

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-60985; File No. SR-CTA/CQ-2009-02)

November 10, 2009

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

Pursuant to Section 11A of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 608 thereunder,² notice is hereby given that on October 19, 2009,³ the Consolidated Tape Association (“CTA”) Plan and Consolidated Quotation (“CQ”) Plan participants (“Participants”)⁴ filed with the Securities and Exchange Commission (“Commission”) a proposal to amend the Second Restatement of the CTA Plan and Restated CQ Plan (collectively, the “Plans”).⁵ The proposal

¹ 15 U.S.C. 78k-1.

² 17 CFR 242.608.

³ On November 6, 2009, the Consolidated Tape Association sent a letter correcting the number of the proposed amendment.

⁴ 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.

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 (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.

represents the thirteenth charges amendment to the CTA Plan (“Thirteenth Charges Amendment”) and the seventh charges amendment to the CQ Plan (“Seventh Charges Amendment”), and reflects changes unanimously adopted by the Participants. The Thirteenth Charges Amendment to the CTA Plan and the Seventh Charges Amendment to the CQ Plan (“Amendments”) would: (1) delete all program 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 Commission is publishing this notice to solicit comments from interested persons on the proposed Amendments.

I. Rule 608(a)

A. Description and Purpose of the Amendments

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, the Participants propose to eliminate program classification charges and set separate fees for the receipt of Network A market data and Network B market data.

Over time, new technologies and new and innovative notions on how to use market data have made it increasingly difficult to place data uses into the existing program classifications in a manner that is consistent and equitable for all. The Participants have come to believe that it is inherently more equitable for them 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 Participants believe that

eliminating the manner-of-data-usage charges will modernize the CTA and CQ fee schedules and allow all vendors and users to use data as they see fit, without having to worry about whether a new usage would subject them to a new program classification fee. 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 put data to a new use.

Additionally, the Participants propose 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 now be allowed it 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, it is the intention of the Participants to set the new access fees at levels that will offset the revenues that the Participants anticipate they will lose as a result of eliminating the program classification fees. The Participants' goal is to eliminate the program classification fees and re-set access fees in a revenue-neutral manner and simplify and modernize the fee schedule while offering vendors and end-users greater choice and flexibility in the receipt and use of market data.

The text of the proposed Amendments is available on the CTA's Web site (<http://www.nysedata.com/cta>), at the principal office of the CTA, and at the Commission's Public Reference Room.

B. Additional Information Required by Rule 608(a)

1. Governing or Constituent Documents

Not applicable.

2. Implementation of the Amendments

The Participants have manifested their approval of the proposed amendments to the CTA and CQ rate schedule by means of their execution of the Amendments. The Participants propose to make the rate changes effective for calendar year 2010.

3. Development and Implementation Phases

See Item I(B)(2) above.

4. Analysis of Impact on Competition

The amendment will impose no burden on competition.

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

The Participants have no written understandings or agreements relating to interpretation of the CTA Plan and CQ Plan as a result of the Amendments.

6. Approval by Sponsors in Accordance with Plan

In accordance with Section XII(b)(iii) of the CTA Plan and Section IX(b)(iii) of the CQ Plan, each of the Participants has approved the rate changes.

7. Description of Operation of Facility Contemplated by the Proposed Amendment

a. Terms and Conditions of Access

See Item I(A) above.

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

See Item I(A) above.

c. Method of Frequency of Processor Evaluation

Not applicable.

d. 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

See Item I(A) above.

H. Identification of Marketplace Execution

Not applicable.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Thirteenth Charges Amendment to the CTA Plan and the Seventh Charges Amendment to the CQ Plan 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. Please include File Number SR-CTA/CQ-2009-02 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CTA/CQ-2009-02. 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 Web site (<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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CTA/CQ-2009-02 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

Florence E. Harmon
Deputy Secretary

⁶ 17 CFR 200.30-3(a)(27).