Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all written statements with respect to the proposed Plan Amendment that are filed with the Commission, and all written communications relating to the proposed Plan 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 Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the Amendments also will be available for inspection and copying at the principal office of NASDAQ. 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 S7–24–89 and should be submitted on or before October 28, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–23838 Filed 10–6–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73278; File No. SR–CTA/CQ–2014–03)

Consolidated Tape Association; Notice of Filing and Immediate Effectiveness of the Twenty-First Charges Amendment to the Second Restatement of the CTA Plan and Twelfth Charges Amendment to the Restated CQ Plan

October 1, 2014.

Pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 608 thereunder,[2] notice is hereby given that on September 12, 2014, the Consolidated Tape Association (''CTA'') Plan and Consolidated Quotation (''CQ'') Plan participants (''Participants'') [3] 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'').[4] The amendments (''2014 Fee Amendments'') respond to long-term changes in data-usage trends. In formulating the proposed fee changes, the Participants formed a subcommittee to study the optimum allocation of fees among market data users and consulted with the industry representatives that sit on the Plans' Advisory Committees and with other industry participants. The Participants also met with the Securities Industry and Financial Markets Association (''SIFMA'').

Pursuant to Rule 608(b)(3)(i) under Regulation NMS,[5] the Participants designated the 2014 Fee Amendments 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 2014 Fee Amendments became effective upon filing with the Commission. At any time within 60 days of the filing of the 2014 Fee Amendments, the Commission may summarily abrogate the 2014 Fee Amendments and require that the 2014 Fee Amendments be refiled in accordance with paragraph (a)(1) of Rule 608 and reviewed in accordance with paragraph (b)(2) of Rule 608, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or 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.

The Commission is publishing this notice to solicit comments from interested persons on the proposed 2014 Fee Amendments.

I. Rule 608(a)

A. Purpose of the Amendments

1. In General

The Participants made significant changes to the fee schedule effective as of September 1, 2013.[6] Those changes compressed the long-standing 14-tier Network A device rate schedule into just four tiers, consolidated the Plans' eight fee schedules into one, updated that fee schedule, and realigned the Plans' charges more closely with the services the Plans provide (collectively, the ''2013 Fee Changes''). They also complied with industry requests that the participants in the several national market system plans strive to harmonize fees under those plans. In submitting the 2013 Fee Changes to the Commission, the Participants represented that the changes would not materially change the revenues that the Participants collect under the Plans. However, since the 2013 Fee Changes were implemented in September 2013, Network A revenues have declined 5.43 percent and Network B revenues have declined 11.13 percent.

Prior to the 2013 Fee Changes, the Participants last filed a fee structure change in 1986. However, as the 2013 Fee Amendments described, significant change has characterized the industry, stemming in large measure from technological advances, the advent of trading algorithms and automated trading, new investment patterns, new securities products, unprecedented levels of trading, decimalization, internationalization and developments in portfolio analysis and securities research.

The 2014 Fee Amendments would realign the Plans' charges more closely with the ways in which data recipients consume market data today. Although professional subscriber display device fees still account for a majority of Network A and Network B revenues, the industry's reliance on professional subscriber display devices continues to decline and the gap between professional subscriber device rates and nonprofessional subscriber fees remains large. The proposed fee changes would reduce the rates that professional subscribers pay for each of their display

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[19] 17 CFR 200.30–3(a)(27).

[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. (''BATS''), BATS–Y Exchange, Inc. (BATS–Y), Chicago Board Options Exchange, Incorporated (''CBOE''), Chicago Stock Exchange, Inc. (''CHX''), EDGA Exchange, Inc. (''EDGA''), EDGX Exchange, Inc. (''EDGX''), Financial Industry Regulatory Authority, Inc. (''FINRA''), International Securities Exchange, LLC (''ISE''), NASDAQ OMX BX, Inc. (''Nasdaq BX''), NASDAQ OMX PHLX, Inc. (''Nasdaq PSX''), Nasdaq Stock Market LLC (''Nasdaq''), National Stock Exchange (''NSX''), New York Stock Exchange LLC (''NYSE''), NYSE MKT LLC (''NYSE MKT''), and NYSE Arca, Inc. (''NYSE Arca'').

[4] *See* Securities Exchange Act Release Nos. 10787 (May 10, 1974), 39 FR 17799 (May 20, 1974) (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 (January 28, 1980) (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 a ''national market system plan'' under Rule 608 under the Act, 17 CFR 242.608.

[5] 17 CFR 242.608(b)(3)(i).

[6] *See* Securities Exchange Act Release No. 70010 (July 19, 2013), 78 FR 44984 (July 25, 2013) (the ''2013 Fee Amendments'').

devices. To offset the revenue losses attributable to the reduction in professional subscriber device rates, the Participants propose:

• To establish fees for non-display consumption of market data;

• to subject firms that receive access to data feeds from extranet providers to direct access fees rather than indirect access fees;

• to raise the fees payable in respect of firms that receive access to data feeds by means of multiple data feeds; and

• to raise the fee payable in respect of per-quote services.

The 2014 Fee Amendments also move in the direction of harmonizing fees between Network A and Network B and of harmonizing fees under the Plans with fees under two other national market system plans: The Joint Self-Regulatory Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis (the ''Nasdaq/UTP Plan'') and the OPRA Plan. This would reduce administrative burdens for broker-dealers and other market data users and simplify fee calculations.

The proposed 2014 Fee Amendments rebalance the fee schedule without increasing the overall market data revenue pools generated under the Plans in a significant way. The Participants estimate that, assuming no change in customer behavior and no attendant diminution of customer usage, the 2014 Fee Amendments could increase the market data revenue pool for Network A and Network B by approximately two percent.

