

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-92070; File No. SR-CTA/CQ-2021-01)

May 28, 2021

Consolidated Tape Association; Order Approving the Thirty-Sixth Substantive Amendment to the Second Restatement of the CTA Plan and the Twenty-Seventh Substantive Amendment to the Restated CQ Plan

I. Introduction

On February 3, 2021,<sup>1</sup> the Consolidated Tape Association (“CTA”) Plan participants<sup>2</sup> filed with the Securities and Exchange Commission (“SEC” or “Commission”), pursuant to Section 11A of the Securities Exchange Act of 1934 (“Act”)<sup>3</sup> and Rule 608 of Regulation National Market System (“NMS”) thereunder,<sup>4</sup> a proposal to amend the Second Restatement of the CTA Plan and the Restated Consolidated Quotation (“CQ”) Plan (collectively “CTA/CQ Plans” or “Plans”).<sup>5</sup>

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<sup>1</sup> See Letter from Robert Books, Chair, CTA/CQ Operating Committee, to Vanessa Countryman, Secretary, Commission (Feb. 3, 2021). The Amendments were posted to the Plans’ website on February 12, 2021. See E-mail from James P. Dombach, Counsel to the Plans, to Michael E. Coe, Assistant Director, Commission (Feb. 12, 2021).

<sup>2</sup> These participants are: Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., The Investors’ Exchange LLC, Long-Term Stock Exchange, Inc., MEMX LLC, MIA X PEARL, 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 Chicago, Inc., and NYSE National, Inc. (each a “Participant,” and collectively the “Participants”).

<sup>3</sup> 15 U.S.C 78k-1(a)(3).

<sup>4</sup> 17 CFR 242.608.

<sup>5</sup> 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 of Regulation NMS, 17 CFR 242.601, and a “national market system plan” under Rule 608 of Regulation NMS, 17 CFR 242.608. The CQ Plan, pursuant to which markets collect and disseminate bid/ask quotation information for non-Nasdaq-listed securities, is a “national market system plan” under Rule 608 under the Act, 17 CFR 242.608. See Securities Exchange Act Release Nos. 10787 (May 10, 1974), 39 FR at 17799 (May 20, 1974) (declaring the CTA Plan effective); 15009 (July 28, 1978), 43 FR at 34851 (Aug. 7, 1978) (temporarily authorizing the CQ Plan); and 16518 (Jan. 22, 1980), 45 FR

These amendments represent the Thirty-Sixth Substantive Amendment to the Second Restatement of the CTA Plan and the Twenty-Seventh Substantive Amendment to the Restated CQ Plan (“Amendments”).

The Amendments were published for comment in the Federal Register on March 1, 2021.<sup>6</sup> One comment letter was received.<sup>7</sup> This order approves the Amendments to the Plans.

## II. Description of the Proposal

The Amendments propose revisions to the Plans’ provisions governing Regulatory Halts<sup>8</sup> and Operational Halts.<sup>9</sup> The Participants state that “[t]he purpose of the amendments is to incorporate into the Plans the same processes for Regulatory Halts that are proposed by the equity exchanges.”<sup>10</sup>

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at 6521 (Jan. 28, 1980) (permanently authorizing the CQ Plan). The most recent restatement of both Plans was in 1995.

<sup>6</sup> See Securities Exchange Act Release No. 91189 (Feb. 23, 2021), 86 FR 12038 (Mar. 1, 2021) (“Notice”).

<sup>7</sup> Comments received in response to the Notice are available at <https://www.sec.gov/comments/sr-ctacq-2021-01/srctacq202101.htm>.

<sup>8</sup> The Amendments would define “Regulatory Halt” as “a halt declared by the Primary Listing Market in trading in one or more securities on all Trading Centers for regulatory purposes, including for the dissemination of material news, news pending, suspensions, or where otherwise necessary to maintain a fair and orderly market. A Regulatory Halt includes a trading pause triggered by Limit Up Limit Down, a halt based on Extraordinary Market Activity, a trading halt triggered by a Market-Wide Circuit Breaker, and a SIP Halt.” See Section XI(a)(i)(J) of the CTA Plan, as amended.

<sup>9</sup> The Amendments would define “Operational Halt” as “a halt in trading in one or more securities only on a Market declared by such Participant and is not a Regulatory Halt.” See Section XI(a)(i)(G) of the CTA Plan, as amended.

<sup>10</sup> See Notice, supra note 6, 86 FR at 12039.

