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June 17, 2008

Ms. Nancy M. Morris
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

RE: Options Order Protection and Locked/Crossed Market Plan

Dear Ms. Morris:

The Philadelphia Stock Exchange, Incorporated ("Phlx") hereby submits the attached Options Order Protection and Locked/Crossed Market Plan ("New Plan"). Enclosed for use by the Commission staff are five additional, unexecuted copies of the New Plan. In the following paragraphs we respond to those requirements of Rule 608 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), that apply to the New Plan.

1. Purposed of the New Plan

A. The Current Options Linkage

The New Plan would replace the current Plan for the Purpose of Creating and Operating an Intermarket Option Linkage ("Linkage Plan"). That plan requires its participant exchanges to operate a stand-alone system or "Linkage" for sending order-flow between exchanges to limit trade-throughs. The Options Clearing Corporation ("OCC") operates the Linkage system ("System"). The Linkage rules provide for unique types Linkage orders, with a complicated set of requirements as to who may send such orders and under what conditions. For example, there are restrictions on when market makers may send orders for their own account ("Principal Orders")¹ and there are intricate rules on the size of orders market makers may send on behalf of customers ("Principal Acting as Agent Orders" or "P/A Orders").² Before a market maker can trade through another exchange's quote, it first must send a Linkage order and then wait three seconds for a response.³

While the Linkage largely has operated satisfactorily, it is under significant strain. When the Commission approved the Linkage Plan in 2000, average daily volume ("ADV") in the options market was approximately 2.6 million contracts across all exchanges. Now the ADV has increased four-fold to more than 10 million contracts, putting added strain on the ability of market makers to comply with the complex Linkage rules. At the same time, the options markets have been moving towards quoting in pennies, and are now quoting in

¹ Section 8(b)(iii) of the Linkage Plan, the so-called "80-20 Rule."

² Section 7(a)(ii)(B) of the Linkage Plan.

³ Section 8 (c) (iii)(B) of the Linkage Plan

pennies options representing a significant amount of the total industry volume. This greatly increases the number of price changes in an option, giving rise to greater chances of trade-throughs and missing markets as market makers send Linkage orders and have to wait three seconds for a response.

B. Regulation NMS in the Equities Market

Experience in the equities markets shows that there is a more efficient way to provide price protection in options. When first implemented, the Linkage represented a vast improvement over the then-current equities price-protection system, which depended on the operation of the Intermarket Trading System ("ITS"). The plan governing ITS imposed long waiting times for filling ITS commitments and a cumbersome method for satisfying trade-throughs. Learning from the shortcomings of ITS, the options Linkage has shorter waiting periods and more efficient trade-through protections.

The equity price-protection mechanisms have now leapfrogged the options Linkage. By adopting Regulation NMS in 2005 the Commission effectively terminated ITS, replacing it with a rules-based price protection system.⁴ The key to Regulation NMS's price-protection provisions is the Intermarket Sweep Order, or ISO. Each equity exchange must adopt rules "reasonably designed to prevent trade-throughs."⁵ Exempted from trade-through liability is an ISO, which is an order a member sends to an exchange displaying a price inferior to the national best bid and offer ("NBBO"), while simultaneously sending orders to trade against the full size of any other exchange that is displaying the NBBO.⁶

The Regulation NMS rules-based price-protection system requires neither a central linkage mechanism nor a complex set of operating rules. It also has eliminated the need for achieving unanimity to change even the most minor aspects of a linkage mechanism. A simple prohibition against most trade-throughs, coupled with the ISO mechanism, has given the equities markets a straight-forward system to provide customers with price protection in a fast-moving market that is quoted in pennies.

C. The Proposed New Plan

1. Price Protection

The New Plan essentially would apply the Regulation NMS price-protection provisions to the options markets. Similar to Regulation NMS, the New Plan would require participants to adopt rules "reasonably designed to prevent Trade-Throughs," while exempting ISOs from that prohibition.⁷ The definition of an ISO is essentially the same as under Regulation NMS.⁸ The remaining exceptions to the trade-through prohibition either

⁴ Release No. 34-51808 (June 9, 2005), 70 F.R. 37496 (June 29, 2005).

⁵ Regulation NMS Rule 611(a).

⁶ Regulation NMS Rule 600(b)(30).

⁷ Sections 5(a)(i) and 5(b)(iv) of the New Plan.

