

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-44703, File No. 4-208)

August 15, 2001

Joint Industry Plan; Notice of Filing and Order Granting Temporary Effectiveness of  
Amendment to Plan Establishing Procedures under Rule 11Ac1-5

Pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 11Aa3-2 thereunder,<sup>2</sup> notice is hereby given that on July 11, 2001, the Chicago Board Options Exchange, Inc. (“CBOE” or “Exchange”) submitted to the Securities and Exchange Commission (“SEC” or “Commission”) an amendment to the national market system plan establishing procedures under Rule 11Ac1-5 (“Joint-SRO Plan” or “Plan”).<sup>3</sup> The amendment proposes to add the CBOE as a participant to the Joint-SRO Plan. The Commission is publishing this notice and order to solicit comments from interested persons on the proposed Joint-SRO Plan amendment, and to grant temporary effectiveness to the proposed amendment through [insert date 120 days from date of publication].

I. Description and Purpose of the Amendment

The current participants to the Joint-SRO Plan are the American Stock Exchange LLC (“Amex”), Boston Stock Exchange, Inc. (“BSE”), Chicago Stock Exchange, Inc. (“CHX”), Cincinnati Stock Exchange, Inc. (“CSE”), National Association of Securities Dealers, Inc. (“NASD”), New York Stock Exchange, Inc. (“NYSE”), Pacific Exchange, Inc. (“PCX”) and

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

<sup>2</sup> 17 CFR 240.11Aa3-2.

<sup>3</sup> On April 12, 2001, the Commission approved a national market system plan for the purpose of establishing procedures for market centers to follow in making their monthly reports available to the public under Exchange Act Rule 11Ac1-5. See Securities Exchange Act Release No. 44177 (April 12, 2001), 66 FR 19814 (April 17, 2001).

Philadelphia Stock Exchange, Inc. (“Phlx”). The proposed amendment would add the CBOE as a participant to the Joint-SRO Plan.

The CBOE has submitted a signed copy of the Joint-SRO Plan to the Commission in accordance with the procedures set forth in the Plan regarding new participants. Section III(b) of the Joint-SRO Plan provides that a national securities exchange or national securities association may become a party to the Plan by: (i) executing a copy of the Plan, as then in effect (with the only changes being the addition of the new participant’s name in Section 11(a) of the Plan and the new participant’s single-digit code in Section VI(a)(1) of the Plan) and (ii) submitting such executed plan to the Commission for approval.

## II. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Joint-SRO Plan amendment is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. Copies of the submission, all subsequent amendments, and all written statements with respect to the proposed Joint-SRO Plan amendment that are filed with the Commission, and all written communications relating to the proposed Joint-SRO Plan amendment between the Commission and any person, other than those 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 the filing also will be available at the principal offices of the CBOE. All submissions should refer to File No. 4-208 and should be submitted by [insert date 30 days from date of publication].

III. Commission's Findings and Order Granting Accelerated Approval of Proposed Plan Amendment

After careful review, the Commission finds that the proposed Joint-SRO Plan amendment is consistent with the requirements of the Act and the rules and regulations thereunder.<sup>4</sup>

Specifically, the Commission believes that the proposed amendment, which permits the CBOE to become a participant to the Joint-SRO Plan, is consistent with the requirements of Section 11A of the Act, and Rule 11Aa3-2 thereunder. The Plan establishes appropriate procedures for market centers to follow in making their monthly reports required pursuant to Rule 11Ac1-5, available to the public in a uniform, readily accessible, and usable electronic format. The proposed amendment to include the CBOE as a participant in the Joint-SRO Plan will contribute to the maintenance of fair and orderly markets and remove impediments to and perfect the mechanisms of a national market system by facilitating the uniform public disclosure of order execution information by all market centers.

The Commission finds good cause to grant temporary effectiveness to the proposed Joint-SRO Plan amendment, for 120 days, until [insert date 120 days from date of publication]. The Commission believes that it is necessary and appropriate in the public interest, for the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanisms of, a national market system to allow the CBOE to become a participant in the Joint-SRO Plan. On August 1st, the CBOE started trading QQQ (an Amex-listed exchange-traded fund that frequently trades over 50 million shares a day). The CBOE represents that it intends to comply with Rule 11Ac1-5 for QQQ and for any other product currently subject to the Rule that the

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<sup>4</sup> In approving this proposed Joint-SRO Plan amendment, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

CBOE may trade pursuant to unlisted trading privileges (“UTP”). As a Plan participant, the CBOE would have timely information on the Plan procedures as they are formulated and modified by the participants. The Commission finds, therefore, that granting temporary effectiveness of the proposed Joint-SRO Plan amendment is appropriate and consistent with Section 11A of the Act.<sup>5</sup>

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 11A of the Act<sup>6</sup> and Rule 11Aa3-2 thereunder,<sup>7</sup> that the proposed Joint-SRO Plan amendment is approved for 120 days, through [insert date 120 days from date of publication].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

Jonathan G. Katz  
Secretary

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<sup>5</sup> 15 U.S.C. 78k-1.

<sup>6</sup> 15 U.S.C. 78k-1.

<sup>7</sup> 17 CFR 240.11Aa3-2.

<sup>8</sup> 17 CFR 200.30-3(a)(29).