A. Regulatory Halts

1. Declaration of a Regulatory Halt

With respect to declaration of a Regulatory Halt, the Amendments would provide that the Primary Listing Market<sup>11</sup> may declare a Regulatory Halt in trading for any security for which it is the Primary Listing Market (1) as provided for in the rules of the Primary Listing Market<sup>12</sup>; (2) if it determines<sup>13</sup> there is a SIP Outage,<sup>14</sup> Material SIP Latency,<sup>15</sup> or Extraordinary Market Activity<sup>16</sup>;

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<sup>11</sup> The Amendments would define “Primary Listing Market” as “the national securities exchange on which an Eligible Security is listed. If an Eligible Security is listed on more than one national securities exchange, Primary Listing Market means the exchange on which the security has been listed the longest.” See Section XI(a)(i)(H) of the CTA Plan, as amended.

<sup>12</sup> See Section XI(a)(iii)(A)(1) of the CTA Plan, as amended.

<sup>13</sup> See Section XI(a)(iii)(A)(2) of the CTA Plan, as amended.

<sup>14</sup> The Amendments would define “SIP Outage” as “a situation in which the Processor has ceased, or anticipates being unable, to provide updated and/or accurate quotation or last sale price information in one or more securities for a material period that exceeds the time thresholds for an orderly failover to backup facilities established by mutual agreement among the Processor, the Primary Listing Market for the affected securities, and the Operating Committee unless the Primary Listing Market, in consultation with the Processor and the Operating Committee, determines that resumption of accurate data is expected in the near future.” See Section XI(a)(i)(M) of the CTA Plan, as amended.

<sup>15</sup> The Amendments would define “Material SIP Latency” as “a delay of quotation or last sale price information in one or more securities between the time data is received by the Processor and the time the Processor disseminates the data over the high speed line or over the “high speed line” under the CQ Plan, which delay the Primary Listing Market determines, in consultation with, and in accordance with, publicly disclosed guidelines established by the Operating Committee, to be (a) material and (b) unlikely to be resolved in the near future.” See Section XI(a)(i)(E) of the CTA Plan, as amended.

<sup>16</sup> The Amendments would define “Extraordinary Market Activity” as “a disruption or malfunction of any electronic quotation, communication, reporting, or execution system operated by, or linked to, the Processor or a Trading Center or a member of such Trading Center that has a severe and continuing negative impact, on a market-wide basis, on quoting, order, or trading activity or on the availability of market information necessary to maintain a fair and orderly market. For purposes of this definition, a severe and continuing negative impact on quoting, order, or trading activity includes (i) a series of quotes, orders, or transactions at prices substantially unrelated to the current market for

or (3) in the event of national, regional, or localized disruption that necessitates a Regulatory Halt to maintain a fair and orderly market.<sup>17</sup>

The Amendments would further provide that, in determining whether to declare a Regulatory Halt, the Primary Listing Market will consider the totality of information available concerning the severity of the issue, its likely duration, and potential impact on Member Firms and other market participants, and will make a good-faith determination that the criteria to declare a Regulatory Halt have been satisfied and that a Regulatory Halt is appropriate.<sup>18</sup> The Amendments would also provide that, the Primary Listing Market will consult, if feasible, with the affected Trading Center(s), other Participants, or the Processor, as applicable, regarding the scope of the issue and what steps are being taken to address the issue, and that the Primary Listing Market will continue to evaluate the circumstances to determine when trading may resume in accordance with the rules of the Primary Listing Market.<sup>19</sup>

## 2. Initiating a Regulatory Halt

The Amendments would specify procedures for initiating a Regulatory Halt. Specifically, when initiating a Regulatory Halt, the start time of a Regulatory Halt would be when the Primary Listing Market declares the halt, regardless of whether an issue with communications impacts the

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the security or securities; (ii) duplicative or erroneous quoting, order, trade reporting, or other related message traffic between one or more Trading Centers or their members; or (iii) the unavailability of quoting, order, transaction information, or regulatory messages for a sustained period.” See Section XI(a)(i)(A) of the CTA Plan, as amended.

<sup>17</sup> See Section XI(a)(iii)(A)(3) of the CTA Plan, as amended.

<sup>18</sup> See Section XI(a)(iii)(B) of the CTA Plan, as amended.