⁸ Section 2(10) of the New Plan.

track those under Regulation NMS,⁹ correspond to unique aspects of the options market,¹⁰ or both.¹¹ Like Regulation NMS, the New Plan requires participating exchanges to take reasonable steps to establish that ISOs meet the requirements of the Plan.¹²

2. Locked and Crossed Markets

The Plan also addresses locked and crossed markets.¹³ Similar to Regulation NMS, the Plan requires its participants to adopt, maintain and enforce rules requiring members: to reasonably avoid displaying locked and crossed markets; to reconcile such markets; and to prohibit members from engaging in a pattern or practice of displaying locked and crossed markets. These provisions would be subject to exceptions that may be contained in the rules of a participant and that are approved by the Commission. Phlx intends to work with the other participants to develop, and to submit to the Commission for approval, rules that permit locked markets in appropriate circumstances.

3. Methods to Comply With the Plan's Requirements

Participants can comply with the provisions of the New Plan either through their own order routing arrangements (as under Regulation NMS) or by using the central system operated by OCC (as under the Linkage Plan). This flexibility recognizes that some participants may prefer to send orders directly to others directly to the other markets, or have their members establish individual order-routing arrangements. On the other hand, some exchanges note that they have made investments in OCC's System, and they could leverage those investments by adapting the System to satisfy the requirements of the Plan. The New Plan would accommodate all of these alternatives.

We recognize that use of the System to comply with the New Plan will require all participants to be connected to the System to receive orders. Thus, the New Plan specifies that all exchanges will retain such connectivity. However, the New Plan provides that only those participants using the System to send orders will share in paying the costs of developing and operating the System. This is fair since participants connecting to the System only to receive orders will have to incur their own costs of sending orders outside the System, and are retaining connectivity only to accommodate the exchanges who send orders through the System. However, all participants will need to assume any internal costs they may incur to retain System connectivity.

A new or existing participant could decide to use the System to send orders at any time. As a condition to using the system, that participant would need to pay a fee based on: (i) the recent costs in developing expanding and maintaining the System; (ii) previous System fees; and (iii) any costs that participant may have paid in the past if it previously used

⁹ Sections 5(b)(iii), (vi), (ix) and (xii).

¹⁰ Sections 5(b)(ii), (vii), (viii), (x) and (xi).

¹¹ Section 5(b)(i).

¹² Regulation NMS Rule 611(c) and Section 5(c) of the New Plan.

¹³ Section 6 of the New Plan.

the System to send orders.¹⁴ With respect to the last of these criteria, the intent is that the participant would not have to pay “twice,” and any fee would deduct costs that participant already had paid when it had used the System. A participant also could withdraw from using the System to send orders at any time and upon such withdrawal no longer would be obligated to share in the System costs.

Because the Plan envisions retention of the System, there is a provision for a “Supervisory Committee” to oversee development of the System, to monitor its operation and to advise New Plan participants on possible changes to the System. Because all exchanges will retain connectivity to the System and will need to accommodate any changes to the System, all participants will have a representative on this committee. Any action by the Supervisory Committee will be by majority vote.¹⁵

The New Plan also contains a “non-discrimination” provision regarding the treatment of orders. It provides that participants will treat all orders received through the System in the same manner as orders received through other means. This covers order priority, trade allocation and fees.¹⁶

D. Withdrawal From the Current Linkage Plan and Implementation

Phlx intends to withdraw from the current Linkage Plan, such withdrawal to be effective upon implementation of the New Plan. We realize that not all of the other exchanges may join the New Plan, and thus it may be necessary for both plans to operate simultaneously. This issue was addressed in Amendment No. 1 submitted on December 10, 2007 by the International Securities Exchange and NYSE Arca Inc., and is further discussed below.

The Linkage Plan states that a participant in that plan may withdraw from that plan, provided that the withdrawing exchange specifies how that exchange “plans to accomplish, by alternate means, the goals of the [Linkage Plan] regarding limiting Trade-Throughs of prices on other exchanges trading the same options classes.”¹⁷ We plan to accomplish this both by ensuring that exchanges not participating in the New Plan can reach us to protect our orders, and that we can reach non-participating exchanges to protect their orders.

With respect to other exchanges reaching us, the terms of the New Plan require that all exchangers retain connectivity to the “hub” operated by The Options Clearing Corporation under the Linkage Plan in order to receive orders.¹⁸ Thus, we will be able to receive any orders such exchanges send to us prior to such exchanges trading through our

¹⁴ Section 7(e)(i) of the New Plan.

