

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-75363; File No. SR-CTA-2015-02)

July 6, 2015

Consolidated Tape Association; Notice of Filing of the Twenty Third Substantive Amendment to the Second Restatement of the CTA 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 June 19, 2015, certain participants (“Approving Participants”)<sup>3</sup> in the Second Restatement of the Consolidated Tape Association Plan (“CTA Plan” or “Plan”) filed with the Securities and Exchange Commission (“Commission”) a proposal to amend the Plan.<sup>4</sup> The amendment represents the 23rd Substantive Amendment (“Amendment”) to the CTA Plan.<sup>5</sup> The Amendment proposes to establish a fee that will be

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

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

<sup>3</sup> More than two-thirds of the CTA Plan participants approved the amendment. The Approving Participants are: BATS Exchange, Inc., BATS-Y Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, National Stock Exchange, New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc. NASDAQ OMX BX, Inc., NASDAQ OMX PHLX, Inc., and the Nasdaq Stock Market LLC are also CTA Plan participants (“participants”).

<sup>4</sup> See Securities Exchange Act Release Nos. 10787 (May 10, 1974), 39 FR 17799 (May 20, 1974) (declaring the CTA Plan effective). The most recent restatement of the Plan 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.

<sup>5</sup> The Amendment was originally submitted on an immediately effective basis pursuant to Rule 608(b)(3)(i) under Regulation NMS. See Letter from Emily Kasparov, Chairman, CTA Plan Operating Committee to Brent J. Fields, Secretary, Commission, dated May 18, 2015. On June 19, 2015, the Approving Participants filed a letter to indicate the proposal should be considered under Rule 608(b)(1) and Rule 608(b)(2) of Regulation NMS. As a result, the Amendment must be approved by the Commission. See Letter

charged to a vendor or other data redistributor that fails to comply with the CTA Plan participants' Consolidated Volume display statement, and related requirements. The non-compliance charge seeks to provide incentives for data redistributors to comply with the participants' consolidated volume requirements.

The Commission is publishing this notice to solicit comments from interested persons on the proposed Amendment.

I. Rule 608(a)

A. Purpose of the Amendment

Historically, the Plan participants have not applied device fees to devices that receive consolidated volume (i.e., aggregate volume for trades taking place on all market centers under the Plan) in displays that do not also include CTA Plan prices or CQ Plan quotation information. The participants do not plan to change this policy.

However, some data redistributors include consolidated volume in displays of unconsolidated last sale prices and/or unconsolidated bid-asked quotes, such as displays of one exchange's trade prices and quotes.

Such displays, whether displayed internally or externally, could mislead investors in respect of the nature of the information they are viewing. A significant number of data users receive proprietary trade prices and quotes. Unless the data users understand the content being displayed, they could mistakenly think that they are seeing consolidated trades and quotes because they see consolidated volume without any explanation.

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from Emily Kasparov, Chairman, CTA Plan Operating Committee to Brent J. Fields, Secretary, Commission, dated June 17, 2015. The Amendment was designated as the Twenty Second Charges Amendment to the Plan. The Commission notes that the proposal is the Twenty Third Substantive Amendment to the Plan.

To make the displays transparent and less likely to mislead, the Approving Participants have determined to require data redistributors that include consolidated volume in displays of unconsolidated prices and quotes to incorporate into those displays the following statement (or a close iteration of the statement that the network administrator(s) have approved): “Realtime quote and/or trade prices are not sourced from all markets.”

A data redistributor must also assure that any person included in the redistribution chain starting with the data redistributor places the statement in any such display that it provides. The statement must be clearly visible to the end users so that they understand the differences in the data sources.

In addition, data redistributors need to assure that they, and any person or entity included in the redistribution chain starting with them, clearly incorporate the display statement into any advertisement, sales literature or other material displaying CTA Consolidated Volume alongside unconsolidated prices or quotes.

These requirements apply to both real-time and delayed displays of consolidated volume.

In order to ensure compliance with these requirements, the participants will require all recipients of the CTA last sale price datafeed (whether directly or indirectly) to submit a declaration. The participants will require those firms that include consolidated volume in displays of unconsolidated prices and quotes to submit to NYSE a screen print of the displays, showing the display statement. As this is a new requirement, the CTA Administrator will work with firms to facilitate their compliance.