<sup>19</sup> See id. The Amendments would further provide that once a Regulatory Halt has been declared, the Primary Listing Market will continue to evaluate the circumstances to determine when trading may resume in accordance with the rules of the Primary Listing Market. See id.

dissemination of the notice.<sup>20</sup> The Amendments would further provide that if the Processor is unable to disseminate notice of a Regulatory Halt or the Primary Listing Market is not open for trading, the Primary Listing Market will take reasonable steps to provide notice of a Regulatory Halt, which shall include both the type and start time of the Regulatory Halt, by dissemination through: (1) proprietary data feeds containing quotation and last sale price information that the Primary Listing Market also sends to the Processor; (2) posting on a publicly-available Participant website; or (3) system status messages.<sup>21</sup> The Amendments would further specify that a Participant will halt trading for any security traded on its Market if the Primary Listing Market declares a Regulatory Halt for the security.<sup>22</sup>

3. Resumption of Trading After a Regulatory Halt

The Amendments would specify certain procedures for the resumption of trading following (1) Regulatory Halts other than a SIP Halts and (2) SIP Halts.<sup>23</sup>

a. Resumption of Trading After a Regulatory Halt other than a SIP Halt

With respect to the resumption of trading after a Regulatory Halt other than a SIP Halt, the Amendments would provide that the Primary Listing Market will declare a resumption of trading when it makes a good-faith determination that trading may resume in a fair and orderly manner and

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<sup>20</sup> See Section XI(a)(iv)(A) of the CTA Plan, as amended.

<sup>21</sup> See Section XI(a)(iv)(B) of the CTA Plan, as amended. The Amendments would further provide that, except in exigent circumstances, the Primary Listing Market will not declare a Regulatory Halt retroactive to a time earlier than the notice of such halt. See Section XI(a)(iv)(C) of the CTA Plan, as amended.

<sup>22</sup> See Section XI(a)(vii) of the CTA Plan, as amended.

<sup>23</sup> The Amendments would define “SIP Halt” as “a Regulatory Halt to trading in one or more securities that a Primary Listing Market declares in the event of a SIP Outage or Material SIP Latency.” See Section XI(a)(i)(K) of the CTA Plan, as amended.

in accordance with its rules.<sup>24</sup> The Amendments would further provide that for a Regulatory Halt that is initiated by another Participant that is a Primary Listing Market, a Participant may resume trading after the Participant receives notification from the Primary Listing Market that the Regulatory Halt has been terminated.<sup>25</sup>

b. Resumption of Trading After a SIP Halt

With respect to the resumption of trading after a SIP Halt, the Amendments would provide that the Primary Listing Market will determine the SIP Halt Resume Time.<sup>26</sup> The Amendments would further provide that, in making such determination, the Primary Listing Market will make a good-faith determination and consider the totality of information to determine whether resuming trading would promote a fair and orderly market, including input from the Processor, the Operating Committee, or the operator of the system in question (as well as any Trading Center(s) to which such system is linked), regarding operational readiness to resume trading.<sup>27</sup> The Amendments would also provide that the Primary Listing Market retains discretion to delay the SIP Halt Resume Time if it believes trading will not resume in a fair and orderly manner.<sup>28</sup> Also, with respect to termination of the SIP Halt, the Amendments would provide that the Primary Listing Market will terminate a SIP Halt with a notification that specifies a SIP Halt Resume Time.<sup>29</sup> The Amendments would further provide that the Primary Listing Market shall provide a minimum notice of a SIP

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<sup>24</sup> See Section XI(a)(v)(A) of the CTA Plan, as amended.

<sup>25</sup> See Section XI(a)(v)(B) of the CTA Plan, as amended.

<sup>26</sup> See Section XI(a)(vi)(A) of the CTA Plan, as amended. The Amendments would define “SIP Halt Resume Time” as “the time that the Primary Listing Market determines as the end of a SIP Halt.” See Section XI(a)(i)(L) of the CTA Plan, as amended.

<sup>27</sup> See id.

<sup>28</sup> See id.

<sup>29</sup> See Section XI(a)(vi)(B) of the CTA Plan, as amended.

