

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-52167; File No. 4-429)

July 29, 2005

Joint Industry Plan; Notice of Filing of Amendment No. 15 to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage Relating to a “Trade and Ship” Exception to the Definition of “Trade-Through” and a “Book and Ship” Exception to the Locked Markets Provision

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 13, 2005, April 22, 2005, April 26, 2005, April 27, 2005, May 5, 2005, and June 2, 2005, the International Securities Exchange (“ISE”), the American Stock Exchange LLC (“Amex”), the Chicago Board Options Exchange, Incorporated (“CBOE”), the Pacific Exchange, Inc. (“PCX”), the Boston Stock Exchange, Inc. (“BSE”), and the Philadelphia Stock Exchange, Inc. (“Phlx”) (collectively, “Participants”), respectively, filed with the Securities and Exchange Commission (“Commission”) an amendment (“Joint Amendment No. 15”) to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage (“Linkage Plan”).³ In Joint

¹ 15 U.S.C. 78k-1.

² 17CFR 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, upon separate requests by Phlx, PCX, and BSE, the Commission issued orders to permit these exchanges to participate in 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). On June 27, 2001, May 30, 2002, January 29, 2003, June 18, 2003, January 29, 2004, June 15, 2004, June 17, 2004, July 2, 2004, October 19, 2004, and May 19, 2005, the Commission approved joint amendments to the Linkage Plan. See Securities Exchange Act Release Nos. 44482 (June 27, 2001), 66 FR 35470 (July 5, 2001); 46001 (May 30, 2002), 67 FR 38687 (June 5, 2002); 47274 (January 29, 2003), 68 FR 5313 (February 3, 2003); 48055 (June 18, 2003), 68 FR 37869 (June 25, 2003);

Amendment No. 15, the Participants propose to add a “trade and ship” exception to the definition of “Trade-Through”⁴ and a “book and ship” exception to the locked markets provision of the Linkage Plan.⁵ The Commission is publishing this notice to solicit comments from interested persons on proposed Joint Amendment No. 15.

I. Description and Purpose of the Proposed Amendment

The purpose of Joint Amendment No. 15 is to provide that (i) a Participant may trade an order at a price that is one minimum quoting increment inferior to the national best bid or offer (“NBBO”) if a Linkage Order⁶ is transmitted contemporaneously to the NBBO market(s) to satisfy all interest at the NBBO price (this is the “trade and ship” concept); and (ii) a Participant may book an order that would lock another Participant if a Linkage Order is sent contemporaneously to such other Participant to satisfy all interest at the lock price (this is the “book and ship” concept). Under the trade and ship proposal, any execution received from the NBBO market must (pursuant to agency obligations) be reassigned to the customer order underlying the Linkage Order that would be transmitted to trade with the NBBO market. The following examples illustrate the applications of these concepts.

Trade and Ship Example. Participant A is disseminating an offer of \$2.00 for 100 contracts. Participant B is disseminating the national best offer of \$1.95 for 10 contracts. No other market is at \$1.95. Participant A receives a 100-contract customer buy order to pay \$2.00.

49146 (January 29, 2004), 69 FR 5618 (February 5, 2004); 49863 (June 15, 2004), 69 FR 35081 (June 23, 2004); 49885 (June 17, 2004), 69 FR 35397 (June 24, 2004); 49969 (July 2, 2004), 69 FR 41863 (July 12, 2004); 50561 (October 19, 2004), 69 FR 62920 (October 28, 2004); and 51721 (May 19, 2005), 70 FR 30498 (May 26, 2005).

⁴ See Section 2(29) of the Linkage Plan.

⁵ Specified in Section 7(a)(i)(C) of the Linkage Plan.

⁶ See Section 2(16) of the Linkage Plan.

Under the trade and ship proposal, Participant A could execute 90 contracts (or 100 contracts) of the customer order at \$2.00, provided that Participant A simultaneously transmits a 10-contract Principal Acting as Agent (“P/A”) Order⁷ to Participant B to pay \$1.95. Assuming an execution was obtained from Participant B, the customer would receive the 10-contract fill at \$1.95 and 90 contracts at \$2.00 (if the customer order was originally filled in its entirety at \$2.00, an adjustment would be required to provide the customer with the \$1.95 price for 10 contracts to reflect the P/A Order execution). As proposed, this would not be deemed a Trade-Through.

Book and Ship Example. Participant A is disseminating a \$1.85 - \$2.00 market. Participant B is disseminating a \$1.80 - \$1.95 market. The \$1.95 offer is for 10 contracts. No other market is at \$1.95. Participant A receives a customer order to buy 100 contracts at \$1.95. Under the book and ship proposal, Participant A could book 90 contracts of the customer buy order at \$1.95, provided that Participant A simultaneously transmitted a 10-contract P/A Order to Participant B to pay \$1.95. Assuming an execution was obtained from Participant B, the customer would receive the 10-contract fill, and the rest of the customer’s order would be displayed as a \$1.95 bid on Participant A. The national best offer would likely be \$2.00. As proposed, this would not be deemed a “locked” market for purposes of the Linkage Plan.

II. Implementation of the Proposed Amendment

The Participants intend to make proposed Joint Amendment No. 15 effective when the Commission approves Joint Amendment No. 15.

⁷ See Section 2(16) 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. 15 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, 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. 15 that are filed with the Commission, and all written communications relating to proposed Joint Amendment No. 15 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 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.⁸

Jill M. Peterson
Assistant Secretary

⁸ 17 CFR 200.30-3(a)(29).