A firm with access to CTA consolidated volume data must submit the declaration and, if applicable, the screen print within 120 days from the effective date of the amendment or within 30 days of the effective date of the firm’s market data agreement with the participants that

governs its receipt of the CTA datafeed (its "Vendor Agreement"). Thereafter, each firm must submit its declaration and, if applicable, its screen print annually by the 31st day of each January. The declaration and screen print (if applicable) must be submitted to mdteam@nyx.com.

The Approving Participants' representatives met with SIFMA and the CTA Plan's Advisory Committee to discuss the consolidated volume requirements and responded to their questions. The Approving Participants shortened the display statement in response to comments and made clear that a datafeed recipient is free to provide an exchange's trading volume with displays of the exchanges trade prices and quotes, without the need to include a display requirement.

In order to motivate data recipients to comply with the display statement requirements, including the requisite declarations and screen submissions, the Approving Participants have determined to establish a non-compliance fee for each month of non-compliance. For each of Network A and Network B, the monthly fee is \$3,000.

A datafeed recipient must submit the required screen prints by July 9, 2015<sup>6</sup> or within thirty days of the effective date of its Vendor Agreement. It must submit those screen prints (including previously provided, new, or changed screen prints) annually by the 31st day of each January thereafter.

The non-compliance charges will be assessed against a data redistributor for each month in which it fails to provide the declaration or a copy of a Consolidated Volume screen print with the required display statement in a timely manner. The charge will also be assessed against a data redistributor each month for non-compliance by persons in the redistribution chain starting

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<sup>6</sup> The Commission notes that the Amendment shall not become effective prior to Commission approval. See id.

with the data redistributor where such persons have not entered into an applicable agreement with CTA.

The non-compliance charges seek to provide incentives for data redistributors to comply with the consolidated volume requirements. The Approving Participants do not view the non-compliance fee as establishing a new revenue source. Rather, they hope it encourages all data redistributors to submit their declarations and screen prints (where applicable) in a timely fashion. They hope that the fee will motivate non-compliant redistributors to adopt the same practices that the majority of redistributors follow.

The inclusion of delayed displays of consolidated volume in the consolidated volume requirements seeks to add clarity where a data redistributor accompanies displays of real-time unconsolidated prices and quotes with delayed consolidated volume. The Approving Participants seek to prevent that data redistributor from misleading investors while escaping the consolidated display requirements.

B. Governing or Constituent Documents

Not applicable.

C. Implementation of the Amendment

Approving Participants have manifested their approval of the proposed Amendment by means of their execution of the Amendment. The Plan Amendment would become operational upon approval by the Commission.<sup>7</sup>

D. Development and Implementation Phases

The Approving Participants anticipate commencing to apply the compliance fee on data redistributors that fail to submit declarations or required screen prints by [DATE] [sic]. The

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<sup>7</sup> See supra note 5.

Approving Participants will give notice of the compliance fee to all data redistributors no less than 120 days prior to its implementation.

E. Analysis of Impact on Competition

The amendment will impose no burden on competition.

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

The participants have no written understandings or agreements between or among them relating to interpretation of the CTA Plan as a result of the amendment.

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."

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

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

Not applicable.

I. Terms and Conditions of Access

Not applicable.

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

The Approving Participants believe that the proposed compliance fee is fair and reasonable and provides for an equitable allocation of dues, fees, and other charges among

vendors, data recipients and other persons using CTA Network A facilities. They intend that it will provide incentives for compliance with consolidated volume requirements. The charge will be applied uniformly to vendors, data recipients and other persons that fail to comply.

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 general comments on the Amendment. Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Amendment 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-2015-02 on the subject line.

#### Paper comments:

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

All submissions should refer to File Number SR-CTA-2015-02. 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 website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the Amendment that are 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 Amendment 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-2015-02 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.<sup>8</sup>

Brent J Fields  
Secretary

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<sup>8</sup> 17 CFR 200.30-3(a)(27).