Halt Resume Time, as specified by the rules of the Primary Listing Market, during which period market participants may enter quotes and orders in the affected securities.<sup>30</sup> Under the Amendments, the Primary Listing Market would be permitted to stagger the SIP Halt Resume Times for multiple symbols in order to reopen in a fair and orderly manner.<sup>31</sup>

Finally, the Amendments would provide that during Regular Trading Hours, if the Primary Listing Market does not open a security within the amount of time as specified by the rules of the Primary Listing Market after the SIP Halt Resume Time, a Participant may resume trading in that security.<sup>32</sup> Under the Amendments, a Participant may, outside Regular Trading Hours, resume trading immediately after the SIP Halt Resume Time.<sup>33</sup>

B. Communications

The Amendments address communications regarding trading halts. Specifically, the Amendments would provide that, whenever in the exercise of its regulatory functions the Primary Listing Market for an Eligible Security determines it is appropriate to initiate a Regulatory Halt, the Primary Listing Market will notify all other Participants and the Processor of such Regulatory Halt and will provide notice that a Regulatory Halt has been lifted using such protocols and other emergency procedures as may be mutually agreed to between the Operating Committee and the Primary Listing Market.<sup>34</sup> The Amendments would further provide that the Processor shall

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<sup>30</sup> See id. The Amendments would further provide that, during regular Trading Hours, the last SIP Halt Resume Time before the end of Regular Trading Hours shall be an amount of time as specified by the rules of the Primary Listing Market. See id.

<sup>31</sup> See id.

<sup>32</sup> See Section XI(a)(vi)(C) of the CTA Plan, as amended.

<sup>33</sup> See id.

<sup>34</sup> See Section XI(a)(viii) of the CTA Plan, as amended.

disseminate to Participants notice of the Regulatory Halt (as well as notice of the lifting of a Regulatory Halt) through the high speed line or through the “high speed line” under the CQ Plan, and (ii) any other means the Processor, in its sole discretion, considers appropriate. Under the Amendments, each Participant would be required to continuously monitor these communication protocols established by the Operating Committee and the Processor during market hours.<sup>35</sup>

### C. Operational Halts

With respect to Operational Halts,<sup>36</sup> the Amendments would provide that a Participant must notify the Processor if it has concerns about its ability to collect and transmit quotes, orders or last sale prices, or where it has declared an Operational Halt or suspension of trading in one or more Eligible Securities, pursuant to the procedures adopted by the Operating Committee.<sup>37</sup>

### III. Discussion and Commission Findings

After careful review, the Commission is approving the Amendments, for the reasons discussed below. Section 11A of the Act authorizes the Commission, by rule or order, to authorize or require the self-regulatory organizations to act jointly with respect to matters as to which they share authority under the Act in planning, developing, operating, or regulating a facility of the national market system.<sup>38</sup> Pursuant to this authority, the Commission adopted Regulation NMS.<sup>39</sup>

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<sup>35</sup> See id. The Amendments would further provide that the failure of a Participant to continuously monitor such communication protocols as established by the Operating Committee and the Processor during market hours will not prevent the Primary Listing Market from initiating a Regulatory Halt in accordance with the procedures specified in these Amendments. See id.

<sup>36</sup> See supra note 9 and accompanying text.

<sup>37</sup> See Section XI(a)(ii) of the CTA Plan, as amended.

<sup>38</sup> See 15 U.S.C. 78k-1(a)(3)(B).

<sup>39</sup> 17 CFR 242.600-612; see also Regulation NMS, Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37560 (June 29, 2005).

Rule 603 of Regulation NMS requires the SROs to act jointly pursuant to NMS plans to “disseminate consolidated information, including a national best bid and national best offer, on quotations for and transactions in NMS stocks.”<sup>40</sup> And Rule 608 of Regulation NMS authorizes two or more SROs, acting jointly, to file with the Commission a national market system plan (“NMS plan”) or a proposed amendment to an effective NMS plan.<sup>41</sup> Rule 608 further provides that the Commission shall approve an amendment to an NMS plan if it finds that the amendment is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act.<sup>42</sup>

As stated above, the Commission received one comment letter regarding the proposed Amendments. The commenter states that the Amendments should be approved as filed.<sup>43</sup> According to the commenter, the purpose of the Amendments is to incorporate into the Plans the same processes for Regulatory and Operational Halts that are proposed by the equity exchanges, including that the Primary Listing Market be vested with the authority to determine when to initiate and end a Regulatory Halt, consistent with its rules.<sup>44</sup> The commenter states that the Primary Listing Market would be enabled to declare a Regulatory Halt as provided for in the Primary Listing Market’s rules, if it determines that there is a SIP Outage, Material SIP Latency,

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<sup>40</sup> 17 CFR 242.603(b).

<sup>41</sup> See 17 CFR 242.608.

<sup>42</sup> See 17 CFR 242.608(b)(2).

<sup>43</sup> See Letter from Elizabeth K. King, Chief Regulatory Officer, ICE and General Counsel and Corporate Secretary, NYSE Group, Inc., to Vanessa Countryman, Secretary, Commission, at 2 (Mar. 18, 2021) (“NYSE Letter”).

