

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-82235; File No. 4-443)

December 7, 2017

Joint Industry Plan; Order Approving the Fourth Amendment to the Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options

I. Introduction

On August 16, 2017, Chicago Board Options Exchange, Incorporated (now known as Cboe Exchange, Inc.), on behalf of the BATS Exchange, Inc. (now known as Cboe BZX Exchange, Inc.); Box Options Exchange, LLC; C2 Exchange, Incorporated (now known as Cboe C2 Exchange, Inc.); EDGX Exchange, Inc. (now known as Cboe EDGX Exchange, Inc.); Miami International Securities Exchange, LLC; MIAX PEARL, LLC; Nasdaq BX, Inc.; Nasdaq GEMX, LLC; Nasdaq ISE, LLC; Nasdaq MRX, LLC; Nasdaq Options Market, LLC; Nasdaq PHLX, LLC; NYSE American, LLC; NYSE Arca, Inc.; and the Options Clearing Corporation (“OCC”) (together, the “Plan Sponsors”), filed with the Securities and Exchange Commission (“Commission” or “SEC”) pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 608 thereunder,² a proposal to amend the Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options (“OLPP” or “Plan”).³ The proposed amendment (“Amendment” or “Amendment No. 4”) was published for comment in the Federal Register on October 24, 2017.⁴ No comment

¹ 15 U.S.C. 78k-1(a)(3).

² 17 CFR 242.608.

³ The full text of the OLPP is available at: https://www.theocc.com/components/docs/clearing/services/options_listing_procedures_plan.pdf. See also Securities Exchange Act Release No. 44521, 66 FR 36809 (July 13, 2001) (order approving the OLPP).

⁴ Securities Exchange Act Release No. 81893 (October 18, 2017), 82 FR 49249 (“Notice”).

letters were received in response to the Notice. This order approves proposed Amendment No. 4 to the Plan.

II. Description of the Amendment

The Plan Sponsors propose to amend the Plan to: (1) change the earliest date on which new January Long-term Equity Anticipation (“LEAP”) series on equity options, options on Exchange Traded Funds (“ETF”), or options on Trust Issued Receipts (“TIR”) may be added to a single date (from three separate months); (2) allow equity, ETF, and TIR option series to be added based on trading after regular trading hours; (3) make technical and procedural changes to the certification processes for new option classes and communication provisions; and (4) correct a cross-referencing error in the Plan.⁵

III. Discussion and Commission Findings

The Commission finds that the Amendment is consistent with the requirements of the Act and the rules and regulations thereunder. Specifically, the Commission finds that the Amendment is consistent with Section 11A(a)(1) of the Act⁶ and Rule 608 thereunder⁷ in that it is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, and that it removes impediments to, and perfects the mechanisms of, a national market system.

The Plan Sponsors propose to consolidate the addition of new January LEAP options series so that they all may be added in September. Because the addition of new January LEAP options historically has been a manual process, to avoid potential operational issues, the Plan currently requires that the addition of these LEAP options series take place over three calendar

⁵ See Notice, *supra* note 4, for a more detailed description of the proposed changes.

⁶ 15 U.S.C. 78k-1(a)(1).

⁷ 17 CFR 240.608.

months (September, October, and November). The Plan Sponsors state that today, however, new January LEAP options now can be added in bulk electronically and, therefore, the operational concerns relating to the historic manual process have been alleviated. Thus, the Plan Sponsors propose to consolidate the addition of new January LEAP options series so that they all may be added in September.⁸ The Plan Sponsors believe that this change would simplify the process for adding new January LEAP options series because all new January LEAP options would be made available beginning at the same time. The Commission believes that it is appropriate in the public interest, for the protection of investors, and the maintenance of a fair and orderly market to approve this change to the timing of when January LEAP options series may be added because it should simplify and help clarify the process by which new January LEAP options may be added.

