

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-52074; File No. 4-429)

July 20, 2005

Joint Industry Plan; Notice Filing of Amendment No. 17 to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage Regarding Modifying the 80/20 Test for Determining Limitations on Principal Order Access to Linkage

Pursuant to Section 11A of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 11Aa3-2 thereunder,² notice is hereby given that on April 20, 2005, May 20, 2005, May 12, 2005, April 13, 2005, April 27, 2005 and May 11, 2005, the American Stock Exchange LLC (“Amex”), the Boston Stock Exchange, Inc. (“BSE”), the Chicago Board Options Exchange, Incorporated (“CBOE”), the International Securities Exchange (“ISE”), the Pacific Exchange, Inc. (“PCX”), and the Philadelphia Stock Exchange, Inc. (“Phlx”) (collectively, “Participants”), respectively, filed with the Securities and Exchange Commission (“Commission”) Joint Amendment No. 17 to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage (“Linkage Plan”).³ In Joint Amendment No. 17, the Participants propose to modify the “80/20 Test” to determine limitations on principal order access to Linkage.⁴

¹ 15 U.S.C. 78k-1.

² 17 CFR 240.11Aa3-2.

³ 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, PCX, 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).

⁴ Specified in Section 8(b)(iii) of the Linkage Plan.

I. Description and Purpose of the Proposed Amendment

The purpose of the Joint Amendment is to modify the so-called "80-20 Test" ("Test") contained in Section 8(b)(iii) of the Linkage Plan, which provides that market makers should send Principal Orders through the Linkage on a limited basis and not as a primary aspect of their business.⁵ The Test implements this general principle by prohibiting a market maker from sending Principal Orders in an eligible option class if, in the last calendar quarter, the market maker's Principal Order contract volume is disproportionate to the market maker's contract volume executed against customer orders in its own market.

The Participants believe that applying the Test has resulted in anomalies for market makers with limited volume in an eligible option class. Specifically, if a market maker has very little overall trading volume in an option, the execution of one or two Principal Orders during a calendar quarter could result in the market maker failing to meet the Test. This would bar the market maker from using the Linkage to send Principal Orders for the following calendar quarter. The Participants contend that it was not their intent to bar market makers with limited volume from sending Principal Orders through the Linkage in these circumstances since such trading clearly was not "a primary aspect of their business." Thus, Joint Amendment No. 17 proposes to create a de minimis exemption from the Test for market makers that have total contract volume of less than 1000 contracts in an options class for a calendar quarter.

II. Implementation of the Proposed Amendment

The Participants intend to make the Joint Amendment to the Linkage Plan reflected in this filing effective when the Commission approves the Joint Amendment.

⁵ A Principal Order is an order for the principal account of an eligible market maker that does not relate to a customer order the market maker is holding. See Section 2(16)(b) of the Linkage Plan.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether proposed Joint Amendment No. 17 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 Number 4-429 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE, Washington, DC 20549-9303.

All submissions should refer 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 proposed Joint Amendment No. 17 that are filed with the Commission, and all written communications relating to proposed Joint Amendment No. 17 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. Copies of such filings also will be available for inspection and copying at the principal offices of the Amex, BSE, CBOE, ISE, PCX 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 publicly available. All submissions should refer to File Number 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.⁶

Jonathan G. Katz
Secretary

⁶ 17 CFR 200.30-3(a)(29).