2. The Proposed Fee Schedule Changes

a. Professional Subscriber Charges

Data consumption through professional subscriber display devices has declined in recent years. Information regarding the magnitude of the declines can be found in the Participants' Consolidated Data Quarterly Operating Metrics Reports.[7] Those reports show that Network A professional devices declined from 379,885 at the end of the first quarter of 2011 to 289,620 devices at the end of the first quarter of 2014. Similarly, Network B professional devices declined from 286,400 at the end of the first quarter of 2011 to 215,145 devices at the end of the first quarter of 2014. Furthermore, the rise in off-exchange trading has meant that a smaller portion of those revenues is allocated to exchanges. Largely as a result, since 2008, CTA/UTP market data revenue has declined 18 percent from approximately $463 million in 2008 to $379 million annualized through March of 2014, of which about $317 million was allocated to exchanges and $62 million to FINRA.

The Participants also note the significant difference between monthly professional subscriber device fees and nonprofessional subscriber fees. The former currently range from $50 to $20 for Network A and are set at $24 for Network B. The latter are set at $1 for both Network A and Network B. The Participants propose to reduce that significant gap.

The proposed changes seek to address both concerns. The Participants propose to revise the four-tier monthly Network A fee structure for the display units of professional subscribers, as follows:

	Currently	Proposed
1. 1–2 devices:	$50.00	$45
2. 3–999 devices:	30.00	27
3. 1,000–9,999 devices:	25.00	23
4. 10,000 devices or more:	20.00	19

The proposed narrowing of the gap between the highest rates and the lowest rates would benefit both individuals who have not qualified as nonprofessional subscribers and smaller firms. In particular, individuals and firms having one or two devices would see their monthly Network A rate drop from $50 per device to $45, a 10 percent decrease. Firms whose professional subscriber employees use between 3 and 999 devices would see their monthly Network A rate drop from $30 per device to $27, also a 10 percent decrease. Firms whose professional subscriber employees use between 1,000 and 9,999 devices would see their monthly Network A rate drop from $25 per device to $23, an eight percent decrease. Firms whose professional subscriber employees use 10,000 devices or more would see their monthly Network A rate drop from $20 per device to $19, a five percent decrease.

For Network B, the Participants note that the 2013 Fee Changes combined separate rates for Network B last sale information and for Network B quotation information into a single $24 rate for both quotation information and last sale information. They also eliminated the differential between members and non-members. For Network B, the Participants propose to reduce the monthly Network B professional subscriber device rate from $24 to $23, a decrease of more than four percent. They note that the Nasdaq/UTP Plan imposes a fee of $20 for each device and that the OPRA Plan imposes a fee of $27 for each device.

The Participants anticipate that the revenue losses that would result from the decreases in the professional subscriber rates would be offset by the other proposed amendments to the fee schedule, perhaps resulting in an aggregate revenue increase of approximately two percent (assuming no change in customer behavior and no attendant diminution of customer usage).

b. Nonprofessional Subscriber Charges

The 2013 Fee Changes harmonized the treatment of large and small firms by applying a $1.00 per month rate in respect of all Network A nonprofessional subscribers, regardless of the number of nonprofessional subscribers. This harmonized the Network A nonprofessional subscriber fee with the Network B nonprofessional subscriber fee, as well as the $1.00 nonprofessional subscriber fee payable under the Nasdaq/UTP Plan. The fee applicable to nonprofessional subscribers under the OPRA Plan is $1.25.

The Participants propose to retain the monthly $1.00 nonprofessional subscriber fee for both Network A and Network B because they believe it is a reasonable and cost-effective rate for retail investors.

c. Non-Display Use Fees

i. *Background.* Changes in regulation and advances in technology have had an impact on market data usage in recent

[7] Those reports can be found at *http://www.nyxdata.com/CTA.*

years. Automated and algorithmic trading has proliferated, the numbers of quotes and trades have increased significantly and data feeds have become exponentially faster. As a result, data feeds have increased in value and non-display devices consume large amounts of data. Some firms' business models incorporate data feeds into black boxes and application programming interfaces that apply trading algorithms to the data without widespread data access by the firm's employees. These firms pay little for data usage beyond access fees, yet their data access and usage is critical to their businesses. They can process the data far more quickly than any human being looking at a terminal. Today, such devices are responsible for a majority of trading. The use of market data for purposes of electronic trading systems provides great value to firms and allows them to generate considerable profit. Yet that usage contributes little to market data revenues.

Non-display uses of data for non-trading purposes benefits data recipients by allowing users to automate functions, to achieve greater speed and accuracy, and to reduce costs of labor. While some non-trading uses do not directly generate revenues, they can substantially reduce a data recipient's costs by automating many functions. Those functions can be carried out in a more efficient and accurate manner, with reduced errors and labor costs. The use of an annual declaration for reporting purposes, as described below, would alleviate the burden of counting devices used for non-trading purposes.

As a result, the Participants have determined that the establishment of fees for non-display uses of data, along with a reduction in the device fees assessed on professional subscribers, would provide an equitable allocation of fees to the industry, would facilitate the administration of non-display uses of market data and would equitably reflect the value of non-display and display data usage. The Participants believe that the proposed fees reflect the value of the data that they provide. They note that non-display fees have become commonplace in the industry. Several exchanges impose them for non-display use of their proprietary data products, as does the OPRA Plan.

ii. *Definition of Non-Display Use.* For purposes of the proposed fees, non-display use refers to accessing, processing or consuming real-time Network A or Network B quotation information or last sale price information, whether delivered via direct and/or redistributor data feeds, for a purpose other than in support of a data recipient's display or further internal or external redistribution. It does not include the use of such data to create and use derived data.

iii. *Categories of Non-Display Use.* The Participants propose to recognize three categories of non-display uses of market data.