<sup>44</sup> See id.

Extraordinary Market Activity, or in the event of national, regional, or localized disruption that necessitates a Regulatory Halt to maintain a fair and orderly market. The commenter states that the Commission should thus approve the Amendments because they are consistent with the Act and Rule 608 thereunder.<sup>45</sup>

The Commission agrees that the Amendments are consistent with the Act and Rule 608 of Regulation NMS.<sup>46</sup> The Commission believes that the Amendments further the goals of Section 11A of the Act and of Rules 603 and 608 of Regulation NMS by establishing a clear and uniform approach with respect to trading halts under various defined circumstances. The Plans' provisions currently lack clarity with respect to whether a Primary Listing Market may declare a Regulatory Halt due to underlying problems at the SIP, as well as the standard and process for calling a halt and resuming trading thereafter. The Amendments—and in particular the revisions that address Regulatory Halts in connection with SIP Outages, Material SIP Latency, Extraordinary Market Activity, and national, regional, or localized disruptions that necessitate a Regulatory Halt to maintain a fair and orderly market—address this shortcoming by providing for uniform rules governing how Participants will address, among other things, the initiation, implementation, and communication of trading halts, as well as the resumption of trading after a trading halt or SIP Halt, thereby clarifying the procedures to be followed and the standards to be applied, improving coordination and certainty among the Participants and other market participants, and enhancing the resiliency and integrity of market systems. Accordingly, the Commission believes that the Amendments are in the public interest, support the protection of investors, and help the maintenance of fair and orderly markets because the Amendments are reasonably designed to assist

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<sup>45</sup> See id.

<sup>46</sup> See 17 CFR 242.608.

market participants in understanding the processes to be followed during circumstances potentially warranting a regulatory halt, such as events involving the loss, timeliness, or accuracy of information that is processed or disseminated by the SIPs. Additionally, the Commission believes that the Amendments are reasonably designed to enhance the resiliency of the national market system by clearly memorializing the coordinated actions to be taken by the Participants during such events so that trading may resume in a fair and orderly manner.

The Commission further believes that the proposed requirement for Primary Listing Markets to make good-faith determinations<sup>47</sup> in consultation with other market participants, as may be applicable concerning the appropriateness of declaring a regulatory halt and resuming trading thereafter, should promote fairness and orderliness in decision-making by the Primary Listing Markets. In particular, the good-faith determination standard promotes fair and orderly markets and the protection of investors because it addresses potential concerns that Primary Listing Markets may be subject to commercial pressures in making decisions to call a Regulatory Halt and resuming trading thereafter. Accordingly, the Commission believes that the good-faith-determination standard encourages Primary Listing Markets to consider the broader interests of the national market system with respect to declaring trading halts and resuming trading thereafter, thereby promoting the maintenance of fair and orderly markets and enhancing the protection of investors.<sup>48</sup>

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<sup>47</sup> See, e.g., Sections XI(a)(iii)(B); XI(a)(v)(A); and XI(a)(vi)(A) of the CTA Plan, as amended.

<sup>48</sup> This commenter also urges the Commission to publish and provide notice of any material changes that the Commission is considering with respect to the Amendments. See NYSE Letter, supra note 43, at 2. The Commission has determined to approve the Amendments without modification.

For the reasons discussed, the Commission finds that the Amendments to the Plans, are consistent with the requirements of the Act and the rules and regulations thereunder, and in particular, Section 11A of the Act<sup>49</sup> and Rule 608<sup>50</sup> thereunder in that the Amendments are necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system. Section 11A of the Act<sup>51</sup> sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to ensure the prompt, accurate, reliable and fair collection, processing, distribution, and publication of information with respect to quotations for and transactions in such securities and the fairness and usefulness of the form and content of such information. The Commission believes that the Amendments further these goals set forth by Congress.

#### IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 11A of the Act,<sup>52</sup> and Rule 608(b)(2) thereunder,<sup>53</sup> that the Amendments to the CTA and CQ Plans (File No. SR-CTA/CQ-2021-01) are approved.

By the Commission.

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>49</sup> 15 U.S.C. 78k-1.

<sup>50</sup> 17 CFR 242.608.

<sup>51</sup> 15 U.S.C. 78k-1(c)(1)(B).

<sup>52</sup> 15 U.S.C. 78k-1.

<sup>53</sup> 17 CFR 242.608(b)(2).