¹⁵ As with the Linkage Plan, amendments to the New Plan – other than with respect to adding a new participant or withdrawal of a participant – require a unanimous vote. Amendments regarding participation in the Plan can be effected unilaterally by a exchange joining or leaving the New Plan, subject to specific New Plan provisions. See Section 4(a) of the New Plan.

¹⁶ Section 7(b) of the New Plan.

¹⁷ Section 5(c)(iii) of the Linkage Plan.

¹⁸ Section 7(b) of the New Plan.

quotations. In this regard, we will not propose to repeal the rules currently on our books specifying our obligation to execute incoming orders under the Linkage Plan until all exchanges have withdrawn from the Linkage Plan and become Participants in the New Plan.

With respect to us reaching other exchanges, the New Plan is “rules-based,” and not “system-based,” and thus does not require any specific infrastructure to comply with the New Plan’s terms. As such, our members will be able to protect away-market quotations by sending orders to non-participating exchanges through existing, non-linkage, portals. However, we recognize that a key to the operation of the price protection provision of the New Plan is the use of Intermarket Sweep Orders, or ISO’s. Specifically, our members will be able to trade at a price inferior to another market’s disseminated quotation as long as an ISO is sent to such market for the full size of quotation. Unless that market recognizes the incoming order as an ISO, it is theoretically possible that an execution could cause a trade-through and the market would not fill the order.¹⁹

To address this theoretical possibility and to ensure that all orders are properly protected, we will not implement the New Plan until all options exchanges either become Participants to the New Plan or develop the ability to recognize incoming ISO’s. Having all exchanges either participate in the New Plan or read incoming orders as ISO’s will ensure their ability to protect their disseminated quotations against inferior executions on other exchanges. The New Plan also provides the ability of Commission to waive this requirement, based on factors that may arise subsequent to the adoption of the New Plan, as amended.

2. Governing or Constitutional Documents

Not applicable.

3. Implementation of Plan

The New Plan will become effective upon Commission approval and the completion of development efforts, currently scheduled for January, 2009.

4. Development and Implementation Phases

The New Plan will take significant development work to implement. We currently anticipate implementing the New Plan during the First Quarter 2009, subject to Commission approval and completing the development work.

¹⁹ We believe that this is problem would arise only in very limited situations. Most often the market with the better quote would be at the national best bid or offer (“NBBO”) and would automatically trade at its disseminated price. However, it is possible that there could be two markets at different prices better than our quotation, and ISOs would need to be sent to both markets. While the market at the NBBO would execute the incoming order, the market with a quote superior to us but inferior to the NBBO might reject the order if the market could not read the ISO “tag.”

5. Analysis of Impact on Competition

The New Plan will impose no burden on competition.

6. Written Understanding or Agreements relating to Interpretation of, or Participation in, Plan

Not applicable.

7. Approval by Sponsors in Accordance with Plan

Not applicable

8. Description of Operation of Facility Contemplated by the Plan

As discussed, the New Plan does not require participation in any central facility. However, Section 7 of the New Plan provides that participant may use the System operated by OCC to comply with the New Plan's provisions. In addition, all participants to this New Plan must maintain connectivity to the System to receive incoming orders. We anticipate that this System will operate substantially in the same manner as the OCC System currently operates pursuant to the Linkage Plan.

9. Terms and Conditions of Access

Any national securities exchange that is a member of OCC and a party to the Options Price Reporting Authority may become a participant in the New Plan by executing a copy of the New Plan, providing each current participant in the New Plan a copy of such executed New Plan, and effecting an amendment to the New Plan to reflect its participation.

10. Method of Determination and Imposition, and Amount of, Fees and Charges

Not applicable

11. Method of Frequency of Processor Evaluation

Not applicable

12. Dispute Resolution

Not applicable

If you have any questions regarding this proposed New Plan, please contact me at (215) 496-5074.