- Category 1 applies when a data recipient makes non-display uses of real time market data on its own behalf.
- Category 2 applies when a data recipient makes non-display uses of real time market data on behalf of its clients.
- Category 3 applies when a data recipient makes non-display uses of real time market data for the purpose of internally matching buy and sell orders within an organization.

Matching of buy and sell orders includes matching customer orders on a data recipient's own behalf and/or on behalf of its clients. Category 3 includes, but is not restricted to, use in trading platform(s), such as exchanges, alternative trading systems (''ATSs''), broker crossing networks, broker crossing systems not filed as ATSs, dark pools, multilateral trading facilities, and systematic internalization systems.

iv. *Examples of Non-Display Uses of Market Data.* Examples of Non-Display Use are, but are not limited to:

- Trading in any asset class
- Automated order or quote generation and/or order pegging
- Price referencing for algorithmic trading
- Price referencing for smart order routing
- Operations control programs
- Investment analysis
- Order verification
- Surveillance programs
- Risk management
- Compliance
- Portfolio Valuation

As mentioned above, the proposed non-display fees do not apply to the creation and use of derived data.

v. *Non-Display Use Fees.* For each of the three categories of non-display uses:

(a) The Participants under the CTA Plan propose to impose monthly fees of $2000 for the non-display use of Network A last sale price information and $1000 for the non-display use of Network B last sale price information; and

(b) the Participants under the CQ Plan propose to impose monthly fees of $2000 for the non-display use of Network A quotation information and $1000 for the non-display use of Network B quotation information.

The fees apply to each of a data feed recipient's accounts with the Participants that uses market data for non-display purposes. The Participants would invoice data feed recipients that make non-display uses of real-time market data on a monthly basis.

For Category 1 and Category 2 non-display uses of data, the fee applies in respect of each market data product (*i.e.,* Network A last sale price information, Network A quotation information, Network A last sale price information and Network B quotation information). The fees for Category 1 and Category 2 amount to enterprise licenses for the non-display uses that fall within those categories. Only one Category 1 or Category 2 fee applies regardless of the number of non-display uses of data the firm makes within that category. For instance, if a firm uses Network A quotation information to analyze investments for its own portfolio, to value that portfolio, to verify the firm's proprietary orders and to run compliance programs for the firm, the firm would pay only one Category 1 fee in respect of Network A last sale price information. Similarly, if a firm uses Network A last sale price information to analyze investments for customers, to verify customer orders, to surveil the market it conducts for customers, to provide risk management services to customers and to value its customers' portfolios, the firm would pay only one Category 2 Network A fee in respect of Network A last sale price information.

For Category 3, the fees apply for each of the firm's platforms and for each market data product that each such platform uses. If a firm uses Network A quotation information solely to operate a dark pool for its customers' orders and makes no other non-display use of market data, it would pay a Category 3 fee in respect of Network A quotation information (and no other non-display fee for that information). If that firm also uses Network A quotation information to operate an ATS, but still makes no other non-display uses of quotation information, it would pay two Category 3 fees in respect of Network A quotation information (and no other non-display fee for that information).

A firm may use data for one, two or all three categories and thereby subject itself to the non-display fees for each category. For example, if a broker-dealer uses Network A quotation information to run compliance programs for the firm (Category 1), to surveil the market it conducts for customers (Category 2), and to operate an ATS that matches buy and sell orders (Category 3), then the firm would be required to pay the Network A quotation information non-display use fee in respect of all three categories. If, in addition to the ATS, the firm also operates a broker crossing system not registered as an ATS, then two Category 3 fees would apply. (That is, a firm must count each platform that uses data for Category 3 non-display purposes.) The non-display fees would apply separately in respect of each market data product that the broker-dealer uses for non-display purposes (*i.e.,* Network A last sale price information, Network A quotation information, Network A last sale price information and Network B quotation information).

vi. *Administrative Requirements for Non-Display Uses.* In response to feedback received from SIFMA, the Participants seek to minimize the administrative burden attendant to non-display use fees and, therefore, have determined not to impose a monthly reporting requirement. Instead, the Participants would require each recipient of a real-time data feed to make an annual declaration of its non-display use to the Participants. They would require each data feed recipient to complete and submit the declaration upon its initial receipt of a data feed under the CTA Plan or the CQ Plan. In addition, if a data feed recipient's use of data changes at any time after the data feed recipient submits its declaration or annual confirmation or update, the Participants would require the data feed recipient to update its declaration at the time of the change to reflect the change of use. The Participants believe that use of the declaration would keep administrative burdens at a minimum. The Participants reserve the rights:

(a) To audit data feed recipients' non-display use of market data in accordance with the terms of their market data agreements with vendors and others; and

(b) to charge non-display use fees to data feed recipients that do not report any display activity, and do not return a completed declaration in accordance with the requirements specified above.

d. Per-Query Charges

Previously, Network A and Network B imposed identical three-tiered per-query rates as follows:

1 to 20 million quotes	$.0075 each
20 to 40 million quotes	$.005 each
Over 40 million quotes	$.0025 each

The 2013 Fee Changes modified the Network A and Network B per-query rate structure by replacing a three-tier structure with the same one-tier rate as the Nasdaq/UTP Plan and the OPRA Plan imposes: $.005 for each inquiry for both Network A and Network B. Effective June 1, 2013, the Participants in the OPRA Plan increased their per-query fee to $0.0075.[8] In addition, the Participants understand that the Participants in the Nasdaq/UTP Plan are contemplating a similar increase to $0.0075 per query.

