

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-84194; File No. SR-CTA/CQ-2018-03)

September 18, 2018

Consolidated Tape Association; Notice of Filing and Immediate Effectiveness of the Twenty-Fourth Charges Amendment to the Second Restatement of the CTA Plan and the Fifteenth Charges Amendment to the Restated CQ Plan

Pursuant to Section 11A of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 608 thereunder,<sup>2</sup> notice is hereby given that on August 27, 2018, the Consolidated Tape Association (“CTA”) Plan participants (“Participants”)<sup>3</sup> filed with the Securities and Exchange Commission (“Commission”) a proposal to amend the Second Restatement of the CTA Plan and the Restated CQ Plan (“Plans”). The amendment represents the twenty-fourth Charges Amendment to the CTA Plan and the fifteenth Charges Amendment to the CQ Plan (“Amendments”). The Participants seek to amend the Plans’ fee schedules (applicable to Network A and Network B) to rescind the changes made to the Non-Display Use and the access fee schedules adopted pursuant to amendments filed in October 2017 (“2017 Amendments”).<sup>4</sup> As a result of the Participants’ decision to rescind the 2017 Amendments, the Participants believe that the stay order issued by

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<sup>1</sup> 15 U.S.C. 78k-1.

<sup>2</sup> 17 CFR 242.608.

<sup>3</sup> The Participants are: Cboe BYX Exchange, Inc.; Cboe BZX Exchange, Inc.; Cboe EDGA Exchange, Inc.; Cboe EDGX Exchange, Inc.; Cboe Exchange, Inc.; Chicago Stock Exchange, Inc.; Financial Industry Regulatory Authority, Inc.; Investors’ Exchange LLC; Nasdaq BX, Inc.; Nasdaq ISE, LLC; Nasdaq PHLX Inc.; The Nasdaq Stock Market LLC; New York Stock Exchange LLC; NYSE American LLC; NYSE Arca, Inc.; NYSE National, Inc.

<sup>4</sup> See Securities Exchange Act Release No. 82072 (November 14, 2017), 82 FR 55137 (November 20, 2017).

the Commission in connection with the 2017 Amendments and the briefing schedule set therein are now moot.<sup>5</sup>

Pursuant to Rule 608(b)(3) under Regulation NMS,<sup>6</sup> the Participants designate the Amendments as establishing or changing a fee or other charge collected on their behalf in connection with access to, or use of, the facilities contemplated by the Plans. As a result, the Amendments are effective upon filing with the Commission.

The Commission is publishing this notice to solicit comments from interested persons on the proposed Amendments. Set forth in Sections I and II is the statement of the purpose and summary of the Amendments, along with the information required by Rules 608(a) and 601(a) under the Act, prepared and submitted by the Participants to the Commission.

I. Rule 608(a)

A. Purpose of the Amendments

As part of the 2017 Amendments, the Participants amended the definition of “Non-Display Use” in footnote eight of the Plans’ fee schedules to explicitly state that any use of data that does not make data visibly available to a data recipient on a device would be a Non-Display Use. The Participants also made a parallel amendment to footnote two of the Plans’ fee schedules to state that the device fee would only be applicable where the data was visibly available to the data recipient; any other data use on a device would be considered Non-Display Use. The Participants also amended footnote ten of the Plans’ fee schedules to clarify when the access fee was applicable. In particular, the Participants amended footnote ten in the Plans’ fee schedules to provide the access fee would be applicable if: (1) the data recipient uses the data for

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<sup>5</sup> See Securities Exchange Act Release No. 83755 (July 31, 2018) (“Stay Order”).

<sup>6</sup> 17 CFR 242.608(b)(3)(i).

non-display; or (2) the data recipient receives the data in such a manner that the data can be manipulated and disseminated to one or more devices, display or otherwise, regardless of encryption or instructions from the redistribution vendor regarding who has authorized access to the data.

Although the Participants believed that the 2017 Amendments would have a positive effect on competition, Bloomberg and SIFMA filed denial of access petitions with the Commission with respect to the 2017 Amendments. On July 31, 2018, the Commission issued an order granting a motion made by Bloomberg to stay the 2017 Amendments. Having reviewed the Stay Order, the Participants have decided to rescind the 2017 Amendments. The result of the Participants' decision is to revert the fee schedule to the form it had immediately prior to the 2017 Amendments.

B. Governing or Constituent Documents

Not applicable.

C. Implementation of the Amendments

Pursuant to Rule 608(b)(3)(i) under Regulation NMS, the Participants have designated the proposed amendment as establishing or changing fees and are submitting the amendment for immediate effectiveness.

D. Development and Implementation Phases

See Item C above.

E. Analysis of Impact on Competition

The amendments proposed herein do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed

amendments simply rescind the 2017 Amendments and revert the fee schedule to the form it had immediately prior to the 2017 Amendments.

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

Not applicable.

G. Approval by Sponsors in Accordance with Plan

Section XII (b)(iii) of the CTA Plan provides that "[a]ny addition of any charge to . . . the charges set forth in Exhibit E . . . shall be effected by an amendment to this CTA Plan . . . that is approved by affirmative vote of not less than two-thirds of all of the then voting members of CTA. Any such amendment shall be executed on behalf of each Participant that appointed a voting member of CTA who approves such amendment and shall be filed with the SEC."

Further, Section IX(b)(iii) of the CQ Plan provides that "additions, deletions, or modifications to any charges under this CQ Plan shall be effected by an amendment . . . that is approved by affirmative vote of two-thirds of all the members of the Operating Committee."

The Participants have executed this Amendment and represent not less than two-thirds of all of the parties to the Plan. That satisfies the Plans' Participant-approval requirements

H. Description of Operation of Facility Contemplated by the Proposed Amendments

Not applicable.

I. Terms and Conditions of Access

Not applicable.

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

Not applicable.

K. Method and Frequency of Processor Evaluation

Not applicable.

L. Dispute Resolution

Not applicable.

II. Rule 601(a)

A. Equity Securities for which Transaction Reports Shall be Required by the Plan

Not applicable.

B. Reporting Requirements

Not applicable.

C. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

Not applicable.

D. Manner of Consolidation

Not applicable.

E. Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports

Not applicable

F. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

G. Terms of Access to Transaction Reports

Not applicable.

H. Identification of Marketplace of Execution

Not applicable.

III. Solicitation of Comments

The Commission seeks comment on the Amendments. Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the

proposed Amendments are 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](mailto:rule-comments@sec.gov). Please include File Number SR-CTA/CQ-2018-03 on the subject line.

Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CTA/CQ-2018-03. 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 website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the Amendments that are filed with the Commission, and all written communications relating to the Amendments 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 website viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10:00 am and 3:00 pm. Copies of the Amendments also will be available for inspection and copying at the principal office of the CTA.

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CTA/CQ-2018-03 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

By the Commission.

Brent J. Fields  
Secretary