The Plan Sponsors also propose to amend the Plan to add options series based on trading of the underlying securities after regular trading hours (“post-market”), based on the most recent share price reported by all national securities exchanges between 3:15 p.m. and 5:00 p.m. CT. This change would allow an options exchange to add a new options series in response to post-market trading activity the same day as when the post-market trading occurred, with the series available for trading on the opening of the regular trading session (*i.e.*, 8:30 a.m. CT) of the options markets the following trading day. The Commission believes that it is appropriate in the public interest, for the protection of investors, and the maintenance of a fair and orderly market to approve this proposed change because allowing options series to be added based on post-market trading should provide market participants with earlier notice regarding what options

⁸ Specifically, the Plan would be revised to move the addition of the new January LEAP options to a specific date no earlier than the Monday before the September expiration. See Notice, *supra* note 4, at 49249.

series will be available for trading the following day, and should help to enhance investors' ability to plan their options trading.

In addition, the Amendment proposes to streamline the processes by which the options exchanges seek to trade a new option class. Currently, the OLPP requires an options exchange to submit a certificate containing certain specified information to the OCC ("Certificate") when it seeks to trade an option class that is not currently trading on another registered options exchange or that has not been previously certified for listing and trading on any registered options exchange. Because sometimes more than one options exchange will submit a Certificate to the OCC seeking to list and trade the same selected option class, the OLPP requires the OCC to determine which Certificate was submitted first among all the Certificates it received,⁹ and then to notify the applicable options exchanges of certain information regarding the option.¹⁰ The Amendment would require that, after the OCC receives and processes a Certificate from an options exchange, the OCC would make publicly available on its website the underlying security name, options symbol, and all options exchanges eligible to trade such option class, instead of requiring the OCC to send a customized email to each options exchange. In addition, the OCC would notify all options exchanges that the list of option classes covered by such Certificate is available on the OCC website. The Plan Sponsors believe that these changes would eliminate

⁹ Specifically, the Plan currently requires the OCC to determine the options symbol, initial exercise prices, expiration cycle, and position and exercise limits for the selected option class as provided in the Certificate that the OCC determined was first submitted. Under the proposed amendment, the OCC would remove the reference to "options symbol" from this list as it is no longer necessary because, with the implementation of the Options Symbology Initiative in 2010, all options now generally have the same symbol as the underlying security and, as a result, conflicting options symbol submissions is no longer an issue. See Notice, supra note 4, at 49250.

¹⁰ The required information includes the options symbol, initial exercise prices, expiration cycle, and position and exercise limits for the selected option class, as well as the identity of each options exchange that has also submitted a Certificate to list and trade the selected option class. See Notice, supra note 4, at 49250-51.

administrative burdens for the OCC and streamline the notification process, while ensuring that all of the information currently required to be available to options exchanges would continue to be available to them. Therefore, for the reasons stated, the Commission believes that it is appropriate in the public interest, for the protection of investors, and the maintenance of a fair and orderly market to approve these proposed changes.

In addition, the Amendment would allow Certificates and any associated information and/or documentation to be submitted to the OCC via electronic means that is reasonably agreed upon by the Plan Sponsors, rather than via telefacsimile, as is currently required. The proposed amendment would also allow all other notices required under the terms of the OLPP to be given through “electronic mail or other electronic means reasonably agreed upon by the Plan Sponsors.”¹¹ Because implementing these changes would allow for more efficient processes for certifications and communications among Plan Sponsors, the Commission believes that approving these changes is appropriate in the public interest, for the protection of investors, and the maintenance of a fair and orderly market.

Finally, the Plan Sponsors propose to amend the Plan to make a non-substantive edit to correct an inaccurate cross-reference to “Section 8” in Section 7(ii) of the Plan with “Section 9.” The Commission believes that it is appropriate in the public interest, for the protection of investors and the maintenance of a fair and orderly market to approve this proposed change because it will clarify and correct an inaccuracy in the Plan.

For the reasons discussed above, the Commission finds that Amendment No. 4 is consistent with Section 11A of the Act¹² and Rule 608 thereunder.¹³

¹¹ See Section 5 of the Plan.

¹² 15 U.S.C. 78k-1.

¹³ 17 CFR 242.608.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 11A of the Act,¹⁴ and Rule 608 thereunder,¹⁵ that Amendment No. 4 to the OLPP (File No. 4-443) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Eduardo Aleman
Assistant Secretary

¹⁴ 15 U.S.C. 78k-1.

¹⁵ 17 CFR 242.608.

¹⁶ 17 CFR 200.30-3(a)(29).