Regulation NMS thereunder,⁸ 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 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 will reduce the number of option series available for trading during

⁶ In approving this amendment, the Commission has considered its impact on efficiency, competition, and capital formation. See U.S.C. 78c(f).

⁷ 15 U.S.C. 78k-1.

⁸ 17 CFR 242.608(b)(4).

certain times of the year, and thus may reduce increases in the options quote rate because market participants will not be submitting quotes in the not-yet-available LEAP series. In addition, the Commission finds that it is appropriate to put Amendment No. 1 into effect summarily upon publication of this notice on a temporary basis. 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 allow the options exchanges to implement the initiative to reduce quote message traffic beginning immediately.⁹

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether proposed Amendment No. 1 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. Please include File Numbers 4-443 in 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 Numbers 4-443. These file numbers 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

⁹ The Commission notes that the options exchanges need not submit proposed rule changes for Commission approval in order to implement this initiative to mitigate quote traffic. See supra note 5.

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 Section, 100 F Street, NE, Washington, DC 20549-1090 on 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 Exchanges. 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 4-443 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 Act,¹⁰ and Rule 608 thereunder¹¹ that proposed Amendment No. 1 be, and it hereby is, approved on a temporary basis until September 19, 2008.

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

Florence E. Harmon
Deputy Secretary

¹⁰ 15 U.S.C. 78k-1.

¹¹ 17 CFR 242.608(b)(4).

¹² 17 CFR 200.30-3(a)(29).