

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-62906; File No. SR-CTA-2010-01)

September 14, 2010

Consolidated Tape Association; Notice of Filing and Immediate Effectiveness of the Fourteenth Charges Amendment to the Second Restatement of the Consolidated Tape Association 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 July 6, 2010, the Consolidated Tape Association (“CTA”) Plan participants (“Participants”)³ filed with the Securities and Exchange Commission (“Commission”) a proposal to amend the Second Restatement of the CTA Plan (the “CTA Plan”).⁴ The proposal represents the fourteenth charges amendment to the CTA Plan (“Fourteenth Charges Amendment”), and reflects changes unanimously adopted by the Participants. The Fourteenth Charges Amendment proposes: (1) permanent approval of fees that apply to a vendor’s dissemination of a real-time Network B last sale price information ticker over broadcast, cable or satellite television; and, (2) an update of the automatic annual increase to the amount of the broker-dealer enterprise maximum monthly charge. Pursuant to Rule

¹ 15 U.S.C. 78k-1.

² 17 CFR 242.608.

³ 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.

⁴ See Securities Exchange Act Release No. 10787 (May 10, 1974), 39 FR 17799 (declaring the CTA Plan effective). 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.

608(b)(3) under Regulation NMS, the Participants designate the amendment 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 amendment becomes effective upon filing with the Commission. The Commission is publishing this notice to solicit comments from interested persons on the proposed Amendment.

I. Rule 608(a)

A. Description and Purpose of the Amendments

1. Network B Television Ticker Fees

The amendment seeks to establish as a permanent part of the Network B rate schedule a tiered fee structure applicable to vendors that disseminate a real-time Network B ticker over broadcast, cable or satellite television (“Television Vendors”).

The proposed tiered fee structure is identical to the fee structure that the Network B Participants have imposed on Television Vendors for several years as part of an extended pilot program. Currently, Network B had two Television Vendors. The amendment would merely codify the fees as a permanent part of the Network B fee schedule.

The proposed tiered fee structure is as follows:

<u>Number of Customer Households Penetrated</u>	<u>Monthly Price per 1,000 Customer Households Penetrated</u>
1 through 5,000,000	\$1.50
5,000,001 through 10,000,000	\$1.25
10,000,001 through 20,000,000	\$1.00
20,000,001 through 40,000,000	\$0.80
40,000,001 through 60,000,000	\$0.60
More than 60,000,001	\$0.50

The fee may be prorated where a vendor broadcasts the Network B ticker for only a portion of the trading day. The proration is determined by dividing the number of minutes that the vendor broadcasts the Network B ticker during the primary market's trading day into the total number of minutes in the primary market's trading day (excluding after hours' sessions). Currently, the primary market trades from 9:30 a.m. to 4 p.m. Eastern Standard Time (or for 390 minutes) on each trading day. Accordingly, if a vendor only broadcasts the Network B ticker for two hours during the trading day, it would calculate the Network B fee by (A) multiplying the number of households reached by (the applicable monthly price divided by 1,000 households reached) and (B) multiplying that product by (120 minutes divided by 390 minutes).

Where a vendor owns more than one network and broadcasts the Network B ticker simultaneously over more than one of its networks to a household, the vendor only needs to count that household once in the calculation of the number of households reached.

The Network B Participants propose to quantify the number of households reached for billing purposes through the use of the monthly Nielsen Cable National Audience Demographic Report (the "Nielsen Report"). For January through June of each year, the Network B Participants will base the bills upon the number of households reached as at the end of the preceding September, as published in the Nielsen Report. For July through December of each year, the Network B Participants will base the bills upon the number of households reached as at the end of the preceding March, as published in the Nielsen Report.

Where the Nielsen Report does not provide the number of households reached for a vendor as at the end of March or September, the Network B Participants will use the most recent figure that the Nielsen Report has published as at the end of any of the six months preceding that March or September. If the Nielsen Report does not provide the number of households reached

during that period, then the Network B Participants will ask the vendor to report the number of households that its broadcasts reach as at the end of each September and March. The Network B Participants reserve the right to verify the accuracy of the vendor's report.

The new Network B ticker fee applies to any television broadcasts of the Network B ticker, whether through broadcast, cable or satellite television. The vendor's television ticker service may not enable the vendor's subscribers to customize or interrogate the ticker stream or to electronically capture and store the last sale price information included in the stream. The vendor must provide the same ticker to each of its subscribers.

The Network B real-time television ticker charges and related measuring metric and guidelines apply in a manner that is substantially similar to those in effect for Network A Television Vendors. (Network A charges \$2.00 per 1000 households reached. The Network A Participants impose a monthly cap on the fees. The monthly cap is currently \$164,000, but the Network B Participants anticipate that the Network A Participants will soon propose an amendment that would reduce the Network A monthly cap to \$125,000.)

The Exchange has discussed the real-time Network B television ticker product with both of the two current Television Vendors. They have provided positive feedback to the Exchange, noting that the product is appealing to them.

The Network B Participants believe that Television Vendors contribute to the widespread distribution of real-time market data around the world, making it possible for individuals to view real-time Network B prices throughout the trading day through television. They believe that the proposed charges would continue to impose fair and reasonable amounts on Television Vendors for that service.