The Participants believe that increasing the per-query fee to $0.0075 would harmonize the per-query fees under the national market system plans and would contribute toward restoring a more appropriate balance of fees in recognition of the declining significance of revenues derived from professional subscriber device fees. The increase in revenues resulting from the proposed increase in the per-query fees would represent an appropriate contribution for that service to covering the overall costs of the Participants in collecting, processing and distributing market data under the Plans. As before, a vendor's per-query fee exposure for any nonprofessional subscriber is limited to $1.00 per month (*i.e.,* the nonprofessional subscriber rate.) At $0.0075 per query, a vendor would need to receive fewer query requests from a nonprofessional subscriber before it hits the monthly nonprofessional subscriber cap of $1.00.

e. Access Fees

Access fees are charged to those who obtain Network A and Network B data feeds. Consistent with current practice, within each of a firm's billable accounts, the Participants only charge one access fee for last sale information and one access fee for quotation information, regardless of the number of data feeds that the firm receives for that account. The Participants are not proposing to modify the current rates for direct and indirect access. However, the Participants are proposing to amend the application of those rates to firms that receive access to data feeds from extranet providers.

The Participants under the Nasdaq/UTP Plan historically have deemed a firm that receives access to data feeds from an extranet provider to receive direct access to the data feeds and have therefore subjected those firms to direct access charges. In contrast, the Participants under the Plans historically have deemed a firm that receives access to data feeds from an extranet provider to receive indirect access to the data feeds and have therefore subjected those firms to indirect access charges.

The Participants have reviewed this disparity and have determined that the nature of extranet access is closer to direct access than to indirect access. Extranet access to the facilities by which the Participants make market data available provides substantially the same benefits as does direct access to those facilities and provides advantages and incremental value relative to traditional means of indirect access. As a result, the Participants believe that subjecting firms that receive extranet access to direct access fees rather than indirect access fees would be fair and reasonable.

The Participants estimate the revenues resulting from this change would have only a small impact on total Network A and Network B revenues. However, it would make for a more equitable allocation of access fees among data feed recipients.

f. Multiple Data Feed Charges

The 2013 Fee Changes established new monthly fees for firms that take more than one primary data feed and one backup data feed, as follows:

$50 for Network A last sale information data feeds
$50 for Network A quotation information data feeds
$50 for Network B last sale information data feeds
$50 for Network B quotation information data feeds.

For both last sale and bid-ask data feeds, the charge applies to each data feed that a data recipient receives in excess of the data recipient's receipt of one primary data feed and one backup data feed. The fees do not necessitate any additional reporting obligations. The fees encourage firms to better manage their requests for additional data feeds and to monitor their usage of data feeds.

The Participants have now had experience with the new fees and an opportunity to assess the value that additional data feeds add to the business models of data feed recipients. As part of the process of rebalancing market data fees in a way that deemphasizes revenues from professional subscriber device fees, the Participants have determined to propose raising the four multiple access feed fees from $50 to $200. The Participants note that the installation and maintenance of data feed lines come at a cost. Increasing the fees for multiple access feeds data feed lines would encourage firms to choose their lines more selectively and to seek greater efficiency in their consumption of data.

3. Impact of the Proposed Fee Changes

As with any reorganization of a fee schedule, these changes may result in some data recipients paying higher total market data fees and in others paying lower total market data fees. The

[8] *See* Securities Exchange Act Release No. 69448 (April 25, 2013), 78 FR 25500 (May 1, 2013).

Participants have assessed the loss in revenues that the reduction in professional subscriber device rates would generate on the one hand and, on the other hand, the gain in revenues that the non-display use fees, the increases in the per-query fees and multiple access feed fees, and the change in characterization of extranet access would generate. The Participants estimate that the net result of the changes could increase the market data revenue pool for Network A and Network B by approximately two percent, assuming no change in customer behavior and no attendant diminution of customer usage. Of course, the absence of prior experience with non-display use fees makes estimates of future revenues particularly uncertain. A more specific breakdown of the impact of the proposed fee changes on revenues under the Plans is as follows:

- If current usage levels remain the same, the decline in professional subscriber device rates would decrease revenues by approximately five percent.
- Because the Non-Display Use fees would be new, it is difficult to estimate the impact they would have on revenues. A best guess is that they would raise revenues by approximately four percent.
- If current usage levels remain the same, the increase in the per-query fee would raise revenues by approximately one percent. That estimate includes as a mitigating factor the failure to gain a certain portion of the revenue increase because the per-query fees fall under the Plans' enterprise caps.
- If current usage levels remain the same, the change relating to extranet access to data feeds would raise revenues by approximately seven-tenths of a percent.
- If current usage levels remain the same, the increases in the multiple data feed charges would raise revenues by approximately one percent. That estimate excludes the potential reduction in data feeds that would result insofar as the charges cause firms to make more efficient use of data feeds.

The Participants note that the fee changes would contribute to stemming the significant loss of revenues under the Plans in recent years as a result of large multi-year declines in display devices that professional subscribers use. Furthermore, the rise in off-exchange trading has meant that a smaller portion of those revenues have been allocated to exchanges. Since 2008, CTA/UTP market data revenue has declined 18 percent from approximately $463 million in 2008 to $379 million annualized through March of 2014. For these reasons, the Participants believe that the 2014 Fee Amendments would help to stem the tide of declining revenues caused by trends in the use of display devices by professional subscribers.

B. Governing or Constituent Documents

Not applicable.

C. Implementation of the Amendments

Pursuant to Rule 608(b)(3)(i) under Regulation NMS, the Participants have designated the 2014 Fee Amendments as establishing or changing fees and are submitting the 2014 Fee Amendments for immediate effectiveness. The Participants anticipate implementing the proposed fee changes on January 1, 2015, after giving notice to data recipients and end users of the 2014 Fee Amendments.

The Participants note that they have vetted the 2014 Fee Amendments with the representatives that sit on the Advisory Committee and have modified certain aspects of the amendments based on the Advisory Committee's recommendations.

D. Development and Implementation Phases

Please see Item I(C) above.