Sincerely,



Richard S. Rudolph
Vice President and Counsel

Attachment

cc: Elizabeth King
David Liu
Jennifer Colihan

OPTIONS ORDER PROTECTION AND LOCKED/CROSSED MARKET PLAN

Section 1 – Preamble

The Participants submit to the SEC this Plan providing a framework for order protection and addressing Locked and Crossed Markets in Eligible Options Classes. The purpose of the Plan is to enable the Participants to act jointly in establishing a framework for providing order protection and addressing Locked and Crossed Markets in Eligible Options Classes. In addition, the Plan provides for an non-exclusive method for achieving order protection and addressing Locked and Crossed Markets. The Participants will submit to the SEC for approval their respective rules that will implement the framework of the Plan. The Participants request that the SEC issue an order pursuant to Section 11A(a)(3)(B) of the Exchange Act and Rule 608 thereunder evidencing its approval of the Plan.

Section 2 – Definitions

1. “Best Bid” and “Best Offer” mean the highest priced Bid and the lowest priced Offer.
2. “Bid” or “Offer” means the bid price or the offer price communicated by a member of a Participant to any Broker/Dealer, or to any customer, at which it is willing to buy or sell, as either principal or agent, but shall not include indications of interest.
3. “Broker/Dealer” means an individual or organization registered with the SEC in accordance with Section 15(b)(1) of the Exchange Act or a foreign broker or dealer exempt from such registration pursuant to Rule 15a-6 under the Exchange Act.
4. “Crossed Market” means a quoted market in which a Protected Bid is higher than a Protected Offer in a series of an Eligible Class.
5. “Customer” means an individual or organization that is not a Broker/Dealer.
6. “Eligible Exchange” means a national securities exchange registered with the SEC in accordance with Section 6(a) of the Exchange Act that is: (a) a Participant Exchange in OCC (as that term is defined in Section VII of the OCC by-laws); and (b) a party to the OPRA Plan (as that term is described in Section I of the OPRA Plan).
7. “Eligible Options Class” means all option series overlying a security (as that term is defined in Section 3(a)(10) of the Exchange Act) or group of securities, including both put options and call options, which class is available for trading on two or more Participants.
8. “Exchange Act” means the Securities Exchange Act of 1934, as amended.
9. “Immediate or Cancel (IOC) Order” means a limited price order that is to be executed in whole or in part as soon as such order is received, and the portion not executed, if any, is immediately canceled.

10. "Intermarket Sweep Order" means an IOC Order for an options series that meets the following requirements:
- (a) When routed to a Participant, the IOC order is identified as an Intermarket Sweep Order;
 - (b) Simultaneously with the routing of the order, one or more additional IOC Orders, as necessary, are routed to execute against the full displayed size of any Protected Bid, in the case of a limit order to sell, or any Protected Offer, in the case of a limit order to buy, for the options series with a price that is superior to the limit price of the IOC Order, with such additional orders also marked as Intermarket Sweep Orders.
11. "Locked Market" means a quoted market in which a Protected Bid is equal to a Protected Offer in a series of an Eligible Options Class.
12. "Non-Firm" means, with respect to Quotations in an Eligible Options Class, that members of a Participant are relieved of their obligations under that Participant's firm quote rule in that Eligible Options Class.
13. "OCC" means The Options Clearing Corporation.
14. "OPRA" means the Options Price Reporting Authority.
15. "OPRA Plan" means the plan filed with the SEC pursuant to Section 11Aa(1) (C)(iii) of the Exchange Act, approved by the SEC and declared effective as of January 22, 1976, as from time to time amended.
16. "Participant" means an Eligible Exchange whose participation in the Plan has become effective pursuant to Section 3(c) of the Plan.

17. "Plan" means the plan amended and restated in this instrument as from time to time amended in accordance with its provisions.
18. "Protected Bid" or "Protected Offer" means a Bid or Offer in an options series, respectively, that:
- (a) Is displayed by a Participant;
 - (b) Is disseminated pursuant to the OPRA Plan; and
 - (c) Is the Best Bid or Best Offer, respectively, of a Participant.
19. "Protected Quotation" means a Protected Bid or Protected Offer.
20. "Quotation" means a Bid or Offer.
21. "SEC" means the United States Securities and Exchange Commission.
22. "System" means the data processing hardware, software and communications network, operated by the OCC, linking the Participants.
23. "Trade-Through" means a transaction in an options series, either as principal or agent, at a price that is lower than a Protected Bid or higher than a Protected Offer.

Section 3 – Parties to the Plan

(a) List of Parties

The parties to the Plan are as follows:

American Stock Exchange LLC (“AMEX”), registered as a national securities exchange under the Exchange Act and having its principal place of business at 86 Trinity Place, New York, New York 10006.

