

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-61528; File No. 4-443)

February 17, 2010

Joint Industry Plan; Notice of Filing and Immediate Effectiveness of Amendment to the Plan for the Purpose of Developing and Implementing Procedures to Facilitate the Listing and Trading of Standardized Options to Add BATS Exchange, Inc. as a Sponsor

Pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 608 thereunder,<sup>2</sup> notice is hereby given that on February 2, 2010, BATS Exchange, Inc. (“BATS” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) an amendment to the Plan for the Purpose of Developing and Implementing Procedures to Facilitate the Listing and Trading of Standardized Options (“OLPP”).<sup>3</sup> The amendment proposes to add BATS as a Sponsor of the OLPP. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Description and Purpose of the Amendment

The current Sponsors of the OLPP are Amex, BSE, CBOE, ISE, NYSE Arca, OCC, Phlx and Nasdaq. The proposed amendment to the OLPP would add BATS as a Sponsor of the OLPP. A national securities exchange may become a Sponsor if it satisfies the requirement of

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<sup>1</sup> 15 U.S.C. 78k-1(a)(3).

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

<sup>3</sup> On July 6, 2001, the Commission approved the OLPP, which was proposed by the American Stock Exchange LLC (“Amex”), Chicago Board Options Exchange, Incorporated (“CBOE”), International Securities Exchange LLC (“ISE”), Options Clearing Corporation (“OCC”), Philadelphia Stock Exchange, Inc. (“Phlx”), and Pacific Exchange, Inc. (“PCX”) (n/k/a NYSE Arca). See Securities Exchange Act Release No. 44521, 66 FR 36809 (July 13, 2001). On February 5, 2004, Boston Stock Exchange, Inc. (“BSE”) was added as a Sponsor to OLPP. See Securities Exchange Act Release No. 49199, 69 FR 7030 (February 12, 2004). On March 21, 2008, the Nasdaq Stock Market, LLC (“Nasdaq”) was added as a Sponsor to the OLPP.

Section 7 of the OLPP. Specifically an Eligible Exchange<sup>4</sup> may become a Sponsor of the OLPP by: (i) executing a copy of the OLPP, as then in effect; (ii) providing each current Plan Sponsor with a copy of such executed Plan; and (iii) effecting an amendment to the OLPP, as specified in Section 7(ii) of the OLPP.

Section 7(ii) of the OLPP sets forth the process by which an Eligible Exchange may effect an amendment to the OLPP. Specifically, an Eligible Exchange must: (a) execute a copy of the OLPP with the only change being the addition of the new sponsor's name in Section 8 of the OLPP; and (b) submit the executed OLPP to the Commission. The OLPP then provides that such an amendment will be effective at the later of either the amendment being approved by the Commission or otherwise becoming effective pursuant to Section 11A of the Act. BATS has submitted a signed copy of the OLPP to the Commission in accordance with the procedures set forth in the OLPP regarding new Plan Sponsors.

## II. Effectiveness of the Proposed Linkage Plan Amendment

The foregoing proposed OLPP amendment has become effective pursuant to Rule 608(c)(3)(iii)<sup>5</sup> because it involves solely technical or ministerial matters. At any time within sixty days of the filing of this amendment, the Commission may summarily abrogate the amendment and require that it be refiled pursuant to paragraphs (b)(1) of Rule 608,<sup>6</sup> if it appears

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<sup>4</sup> The OLPP defines an "Eligible Exchange" as a national securities exchange registered with the Commission pursuant to Section 6(a) of the Exchange Act, 15 U.S.C. 78f(a), that (1) has effective rules for the trading of options contracts issued and cleared by the OCC approved in accordance with the provisions of the Exchange Act and the rules and regulations thereunder and (2) is a party to the Plan for Reporting Consolidated Options Last Sale Reports and Quotation Information (the "OPRA Plan"). BATS has represented that it has met both the requirements for being considered an Eligible Exchange. See Letter from Eric Swanson, SVP, General Counsel, BATS to Johnna Dumler, Special Counsel, Division of Trading and Markets, Commission, dated February 12, 2010.

<sup>5</sup> 17 CFR 242.608(b)(3)(iii).

<sup>6</sup> 17 CFR 242.608(b)(1).

to the Commission 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 the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed amendment 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 4-443 on the subject line.

##### Paper Comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington DC 20549-1090.

All submissions should refer to File Number 4-443. 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 Web viewing and

printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at BATS' principal office. 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 No. 4-443 and should be submitted on or before [insert date 21 days from date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>7</sup> 17 CFR 200.30-3(a)(29).