E. Analysis of Impact on Competition

The proposed amendments do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed fee changes reflect the Participants' views that it is appropriate to rebalance the allocation of market data fees and to meet the changing trends in the ways in which the industry uses market data. The proposed fee changes comport with the proliferation of the use of data for dark pools and other non-display trading applications. They recognize industry changes that have evolved as a result of numerous technological advances, the advent of trading algorithms and automated trading, different investment patterns, a plethora of new securities products, unprecedented levels of trading, decimalization, internationalization and developments in portfolio analysis and securities research.

In addition, the 2014 Fee Amendments would simplify firms' administrative burdens by harmonizing the Plans' fee structures with those under the Nasdaq/UTP Plan and the OPRA Plan and would impose only a minimal administrative burden on the use of data for non-display purposes.

The Participants note that the list of exchanges that have previously implemented non-display use fees includes the London Stock Exchange, Nasdaq BX, Nasdaq PSX, Nasdaq, NYSE, NYSE MKT LLC and NYSE Arca. They note that the OPRA Plan imposes non-display use fees and that they understand that the Participants in the Nasdaq/UTP Plan anticipate doing so shortly.

The Participants hope that the reductions in rates for professional subscriber display devices would foster the widespread availability of real-time market data. At the same time, the new fees for non-display uses of market data would allow those who make non-display uses of data to make appropriate contributions to the costs of collecting, processing and redistributing the data. In addition, the proposed fee changes would cause Network A and Network B fees to sync more closely with fees payable under the Nasdaq/UTP Plan and the OPRA Plan. The proposed reductions in the professional subscriber device fees would allow those fees to compare even more favorably with the professional subscriber device fees payable under those other Plans and with the professional subscriber device fees charged by the largest stock exchanges around the world. The proposed non-display use fees compare favorably with the comparable fees that the Participants understand the Participants in the Nasdaq/UTP Plan intend to establish and with the non-display use fees that individual exchanges charge for their proprietary products. The proposed increase in the per-query fees would harmonize those fees with the per-query fees paid under the OPRA Plan and the comparable fee that the Participants understand the Participants in the Nasdaq/UTP Plan intend to set.

As a result, the 2014 Fee Amendments would promote consistency in price structures among the national market system plans, as well as consistency with the preponderance of other market data providers. This would make market data fees easier to administer. In the Participants' view, the proposed fee schedule would rebalance the allocation of market data fees to meet the changing trends in the ways in which the industry uses market data and allow each category of data recipient and data user (i.e., professional subscribers vs. nonprofessional subscribers, non-display firms vs. registered representative firms, large firms vs. small firms and redistributors vs. end users) to contribute an appropriate amount for its receipt and use of market data under the Plans. The proposed fee schedule would provide for an equitable allocation of dues, fees, and other charges among broker-dealers, vendors, end users and others receiving and using market data made available under the Plans by recalibrating the fees to more closely correspond to the different benefits different categories of users derive from their different uses of the market data made available under the Plans.

The Participants estimate that the 2014 Fee Amendments would allow more than 19,000 firms to pay less for Network A data and for Network B data than they do now, with most firms paying saving up to $500 per month for each network. The Participants predict that approximately 300 firms would pay more for Network A data, with most of those firms paying between $500 and $1000 per month. They predict that approximately 275 firms would pay more for Network B data, with most of those firms paying between $1000 and $5000 per month. A small number of outliers exist and the impact on them would be more significant. Within each category of data recipient and data user, the Participants propose to apply the revised fee schedule uniformly (including members of the Participant markets and non-members). The Participants do not believe that the proposed fee changes introduce terms that are unreasonably discriminatory. The Participants note that fees under the CTA and CQ Plan compare very favorably with the fees that individual exchanges charge for their proprietary data products.

F. Written Understanding or Agreements Relating to Interpretation of, or Participation in, the Plans

Not applicable.

G. Approval by Sponsors in Accordance With Plan

The Participants have approved the 2014 Fee Amendments in accordance with Section XII(b)(iii) of the CTA Plan and Section IX(b)(iii) of the CQ Plan.

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

Not applicable.

I. Terms and Conditions of Access

Please see Item I(A) above.

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

1. In General

The Participants took a number of factors into account in deciding to propose the amendments. To begin, the Participants' market data staffs communicate on an on-going basis with all sectors of their constituencies and assess and analyze the different broker/dealer and investor business models. They have expertise in the information needs of the Participants' constituents and used their experience and judgment to form recommendations regarding the 2014 Fee Changes, vetted those recommendations with constituents and revised those recommendations based on the vetting process.

Most significantly, the Participants discussed the recommendations with their Advisory Committee. The CTA and CQ Plans require the Advisory Committee to include, at a minimum, a broker-dealer with a substantial retail investor customer base, a broker-dealer with a substantial institutional investor customer base, an alternative trading system, a data vendor, and an investor. Advisory Committee members attend and participate in meetings of the Participants and receive meeting materials. At several meetings of CTA and the CQ Plan's Operating Committee, Advisory Committee members gave valuable input into the formulation of the 2014 Fee Amendments.

In reassessing and rebalancing market data fees as proposed in the amendments, the Participants took a number of factors into account in addition to the views of its constituents, including:

(A) Crafting fee changes that will not have a significant impact on total revenues generated under the Plans;

(B) setting fees that compare favorably with fees that the biggest exchanges around the globe and the Nasdaq/UTP Plan and the OPRA Plan charge for similar services;

(C) setting fees that allow each category of market data recipient and user to contribute market data revenues that the Participants believe is appropriate for that category;

(D) crafting fee changes that appropriately differentiate between constituents in today's environment (*e.g.*, professional subscribers vs. nonprofessional subscribers, non-display firms vs. registered representative firms, large firms vs. small firms, and redistributors vs. end users); and

(E) crafting fees that reduce the administrative burdens of data recipients.