Boston Stock Exchange, Inc. (“BSE”), registered as a national securities exchange under the Exchange Act and having its principal place of business at 100 Franklin Street, Boston, Massachusetts 02110.

Chicago Board Options Exchange, Incorporated (“CBOE”), registered as a national securities exchange under the Exchange Act and having its principal place of business at 400 South LaSalle Street, Chicago, Illinois 60605.

International Securities Exchange, LLC (ISE”), registered as a national securities exchange under the Exchange Act and having its principal place of business at 60 Broad Street, New York, New York 10004.

The NASDAQ Stock Market, LLC, registered as a national securities exchange under the Exchange Act, having its principal place of business at One Liberty Plaza, 50th Floor, New York, New York 10006.

NYSE Arca, Inc. (“NYSE Arca”), registered as a national securities exchange under the Exchange Act and having its principal place of business at 100 South Wacker Drive, Suite 1800, Chicago, IL 60606.

Philadelphia Stock Exchange, Inc. (“PHLX”), registered as a national securities exchange under the Exchange Act and having its principal place of business at 1900 Market Street, Philadelphia, Pennsylvania 19103.

(b) Compliance Undertaking

By subscribing to and submitting the Plan for filing with the SEC, each Participant agrees to enforce compliance by its members with the provisions of the Plan.

(c) Entry of New Participants

The Participants agree that any other Eligible Exchange may become a Participant by:

- (i) executing a copy of the Plan, as then in effect; (ii) providing each then-current

Participant with a copy of such executed Plan; and (iii) effecting an amendment to the Plan as specified in Section 4(b) of the Plan.

(d) Withdrawal from the Plan

Any Participant may withdraw from the Plan at any time by: (i) providing not less than 30 days' prior written notice to each of the other Participants and to OCC of such intent to withdraw; and (ii) effecting an amendment to the Plan as specified in Section 4(c) of the Plan. Upon the effectiveness of such withdrawal of the withdrawing Participant shall have no further rights or obligations whatsoever under the Plan.

Section 4 – Amendments to the Plan

(a) General Amendment Authority

Except with respect to:

- (i) the addition of new Participants to the Plan; and
- (i) the withdrawal of a Plan Participant,

any proposed change in, addition to, or deletion from the Plan may be effected only by means of a written amendment to the Plan that is unanimously approved by the Participants and that: (A) sets forth the change, addition or deletion; (B) is executed on behalf of each Participant; and (C) is approved by the SEC or otherwise becomes effective pursuant to Section 11A of the Exchange Act and Rule 608 thereunder.

(b) New Participants

With respect to new Participants, an amendment to the plan may be effected by a new Eligible Exchange executing a copy of the Plan, as then in effect (with the only change being the addition of the new Participant's name in Section 3(a) of the Plan), and submitting such executed Plan to the SEC. Such amendment will be effective when the amendment is approved by the SEC or otherwise becomes effective pursuant to Section 11A of the Exchange Act and Rule 608 thereunder.

(c) Withdrawal from the Plan

A Participant seeking to withdraw from the Plan shall effect an amendment to the Plan as then in effect (with the only change being the deletion of the Participant's name in Section 3(a) of the Plan) by submitting such amended Plan to the SEC for approval. In submitting such amended Plan to the SEC, the Participant proposing to withdraw from

the Plan shall state how the Participant plans to accomplish, by alternate means, the goal of the Plan regarding limiting Trade-Throughs of prices on other exchanges trading the same options classes. Such withdrawal from the Plan shall be effective when the amendment is approved by the SEC or otherwise becomes effective pursuant to Section 11A of the Exchange Act and Rule 608 thereunder.

Section 5 – Order Protection

(a) Order Protection

(i) Prevention of Trade-Throughs. Each Participant agrees that it shall establish, maintain and enforce written policies and procedures approved by the SEC that are reasonably designed to prevent Trade-Throughs in that Participant's market in Eligible Options Classes that do not fall within an exception set forth in paragraph (b) below, and if relying on such exception, that are reasonably designed to assure compliance with the terms of the exception.

