

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-52656; File No. 4-429)

October 24, 2005

Joint Industry Plan; Order Approving Amendment No. 16 to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage Relating to the Definition of Firm Customer Quote Size and Limitations on Sending Secondary P/A Orders

I. Introduction

On April 13, 2005, April 26, 2005, April 26, 2005, April 27, 2005, May 27, 2005 and June 2, 2005, the International Securities Exchange, Inc. (“ISE”), American Stock Exchange LLC (“Amex”), Chicago Board Options Exchange, Incorporated (“CBOE”), Pacific Exchange, Inc. (“PCX”), Boston Stock Exchange, Inc. (“BSE”), and Philadelphia Stock Exchange, Inc. (“Phlx”) (collectively, the “Participants”) respectively submitted to the Securities and Exchange Commission (“Commission”) an amendment (“Joint Amendment No. 16”) to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage (the “Linkage Plan”).¹ The Participants are proposing: (i) to amend the definition of “Firm Customer Quote Size” (“FCQS”)² to provide automatic executions for Principal Acting as Agent Orders (“P/A Orders”)³ sent via the intermarket option linkage (“Linkage”) up to the full size of a Participant’s disseminated quotation; and (ii) to eliminate a 15-second waiting period between the sending of P/A Orders. The proposed amendment to the Linkage Plan was published in the

¹ On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating an intermarket options market linkage proposed by the 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 the 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 70850 (November 28, 2000), 43574 (November 16, 2000), 65 FR 70851 (November 28, 2000) and 49198 (February 5, 2004), 69 FR 7029 (February 12, 2004).

² See Section 2(11) of the Linkage Plan.

³ See Section 2(16)(a) of the Linkage Plan.

Federal Register on September 16, 2005.⁴ No comments were received on the proposed amendment. This order approves the proposed amendment to the Linkage Plan.

II. Description and Purpose of the Proposed Amendment

The purpose of Joint Amendment No. 16 is to modify the Linkage Plan in two respects. First, the definition of FCQS will be amended to reflect that all Participants disseminate dynamic option quotes with size. Specifically, Participants propose to amend the Linkage Plan so that the FCQS will be calculated based on the size of the disseminated quotation of the Participant receiving the P/A Order. Secondly, Joint Amendment No. 16 will eliminate a 15-second waiting period for sending a subsequent P/A Order currently provided for in the Linkage Plan. Finally, Joint Amendment No. 16 will clarify the conditions under which automatic execution is required in response to P/A Orders.

III. Discussion

After careful consideration, the Commission finds that the proposed amendment to the Linkage Plan is consistent with the requirements of the Securities Exchange Act of 1934 (“Act”) and the rules and regulations thereunder. Specifically, the Commission finds that the proposed amendment to the Linkage Plan is consistent with Section 11A of the Act⁵ and Rule 608 under the Act,⁶ in that the proposed amendment to calculate FCQS on the basis of the size of the Participant receiving the P/A Order is appropriate and should facilitate the use of the Linkage for the Participants. This change, coupled with the proposed elimination of the 15-second waiting period for sending a subsequent P/A Order should facilitate investors’ intermarket access to

⁴ See Securities Exchange Act Release No. 52401 (September 9, 2005), 70 FR 54781.

⁵ 15 U.S.C. 78k-1.

⁶ 17 CFR 242.608.

superior prices disseminated by Participants other than the one to which the order was initially sent.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 11A of the Act⁷ and Rule 608 thereunder,⁸ that the proposed Joint Amendment No. 16 is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Jonathan G. Katz
Secretary

⁷ 15 U.S.C. 78k-1.

⁸ 17 CFR 242.608.

⁹ 17 CFR 200.30-3(a)(29).