2. An Overview of the Fairness and Reasonableness of Market Data Fees and Revenues Under the Plans

a. *The 2014 Fee Changes Will Have No Impact on Most Individual Investors.* The vast majority of nonprofessional subscribers (*i.e.,* individual investors) receive market data from their brokers and vendors. Network A and Network B impose their nonprofessional subscriber fees on the brokers and vendors (rather than the investors) and set those fees so low that most brokers and vendors absorb the fees, meaning that the vast majority of individual investors do not pay for market data. The Participants anticipate that the changes to the per-query fee would not have a significant impact on the willingness of broker-dealers to continue to pay the fee on behalf of their customers. The Fee Changes will thus have no impact on most individual investors.

b. *The 2014 Fee Changes Take into Account Customer Feedback.* The Fee Changes are fair and reasonable because they offer a resolution to the call by industry participants for a simplified, updated fee schedule that harmonizes with fee schedules under other national market system plans and reduces administrative burdens, a resolution that industry representatives on the Plans' Advisory Committee have warmly embraced. And, the Fee Changes do so in a manner that is approximately revenue neutral.

c. *Long-Term Trend of Rate Reduction.* The existing constraints on fees for core market data under the Plans have generally succeeded in reducing market data rates over time. For example, when the effects of inflation are taken into account, the average monthly rate payable for a Network A professional subscriber device has consistently and dramatically fallen in real terms over the past 25 years. When inflation is taken into account, the average monthly cost of a Network A professional device was:

- $25.00 in 1987.
- $21.73 in 1990.
- $18.63 in 1995.
- $16.89 in 2000.
- $14.54 in 2005.
- $13.02 in 2010.
- $12.37 in 2013.

Also of interest is that NYSE charged approximately $25 per month for the NYSE ticker service in the 1880's.

d. *Explosion of Data.* Although the device fees have fallen after taking inflation into account, the amount of data message traffic that data users receive by subscribing has skyrocketed, as has the speed at which the data is transmitted.

i. *Significant Improvements in Latency.* The Participants have made numerous investments to improve system speed and capacity, investments that are often overlooked by the industry. The Participants regularly monitor and review the performance of their securities information processor (''SIP'') and make performance statistics available publicly on a quarterly basis. Information can be found in the Participants' Consolidated Data Quarterly Operating Metrics Reports.[9] They make investments to upgrade technology, upgrades that enable the SIP to collect and disseminate the data ever more quickly, even as the number of quotes and trades continues to rise. The Participants will make future investments to handle the expected continued rise in message traffic, and at even faster data dissemination speeds.

The information below shows that customers are getting the quote and trade data feeds faster, as the latency of consolidated tape quote and trade feeds has improved significantly in recent years. Average quote feed latency declined from 800 milliseconds at the end of 2006 to 0.4 milliseconds in June 2014 and average trade feed latency declined from about one second at the end of 2006 to 0.5 milliseconds in June 2014, as shown below. Latency is measured from the time a message received from a Participant is time-stamped by the system, to the time that processing the message is completed.

Average Quote Latency for Network A/B:

- About 800 milliseconds at the end of 2006.
- About 20 milliseconds at the end of 2008.
- About 2.5 milliseconds at the end of 2010.
- Under 1 millisecond at the end of 2011.
- Under 1 millisecond at the end of 2012.
- About 0.6 millisecond in April 2013.
- About 0.4 millisecond in June 2014.

Average Trade Latency for Network A/B:

- About 1 second at the end of 2006.
- About 50 milliseconds at the end of 2008.
- About 2.7 milliseconds at the end of 2010.
- Under 1 millisecond at the end of 2011.
- Under 1 millisecond at the end of 2012.
- About 0.4 millisecond in April 2013.
- About 0.5 millisecond in June 2014.

ii. *New Data Added to Consolidated Feeds.* The Participants have continually enhanced the consolidated feeds. The enhancements provide significant value. They are critical to the industry in that they permit data users to do such things as view new markets and implement new regulation. Below is a list of the more significant recent enhancements, including the addition of new Participants, new indicators, new sales conditions, new reason codes and dedicated test symbols.

CTS/CQS New/Reactivated Participants:

- NASDAQ OMX—Reactivation February 2007
  - BATS—Activation April 2008
- NASDAQ OMX BX (formerly the Boston Stock Exchange)—Reactivation January 2009
  - BATS Y—Activation October 2010
  - Direct Edge A—Activation July 2010
  - Direct Edge X—Activation July 2010
- NASDAQ OMX PSX (formerly the Philadelphia Stock Exchange)—Reactivation October 2010
  - FINRA—Reactivation February 2014

CTS/CQS New Indicators:

- New CTS/CQS indicator to identify Primary Listing Market—January 2007
- New CTS Trade-Through Exempt indicator—January 2007
- New CTS/CQS Trade Reporting Facility indicator—February 2007
- New CTS Negative Index Value indicator—September 2007
- New CTS Consolidated High/Low/Last Price indicator 'H'—High/Low—July 2007
- New CTS Participant Open/High/Low/Last Price Indicator codes—July 2007
  - 'L'—Open/Last
  - 'M'—Open/High/Low
  - 'N'—Open/High/Last
  - 'O'—Open/Low/Last
  - 'P'—High/Low
  - 'Q'—High/Low/Last
- New CTS/CQS Short Sale restriction indicator—February 2011
- New CQS SIP-generated message identifier indicator—February 2013 (denote that CQS was the originator of the Quote message, e.g., republished quotes, closing quote, price bands)
- New CTS/CQS Limit Up/Limit Down indicator fields and codes—February 2013 (Dedicated Test Symbols), April 2013 (Phase I production symbol rollout commencement). The processor calculates and distributes the Limit Up/Limit Down price bands.
- New CTS/CQS Limit Up/Limit Down Phase 1—May 2013; Phase 2A—August 2013; Phase 2B—February 2014
- New CQS ''Retail Interest Indicator'' field—March 2012
- New CTS/CQS ''Market-Wide Circuit Breaker'' messages—April 2013