(ii) Surveillance. Each Participant agrees to conduct surveillance of its market on a regular basis to ascertain the effectiveness of the policies and procedures required by paragraph (a)(1) of this section, and to take prompt action to remedy deficiencies in such policies and procedures

(b) Exceptions

(i) The transaction that constituted the Trade-Through was effected when the Participant displaying the Protected Quotation that was traded through was experiencing a failure, material delay, or malfunction in its systems or equipment;

(ii) The transaction traded through a Protected Quotation being disseminated by a Participant during a trading rotation;

(iii) The transaction that constituted the Trade-Through occurred when there was a Crossed Market;

(iv) The transaction that constituted the Trade-Through was the execution of an order identified as an Intermarket Sweep Order.

- (v) The transaction that constituted the Trade-Through was effected by a Participant that simultaneously routed an Intermarket Sweep Order to execute against the full displayed size of any Protected Quotation that was traded through;
- (vi) The Participant displaying the Protection Quotation that was traded through had displayed within one second prior to execution of the Trade-Through, a Best bid or Best offer, as applicable, for the options series with a price that was equal or inferior to the price of Trade-Through transaction;
- (vii) The Protected Quotation traded through was being disseminated from a Participant whose Quotations were Non-Firm with respect to such option series;
- (viii) The transaction that constituted the Trade-Through was effected as a portion of a “complex trade”, as defined in the rules of a Participant;
- (xi) The transaction that constituted the Trade-Through was the execution by a Participant of an order for which, at the time of receipt of the order, a member of the Participant had guaranteed an execution at no worse than a specified price (a “stopped order”), where:
- (A) the stopped order was for the account of a Customer;
 - (B) the Customer agreed to the specified price on an order-by-order basis;
 - and
 - (C) the price of the Trade-Through was, for a stopped buy order, lower than the national Best Bid in the options series at the time of execution, or, for a stopped sell order, higher than the national Best Offer in the options series at the time of execution;
- (x) The transaction that constituted the Trade-Through was reported to OPRA as being out of sequence;
- (xi) The transaction that constituted the Trade-Through was the execution by a Participant of an order which was stopped at a price that did not Trade-Through another participant at the time of the stop;

(xii) The transaction that constituted the Trade-Through was the execution of an order at a price that was not based, directly or indirectly, on the quoted price of the options series at the time of execution and for which the material terms were not reasonably determinable at the time the commitment to execute the order was made.

(c) ~~cc~~. Intermarket Sweep Orders. Participants shall take reasonable steps to establish that Intermarket Sweep Orders meet the requirements of Section 2(10) of the Plan.

Section 6 – Locked and Crossed Markets

The Participants agree that they shall establish, maintain and enforce written rules that:

- (a) Require their members reasonably to avoid displaying Locked and Crossed Markets;
- (b) Are reasonably designed to assure the reconciliation of Locked and Crossed Markets;
- (c) Prohibit its members from engaging in a pattern or practice of displaying Locked and Crossed Markets; in all cases subject to such exceptions as may be contained in the rules of a Participant approved by the Commission.

Section 7 – Compliance With the Plan

(a) Use of the System of Private Routing to Comply With the Plan

A Participant may comply with the Plan either by establishing its own private routing arrangements or through use of the System. Participants who chose to use the System may do so solely to send Intermarket Sweep Orders or other IOC orders. Any incoming order, whether sent through the System or through private routing arrangements:

- (i) with respect to the sending Participant, must reflect the account capacity (such as customer, firm, market maker or other capacity that a Participant may use) of the order on whose behalf the order is being sent; and

(ii) with respect to the receiving Participant, must be subject to the same fees that the Participant charges for orders the Participant's members enter for the same account capacity.

(b) Use of the System for Receipt of Orders

Each Participant shall maintain connectivity to the System for the receipt of incoming orders. Any order received by a Participant through the System shall be handled in the same manner as an order received by a Participant through the System shall be handled in the same manner as an order received by a Participant other than through the System respecting (i) priority; (ii) trade allocation; and (iii) fees.

(c) Supervisory Committee

(i) Establishment of the Committee. Each Participant shall select from its staff one individual to represent such Participant as a member of a Supervisory Committee. Action taken pursuant to the vote of a majority of the members of the Supervisory Committee present at a meeting of the committee at which a majority of the full committee is present shall be deemed to be the action of the Supervisory Committee.

(ii) Authority. The Supervisory Committee shall not be a policy-making or rule-making body, but shall, either directly or by delegating its functions to individuals, subcommittees established by it from time to time or others: (A) oversee development of the System in accordance with the specifications agreed upon by the Participants using the System; (B) monitor the operation of the System; (C) advise the Participants using the System with respect to any deficiencies, problems or recommendations as the Supervisory Committee may deem appropriate. In this

connection, the Supervisory Committee shall have authority to develop procedures and make administrative decisions necessary to facilitate the operation of the System.