2. Elimination of Broker-Dealer Enterprise Monthly Maximum Charge

In addition to adding the Network B Television Ticker Charges to Schedule A-3 to the CTA Plan, the Network B Participants have also determined to revise Schedule A-3 by amending Footnote 11, the CTA Plan's annual adjustment of the Network B broker-dealer enterprise maximum monthly fee.

Footnote 11 provides that an entity that is registered as a broker/dealer under the Securities Exchange Act of 1934 is not required to pay more than \$500,000 for any month (the "Maximum Monthly Amount") for the aggregate amount of: (a) Network B display-device charges for devices that its officers, partners and employees use; plus (b) Network B display-device and per-quote packet charges payable in respect of services that it provides to nonprofessional subscribers that are brokerage account customers of the broker/dealer.

The footnote then provides that the Maximum Monthly Amount will increase each calendar year by an amount 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 (the "Annual Adjustment"). The footnote provides that the annual increases will commence with calendar year 2001.

The Network B Participants have had no reason to apply the Annual Adjustment for the past several years because no broker/dealers are currently subject to the Network B Maximum Monthly Amount. However, they anticipate that at least one broker/dealer will become subject to the Network B Maximum Monthly Amount during 2010. They believe that the stated pre-Annual Adjustment Monthly Maximum Amount (i.e., \$500,000) is the appropriate amount to charge such broker/dealers during calendar months falling in 2010.

For that reason, the Network B Participants propose to amend the Annual Adjustment in Footnote 11 to provide that Network B shall apply the Annual Adjustment commencing with

calendar year 2011, rather than 2001. Because Network B will not apply Annual Adjustments for calendar years 2001 through 2010, this amounts to a decrease in the Maximum Monthly Amount.

The text of the proposed Amendment is available on the CTA's website (<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 Amendment

Over several years, the Network B Participants have conducted a pilot program that permits vendors to disseminate a Network B last sale price information ticker by means of broadcast, cable and/or satellite television. The Network B Participants now propose to convert the real-time Network B ticker initiative from a pilot program to a permanent part of the Network B rate schedule. The proposed permanent tiered fee structure is identical to the fee structure that has applied during the pilot program.

In addition, by eliminating the Annual Adjustment, the Network B Participants propose to amend the Maximum Monthly Amount payable by a broker/dealer in the form of (i) Network B display-device charges and (ii) Network B display charges and per-quote packet charges provided to nonprofessional subscribers that are brokerage account customers of the broker/dealer.

Because the amendment establishes or amends fees collected on the Network B Participants' behalf in connection with access to, or use of, the facilities contemplated by the

CTA Plan, the amendment becomes effective upon filing with the Commission.

As a result, the amendment will “be implemented” immediately. The new Network B permanent fees will supersede and replace the pilot program. As additional vendors undertake to transmit the Network B ticker over television, they will be subject to the new fee in accordance with the guidelines set forth in this proposed amendment to the CTA Plan.

The elimination of the Annual Adjustment will have no current impact, as no broker/dealer currently qualifies for the Maximum Monthly Amount.

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 as a result of the amendment.

6. Approval by Sponsors in Accordance with Plan

Under Section IV(b) of the CTA Plan, each CTA Plan Participant must execute a written amendment to the CTA Plan before the amendment can become effective. The amendment is so executed.

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

Not applicable.

8. Terms and Conditions of Access

Not applicable.

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

In determining the amount of the real-time Network B television tiered fee structure, the Network B Participants have carried over the same fee that has applied during the real-time Network B television ticker pilot program.

The Network B Participants established the pilot program fees through a process of discussion and negotiation with the first participants in the pilot program. Currently, two Television Vendors participate in the program. In the view of the Network B Participants, using the number of households reached as the billing metric for the dissemination of last sale price information through television is a reasonable counterpart to metrics used in other contexts, such as counting devices, subscriber entitlements or quote packets. The billing metric is the same as television advertisers use, a fact that serves to discipline accuracy of the households-reached count (since the television networks have incentives to maximize the number of households reached while the advertisers have incentives to minimize the number).

The Network B Participants believe that the level of the fee is fair and reasonable and allows the television vendors to contribute an appropriate amount for the market data services that they provide. It constitutes a reasonable allocation of the costs of running the securities markets that the Network B Participants operate to the purveyors of the Television Vendors.

10. Method of Frequency of Processor Evaluation

Not applicable.

11. Dispute Resolution

Not applicable.

II. Rule 601(a)

A. Reporting Requirements

Not applicable.

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

The new fee will permit vendors to disseminate a ticker stream of Network B last sale price information to viewers of broadcast, cable or satellite television.

C. Manner of Consolidation

Not applicable.

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

Not applicable.

E. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

F. Terms of Access to Transaction Reports

The Network B Participants will require vendors of Network B ticker television services to enter into the standard form of vendor agreement. It is the same form into which the CTA Plan Participants require all vendors to enter.

G. Identification of Marketplace of 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 Fourteenth Charges Amendment to the CTA Plan is 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-2010-01 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-2010-01. 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 Amendment that is filed with the Commission, and all written communications relating to the Amendment 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, 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 comment 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-2010-01 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.⁵

Florence E. Harmon
Deputy Secretary

⁵ 17 CFR 200.30-3(a)(27).