CTS Sale Conditions:

- New CTS Sale Condition 'V'—Stock-Option Trade indicator—January 2008
- New CTS Sale Condition '4'—Derivatively Priced Trade indicator—April 2008
- New CTS Sale Condition 'O'—Market Center Opening Trade—September 2007
- New CTS Sale Condition 'Q'—Market Center Official Open Trade—September 2007
- New CTS Sale Condition 'M'—Market Center Official Close Trade—September 2007
- Redefined CTS Sale Condition 'H' from Intraday Trade Detail to Price Variation Trade—September 2007
- New CTS Sale Condition 'X'—Cross Trade—September 2007
- Redefined CTS Sale Condition 'I'—Odd Lot Trade—scheduled for implementation in December 2013
- New CTS Sale Condition '9'—Official Consolidated Last as per Listing Market—scheduled for implementation in December 2013

Regulatory/Non-Regulatory Halts Reasons:

- ''Non-Regulatory'' Trading Halt Reasons
- CTS/CQS indicator 'Y' to denote 'Sub-Penny Trading'—August 2007
- ''Regulatory'' Trading Halt Reasons
- CTS/CQS indicator 'M' to denote 'Volatility Trading Pause'—June 2010

Other:

- CTS/CQS Dedicated ''Test'' symbols—October 2010

iii. *Significant Improvements in System Throughput, Measured by Messages Per Second.* Investments in hardware and software have increased processing power and enabled the systems to handle increasing throughput levels. This is measured by peak capacity messages per second and is monitored by looking at actual peak messages per second. SIP throughput continues to increase in order to push out the increasing amounts of real-time quote and trade data.

Given the constant rise in peak messages, the SIP significantly increased system capacity. As shown below, the system could handle peak quotes per second of 11,250 in 2006 and 3.25 million in July 2014, an increase of more than 25,000 percent. The Participants have a target of handling 4 million peak quotes per second by January 2015. The capacity for trades per second increased from 2,500 in 2006

[9] Those reports can be found at *http://www.nyxdata.com/CTA.*

to 650,000 in July 2014, an increase of more than 25,000 percent. The Participants have a target of handling 700,000 trades per second by January 2015.[10]

Supported Quotes per Second Capacity for Network A/B:

- 11,250 in 2006.
- 120,000 in 2008.
- 500,000 in 2010.
- 1,500,000 in 2011.
- 2,500,000 in 2012.
- 3,000,000 in 2013.
- 3,250,000 in July 2014.
- 4,000,000 targeted for September 2014.

Actual Peak Quotes per Second for Network A/B:

- 8,673 in 2006.
- 88,249 in 2008.
- 308,705 in 2010.
- 580,870 in 2011.
- 567,321 in 2012.
- 574,891 through April 2013.
- 558,520 year-to-date through June 2014.

Supported Trades per Second Capacity:

- 2,500 in 2006.
- 20,000 in 2008.
- 100,000 in 2010.
- 300,000 in 2011.
- 500,000 in 2012.
- 600,000 in 2013.
- 650,000 in July 2014.
- 1,000,000 targeted for September 2014.

Actual Peak Trades per Second for Network A/B:

- 2,240 in 2006.
- 15,058 in 2008.
- 49,570 in 2010.
- 77,841 in 2011.
- 80,747 in 2012.
- 91,120 in 2013.
- 111,774 year-to-date through June 2014.

e. *Vendor Fees.* Fees imposed by data vendors (which the Commission does not regulate), rather than the fees imposed under the national market system plans or by national securities exchanges, account for a significant majority of the global market data fees incurred by the financial industry.[11] Market data vendors may apply significant administration mark-up fees on top of exchange market data fees. These mark-ups are not regulated and there is limited transparency into how the rates are applied. These mark-ups do not result in any additional revenues for the Participants; the vendors alone profit from them.

f. *Declining Unit Purchase Costs for Customers.* Despite consolidated tape investments in new data items, additional capacity demands and latency improvements, data users' unit purchase costs for trade and quote data has declined significantly, increasing the value of the data they receive from their subscriptions. The amount of quote and trade data messages has increased significantly while fees have remained unchanged, as shown below for the 2006 to 2013 timeframe.

- *Average purchase cost of Network A quotes:* The average number of quotes per day increased over 530 percent during this timeframe, rising from 44.2 million in 2006 to 281.6 million in 2013. As a result, the average unit purchase cost of a quote for a customer incurring a monthly Network A indirect access fee of $700 declined approximately 84 percent during this period, falling from $0.0000158 in 2006 to $0.0000025 in 2013.
- *Average purchase cost of Network B quotes:* The average number of quotes per day increased over 1850 percent, rising from 7.0 million in 2006 to 129.5 million in 2013. As a result, the average unit purchase cost of a trade for a customer incurring a monthly Network A indirect access fee of $250 declined an estimated 95 percent during this period, falling from $0.0000357 in 2006 to $0.0000019 in 2013.
- *Average purchase cost of Network A trades:* The average number of trades per day increased over 73 percent, rising from 8.1 million in 2006 to 14.0 million in 2013. As a result, the average unit purchase cost of a quote for a customer incurring a monthly Network B indirect access fee of $500 declined an estimated 42 percent during this period, falling from $0.0000617 in 2006 to $0.0000357 in 2013.
- *Average purchase cost of Network B trades:* The average number of trades per day increased 296 percent, rising from 659,337 in 2006 to 2.61 million in 2013. As a result, the average unit purchase cost of a trade for a customer incurring a monthly Network B indirect access fee of $200 declined an estimated 75 percent during this period, falling from $0.000303 in 2006 to $0.000077 in 2013.

