SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-61226; File No. SR-CTA/CQ-2009-02)

December 22, 2009

Consolidated Tape Association; Order Approving the Thirteenth Charges Amendment to the Second Restatement of the Consolidated Tape Association Plan and Seventh Charges Amendment to the Restated Consolidated Quotation Plan

I. Introduction

On October 19, 2009, the Consolidated Tape Association ("CTA") Plan and Consolidated Quotation ("CQ") Plan participants ("Participants")[1] filed with the Securities and Exchange Commission ("SEC" or "Commission") pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act"),[2] and Rule 608 thereunder,[3] proposals[4] to amend the Second Restatement of the CTA Plan and Restated CQ Plan (collectively, the "Plans").[5] The proposals would: (1) delete all program

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1 Each participant executed the proposed amendment. The Participants are: BATS Exchange, Inc.; Chicago Board Options Exchange, Inc.; Chicago Stock Exchange, Inc.; Financial Industry Regulatory Authority, Inc.; International Securities Exchange, LLC; NASDAQ OMX BX, Inc.; NASDAQ OMX PHLX, Inc.; The NASDAQ Stock Market LLC; National Stock Exchange, Inc.; New York Stock Exchange LLC; NYSE Amex LLC; and NYSE Arca, Inc.

2 15 U.S.C. 78k-1.

3 17 CFR 242.608.

4 On November 6, 2009, the Consolidated Tape Association sent a revised transmittal letter correcting the number of the proposed amendment ("Transmittal Letter").

5 See Securities Exchange Act Release Nos. 10787 (May 10, 1974), 39 FR 17799 (declaring the CTA Plan effective); 15009 (July 28, 1978), 43 FR 34851 (August 7, 1978) (temporarily authorizing the CQ Plan); and 16518 (January 22, 1980), 45 FR 6521 (January 28, 1980) (permanently authorizing the CQ Plan). The most recent restatement of both Plans was in 1995. The CTA Plan, pursuant to which markets collect and disseminate last sale price information for non-NASDAQ listed securities, is a "transaction reporting plan" under Rule 601 under the Act, 17 CFR 242.601, and a "national market system plan" under Rule 608 under the Act, 17 CFR 242.608. The CQ Plan, pursuant to which markets collect and disseminate bid/ask quotation information for listed securities, is also a "national market system plan" under Rule 608 under the Act, 17 CFR 242.608.

classification charges from the schedules of Network A and Network B computer input charges; and (2) replace the current combined Network A/Network B high speed line access charges with separate high speed line access charges for Network A and Network B. The proposed amendments to the Plans were published for comment in the Federal Register on November 19, 2009.[6] No comment letters were received in response to the Notice. This order approves the proposed amendments to the Plans.

II. Description of the Proposal

The Plans currently divide the different means of using market data into eight "program classifications." The program classification fees payable by vendors and end-users depend on the category of use the vendor or end-user makes of the data and whether the vendor or end-user is using Network A market data or Network B market data, or both. Through the amendments to the Plans, the Participants proposed to eliminate program classification charges and set separate fees for the receipt of Network A market data and Network B market data.

The Participants stated that over time, new technologies and new and innovative ways to use market data have made it increasingly difficult to fit the data uses into the existing program classifications in a manner that is consistent and equitable for all. Therefore, the Participants concluded that it is more equitable to charge vendors and end-users for the method of access to the data and the quantity of usage, rather than for the specific purposes (i.e., by program classification) to which vendors and end-users put market data. The elimination of program classification charges means that vendors will no longer need to provide detailed explanations of how they use the data or to update Exhibit A to their agreements with the Participants each time they use data in a new way.

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6 See Securities Exchange Act Release No. 60985 (November 10, 2009), 74 FR 59999 ("Notice").

Additionally, the Participants proposed to revise the access fees by setting separate fees for the receipt of Network A market data and Network B market data. Therefore, if a vendor or end-user wishes to receive Network A last sale prices (or quotation information), but not Network B last sale prices (or quotation information), the vendor or end-user would be allowed to pay only for Network A last sale prices, without also having to pay for Network B last sale prices and vice versa.

In addition to establishing separate access fees for Network A and Network B, the Participants stated that they intend to set the new access fees at levels that will offset the revenues that the Participants anticipate losing as a result of eliminating the program classification fees.

III. Discussion

After careful review, the Commission finds that the proposed amendments to the Plans are consistent with the Act and the rules and regulations thereunder.[7] Specifically, the Commission finds that the amendments are consistent with Rule 608(b)(2)[8] of the Act in that they are necessary for the protection of investors, the maintenance of fair and orderly markets, and to remove impediments to a national market system. The Commission believes that eliminating program classification charges and replacing them with separate fees for the receipt of Network A and Network B market data are fair and reasonable and provide for an equitable allocation of dues, fees, and other charges among vendors, data recipients and other persons using CTA Network A and Network B facilities. The Commission agrees that charging users of data based on their method of access to the data and the amount of data they use rather than basing charges on the way vendors or end users use the data should simplify the rate schedule,

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[7] In approving this amendment, the Commission has considered the proposed amendment's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 17 CFR 242.608(b)(2).

remove subjectivity from the billing process, simplify and reduce the costs of data administration, and give choice to data vendors and end-users who prefer to receive data from one network only. Further, according to the Participants' estimates, the vast majority of vendors and end-users would realize net monthly increases or decreases of less than $1000.[9] Thus, the proposed amendment is consistent with, and would further, one of the principal objectives for the national market system set forth in Section 11A(a)(1)(C)(iii)[10] of the Act – increasing the availability of market information to broker-dealers and investors.

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9 See the Transmittal Letter.

10 15 U.S.C. 78k-1(a)(1)(C)(iii).

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 11A of the Act,[11] and the rules thereunder, that the proposed amendments to the CTA and CQ Plans (SR-CTA/CQ-2009-02) are approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon
Deputy Secretary

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[11] 15 U.S.C. 78k-1.

[12] 17 CFR 200.30-3(a)(27).