

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-52413; File No. 4-429)

September 13, 2005

Joint Industry Plan; Order Approving Amendment No. 15 to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage Relating to a “Trade and Ship” Exception to the Definition of “Trade-Through” and a “Book and Ship” Exception to the Locked Markets Provision

I. Introduction

On April 13, 2005, April 22, 2005, April 26, 2005, April 27, 2005, May 5, 2005, and June 2, 2005, the International Securities Exchange (“ISE”), the American Stock Exchange LLC (“Amex”), the Chicago Board Options Exchange, Incorporated (“CBOE”), the Pacific Exchange, Inc. (“PCX”), the Boston Stock Exchange, Inc. (“BSE”), and the Philadelphia Stock Exchange, Inc. (“Phlx”) (collectively, “Participants”), respectively, filed with the Securities and Exchange Commission (“Commission”) an amendment (“Joint Amendment No. 15”) to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage (“Linkage Plan”).¹ In Joint Amendment No. 15, the Participants propose to add a “trade and ship” exception to the definition of “Trade-Through”² and a “book and ship” exception to the locked markets provision of the Linkage Plan.³ The proposed amendment to the Linkage Plan was

¹ On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating an intermarket option linkage proposed by the Amex, the CBOE, and the ISE. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). Subsequently, upon separate requests by the Phlx, the PCX, and the BSE, the Commission issued orders to permit these exchanges to participate in 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).

² See Section 2(29) of the Linkage Plan.

³ Specified in Section 7(a)(i)(C) of the Linkage Plan.

published in the Federal Register on August 9, 2005.⁴ No comments were received on the proposed amendment. This order approves the proposed amendment to the Linkage Plan.

II. Description and Purpose of the Proposed Amendment

The purpose of Joint Amendment No. 15 is to provide that: (i) a Participant may trade an order at a price that is one minimum quoting increment inferior to the national best bid or offer (“NBBO”) if a Linkage Order⁵ is sent contemporaneously to each Participant disseminating the NBBO to satisfy all interest at the NBBO price; and (ii) a Participant may book an order that would otherwise lock another Participant if a Linkage Order is sent contemporaneously to such other Participant to satisfy all interest at the lock price and only the remaining portion of the order is booked. Under the proposed trade and ship provision, any execution received from the market disseminating the NBBO must (pursuant to agency obligations) be reassigned to the customer order underlying the Linkage Order that would be sent to trade with the market disseminating the NBBO.

III. Discussion

After careful consideration, the Commission finds that the proposed amendment to the Linkage Plan seeking to add a trade and ship exception to the definition of Trade-Through and a book and ship exception to the locked markets provision of the Linkage Plan is consistent with the requirements of the Act and the rules and regulations thereunder. Specifically, the Commission finds that the proposed amendment to the Linkage Plan is consistent with

⁴ See Securities Exchange Act Release No. 52167 (July 29, 2005), 70 FR 46224.

⁵ See Section 2(16) of the Linkage Plan.

Section 11A of the Act⁶ and Rule 11Aa3-2 thereunder,⁷ in that the proposed amendment should facilitate the ability of Participants' members to execute their customer orders in a timely manner and potentially could decrease the incidence of Trade-Throughs and locked markets in the options market.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 11A of the Act⁸ and Rule 11Aa3-2 thereunder,⁹ that the proposed Joint Amendment No. 15 is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Jonathan G. Katz
Secretary

⁶ 15 U.S.C. 78k-1.

⁷ 17 CFR 240.11Aa3-2.

⁸ 15 U.S.C. 78k-1.

⁹ 17 CFR 240.11Aa3-2.

¹⁰ 17 CFR 200.30-3(a)(29).