3. Increase in Costs

The direct costs that the Plans incur for the services of the securities information processor and network administrators to process the data and administer the networks, as well as the cumulative total of the indirect costs that each Participant incurs in producing and collecting its data, have increased substantially since the Participants last restructured their fees in 1986.

Since 1987, the first full year for which the 14-tier fee structure was in effect, the direct costs of the securities information processor and the network administrators have increased 99 percent, or 2.59 percent per year when compounded on an annual basis. When taken over 27 years, this annual increase in direct costs is likely to exceed the estimated two percent increase in revenues that the Participants estimate the 2014 Fee Amendments will produce (especially once decreased customer usage as a result of the 2014 Fee Amendments is taken into account) as a percentage and to approximately match the increase in revenues that the Participants estimate the 2014 Fee Amendments will produce. Further, the Participants estimate that the increase in the direct costs of the securities information processor and the network administrators over the past year will slightly exceed the increase in revenues that the Participants estimate the 2014 Fee Amendments will produce (exclusive of decreased usage as a result of the 2014 Fee Amendments).

With respect to indirect costs, the Commission has previously noted that ''any attempt to calculate the precise cost of market information presents severe practical difficulties.'' [12] In commenting on the 1999 Concept Release, NYSE summarized many of the ''severe practical difficulties'' attendant to each Participant's calculation of its data production and collection costs and we incorporate that discussion here.[13] In 1987, the indirect costs of the Participants would have included the data production and collection costs of seven national securities exchanges [14] and one national securities association [15]. In 2014, that calculation would have to include the data production and collection costs of the 15 Participants, including 14 national securities exchanges and the Alternative Display Facility and two Trade Reporting Facilities that FINRA, the

[10] To better manage the rise in message traffic, the Participants anticipate that capacity planning will move from measuring messages per second to measuring messages per millisecond.

[11] *See,* for example, ''A Research Study'' published by Atradia. It can be found at the Software and Information Industry Association Web site at *www.siia.net.*

[12] *See* SEC 1999 Concept Release on ''Regulation of Market Information Fees and Revenues'' (the ''1999 Concept Release''). It can be found at *http://www.sec.gov/rules/concept/34-42208.htm.*

[13] *See* footnote 11 of letter from James E. Buck, Senior Vice President and Secretary, NYSE, April 10, 2000. It can be found at *http://www.sec.gov/rules/concept/s72899/buck1.htm*

[14] American Stock Exchange, Inc., Boston Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., Midwest Stock Exchange, Inc., New York Stock Exchange, Inc., Pacific Stock Exchange, Inc., and Philadelphia Stock Exchange, Inc.,

[15] National Association of Securities Dealers, Inc.

lone national securities association, maintains.

4. Adequate Constraints on Fees

Constituent boards, customer control and regulatory mechanisms constrain fees for core market data now just as they have since Congress established the fair-and-reasonable standard in 1975.

With respect to Network A and Network B, NYSE typically takes the lead on pricing proposals, vetting new proposals with the other Participants, various users, and trade and industry groups, and making modifications which improve or reevaluate the original concept. Proposals are then taken to each Participant for approval. But there are significant market data user and regulatory constraints on NYSE's ability to simply impose price changes.

The governing body of each Participant consists of representatives of constituent firms and a large quotient of independent directors. The Participants' constituent board members have the ultimate say on whether CTA and the CQ Plan Operating Committee should submit fee proposals to the Commission and whether the costs of operating the markets and the costs of the market data function are fairly allocated among market data users. That is, the users of market data and non-industry representatives who sit on Participant boards get to determine whether to support market data fee proposals. They also get to determine how the various types of data users should pay their fair share and they make decisions about funding technical infrastructure investments needed to receive, process and safe-store the orders, quotations and trade reports that give rise to the data.

Constituent Board members are the Participants' market data customers. When a critical mass of them voices a point of view, they can direct the Participants how to act. This is exactly what has happened here.

This cost-allocation-by-consensus process also is buttressed by the Commission's own review and public comment procedures, which also operate as an additional constraint on pricing.

Also, developments in technology make possible another important constraint on market data prices for core data: There is nothing to prevent one or more vendors, broker-dealers or other entities from gathering prices and quotes across all Participants and creating a consolidated data stream that would compete with the Plans' data streams. The technology to consolidate multiple, disparate data streams is readily available, and other markets have already begun introducing products that compete with core data (such as Nasdaq Basic).[16]

K. Method and Frequency of Processor Evaluation

Not applicable.

L. Dispute Resolution

Not applicable.

II. Rule 601(a) (Solely in Its Application to the Amendments to the CTA Plan)

A. Equity Securities for Which Transaction Reports Shall be Required by the Plan

Not applicable.

B. Reporting Requirements

Please see Item I(A)(2)(c)(vi).

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

Please see Item I(A).

H. Identification of Marketplace of Execution

Not Applicable.

III. Solicitation of Comments

The Commission seeks general comments on CTA/CQ–2014–03. Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal 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 email to *rule-comments@sec.gov. Please include File Number* CTA/CQ–2014–03 *on the subject line.*

Paper Comments

• Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number CTA/CQ–2014–03. This file number should be included on the subject line if email 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 Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all written statements with respect to the proposed Plan Amendment that are filed with the Commission, and all written communications relating to the proposed Plan 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 Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the Amendments also will be available for inspection and copying at the principal office of 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 CTA/CQ–2014–03 and should be submitted on or before October 28, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

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[16] In a context in which a trading or order-routing decision can be implemented, Regulation NMS Rule 603(c)(1) prevents a broker, dealer or securities information processor from providing a display of market data unless it also provides a consolidated display, such as the consolidated displays made available under the Plans. Yet, despite this rule, the Participants have seen reductions of customer activity at the same time that competing non-consolidated products have seen increases.

[17] 17 CFR 200.30–3(a)(27).