

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-60639; File No. SR-CTA-2008-01)

September 9, 2009

Consolidated Tape Association; Order Approving the Eleventh Charges Amendment to the Second Restatement of the Consolidated Tape Association Plan to Waive the Automatic Annual Increase in the Enterprise Cap for 2008

I. Introduction

On June 7, 2009, the Consolidated Tape Association (“CTA”) Plan Participants (“Participants”)<sup>1</sup> filed with the Securities and Exchange Commission (“SEC” or “Commission”) pursuant to Section 11A of the Securities Exchange Act of 1934 (“Act”),<sup>2</sup> and Rule 608 thereunder,<sup>3</sup> a proposal to amend the Second Restatement of the CTA Plan (the “Plan”)<sup>4</sup> to waive the automatic annual increase in the enterprise cap for 2008. The proposed Plan amendment was published for comment in the Federal Register on June 29, 2009.<sup>5</sup> No comment letters were received in response to the Notice. This order approves the proposed Plan amendment.

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<sup>1</sup> Each Participant executed the proposed amendment. The Participants are the American Stock Exchange LLC (n/k/a NYSE Alternext US LLC); Boston Stock Exchange, Inc. (n/k/a NASDAQ OMX BX, Inc.); Chicago Board Options Exchange, Incorporated; Chicago Stock Exchange, Inc.; Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC; The NASDAQ Stock Market LLC (“Nasdaq”); National Stock Exchange, Inc.; New York Stock Exchange LLC (“NYSE”); NYSE Arca, Inc.; and Philadelphia Stock Exchange, Inc. (n/k/a NASDAQ OMX PHLX, Inc.).

<sup>2</sup> 15 U.S.C. 78k-1.

<sup>3</sup> 17 CFR 242.608.

<sup>4</sup> The proposal was originally submitted on June 19, 2008, however the exhibits did not reflect the plan language accurately. It was refiled on June 7, 2009 with appropriate exhibits.

<sup>5</sup> See Securities Exchange Act Release No. 60154 (June 19, 2009), 74 FR 31076 (“Notice”).

## II. Description of the Proposal

The Plan currently caps the maximum monthly charge that a broker-dealer is required to pay in respect of the aggregate amount of: (1) Network A display-device charges for devices that the broker-dealer's officers, partners and employees use; plus (2) Network A display-device and per-quote-packet charges that the broker-dealer pays in respect of services that it provides to nonprofessional subscribers that are brokerage account customers of the broker-dealer ("Enterprise Cap").<sup>6</sup>

Footnote 5 to Schedule A-1 of Exhibit E to the CTA Plan subjects the Enterprise Cap to an automatic annual increase. The automatic annual increase is equal to "the percentage increase in the annual composite share volume for the preceding calendar year, subject to a maximum annual increase of five percent."

Through this amendment, the Participants proposed to amend the CTA Plan to waive the automatic annual increase in the Enterprise Cap for 2008. As a result, the monthly fee will remain at \$660,000 for 2008, the same amount as for 2007. The waiver applies to the Enterprise Cap only, and not to the "Television Ticker Maximum," also set forth in Footnote 6 to Schedule A-1 of Exhibit E to the CTA Plan. The amendment also proposed to update Footnote 6 by applying the automatic annual increase to the "Television Ticker Maximum," by bringing that monthly fee to \$157,000 for 2008.

## III. Discussion

After careful review, the Commission finds that the proposed CTA Plan amendment is consistent with the Act and the rules and regulations thereunder.<sup>7</sup> Specifically, the Commission

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<sup>6</sup> Enterprise Cap found in Schedule A-1 of Exhibit E to the CTA Plan.

<sup>7</sup> 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).

finds that the amendment is consistent with Rule 608(b)(2)<sup>8</sup> of the Act in that it is necessary for the protection of investors, the maintenance of fair and orderly markets, and to remove impediments to a national market system. The proposed amendment would reduce the amount of fees paid by some entities which should result in a reduction of costs for investors. 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)<sup>9</sup> of the Act – increasing the availability of market information to broker-dealers and investors.

#### IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 11A of the Act,<sup>10</sup> and the rules thereunder, that the proposed amendment to the CTA Plan (SR-CTA-2008-01) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>8</sup> 17 CFR 242.608 (b)(2).

<sup>9</sup> 15 U.S.C. 78k-1(a)(1)(C)(iii).

<sup>10</sup> 15 U.S.C. 78k-1.

<sup>11</sup> 17 CFR 200.30-3(a)(27).