(iii) **Participants' Rights.** No action or inaction by the Supervisory Committee shall prejudice the right of any Participant using the System to present its views to the SEC or any other person with respect to any matter relating to the System or to seek to enforce its views in any other forum it deems appropriate.

(d) Costs Related to System Functionality

The Participants using the System to send orders shall share equally in the costs of developing and operating the System. However, each Participant using the System shall assume sole responsibility and costs for any modification to its proprietary exchange systems necessary to achieve the efficient operation of the System.

(e) Participants Seeking to Use System Functionally

(i) Use of the System to Send Orders by Additional Participants. A Participant to this Plan that is not using the System to send orders to comply with the Plan's provisions may begin such use by providing reasonable notice to the Participants and by paying a System usage fee established by the Participants using the System to send orders. In determining the amount of the System usage fee, the Participants using the System to send orders shall consider, as applicable:

(A) the portion of costs previously paid by the a Participants for the development, expansion and maintenance of System which, under generally accepted accounting principles, could have been treated as capital expenditures and, if so treated, would have been amortized over the five years preceding the

admission of the Participant (and for this purpose all such capital expenditures shall be deemed to have a five-year amortizable life);

(B) previous System usage fees paid by other Participants; and

(C) if the Participant previously used the System to send orders, any System costs that Participant may previously have paid, with the intent that the Participant pay a fee representing only the development, expansion and maintenance of the System since the Participant ceased using the System to send orders.

(ii) Interim Access to Potential Participants. A national securities exchange or associated registered with the SEC in accordance with Section 6(a) of the Exchange Act, as well as an entity seeking such registration (either being an “applicant”), may apply to the Supervisory Committee, in writing, for limited access to the System when the SEC has published for comment the applicant’s proposed rules governing the trading of standardized options. Any such application must affirmatively state that the applicant is actively pursuing the establishment of a market for the trading of standardized options. If the applicant plans to use the System to send orders to comply with the provisions of this plan, then the application also must include a deposit, in an amount established by the Supervisory Committee, towards the then-current System usage fee if the applicant ultimately begins to use the System to send order, or otherwise shall be refunded. Upon making such application, and, documentation, testing, and other services as the Supervisory Committee may consider reasonably necessary for the application to prepare to use the System. Such interim access shall be for a period

of not greater than one year, unless the Supervisory Committee agrees to extend such access, which agreement shall not be unreasonably withheld.

(f) Ceasing Use of the System

A Participant may cease use the System to send orders at any time by providing not less than 30 days' prior written notice to each of the other Participants and to OCC of such intent to withdraw. In this case, the Participant ceasing to use the System to send orders shall remain liable for, and shall pay upon demand, its portion of accrued costs. Upon ceasing to use the System to send orders, except as to liability for any payment for accrued costs, such Participant shall have no further rights or obligations with respect to the System other than to retain connectivity to receive orders. If such Participant seeks to use the System again to send orders, it must follow the procedures specified in paragraph 7(e) above.

Section 8 – Implementation

The parties shall implement this Plan on a date upon which all parties agree, but no later than January 31, 2009; provided that, unless the SEC otherwise authorizes, the Parties shall not implement this Plan unless all Eligible Exchanges either (1) have become parties to this Plan or (2) have developed the ability to recognize incoming Intermarket Sweep Orders.

Section 9 – Counterparts and Signatures

The Plan may be executed in any number of counterparts, no one of which need contain all signatures of all Participants, and as many of such counterparts as shall together contain all such signatures shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Plan has been executed as of the ___ day of 2008 by each of the parties hereto.

AMERICAN STOCK EXCHANGE, LLC

By: _____

Date: _____

BOSTON STOCK EXCHANGE, INC.

By: _____

Date: _____

CHICAGO BOARD OPTIONS EXCHANGE INCORPORATED

By: _____

Date: _____

INTERNATIONAL SECURITIES EXCHANGE, LLC

By: _____

Date: _____

NASDAQ Stock Market LLC

By: _____

Date: _____

NYSE ARCA, INC.

By: _____

Date: _____

PHILADELPHIA STOCK EXCHANGE, INC.

By: _____

Date: _____