

and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Maitri Banerjee (Telephone 301-415-6973 or Email: [Maitri.Banerjee@nrc.gov](mailto:Maitri.Banerjee@nrc.gov)) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 18, 2012, (77 FR 64146-64147).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at <http://www.nrc.gov/reading-rm/doc-collections/acrs>. Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240-888-9835) to be escorted to the meeting room.

Dated: March 14, 2013.

**Antonio Dias,**

*Technical Advisor, Advisory Committee on Reactor Safeguards.*

[FR Doc. 2013-06734 Filed 3-22-13; 8:45 am]

**BILLING CODE 7590-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, March 28, 2013 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Aguilar, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;  
Institution and settlement of administrative proceedings;  
Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551-5400.

Dated: March 21, 2013.

**Elizabeth M. Murphy,**  
*Secretary.*

[FR Doc. 2013-06928 Filed 3-21-13; 4:15 pm]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69157; File No. SR-CTA/CQ-2013-01]

### Consolidated Tape Association; Notice of Filing and Immediate Effectiveness of the Sixteenth Charges Amendment to the Second Restatement of the CTA Plan and Eighth Charges Amendment to the Restated CQ Plan

March 18, 2013.

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 March 11, 2013,<sup>3</sup> the Consolidated Tape Association (“CTA”) Plan and Consolidated Quotation (“CQ”) Plan participants (“Participants”) <sup>4</sup> 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”).<sup>5</sup> The proposal represents the sixteenth charges amendment to the CTA Plan (“Sixteenth Charges Amendment to the CTA Plan”) and the eighth charges amendment to the CQ Plan (“Eighth Charges Amendment to the CQ Plan”), and reflects changes unanimously adopted by the Participants.

The purpose of the Sixteenth Charges Amendment to the CTA Plan and Eighth Charges Amendment to the CQ Plan (collectively, the “Amendments”), is to simplify the Plans’ existing market data fee schedules by compressing the current 14-tier Network A device rate schedule into four tiers, by consolidating the Plans’ eight fee schedules into one, and by realigning the Plans’ charges more closely with the services the Plans provide, without materially changing the revenues the current fee schedules generate. The Participants’ goal is to achieve greater simplicity and a reduction of administrative burdens.

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

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

<sup>3</sup> The proposal was originally submitted on January 30, 2013. It was resubmitted on February 5, 2013, February 28, 2013, and on March 11, 2013.

<sup>4</sup> Each participant executed the proposed amendment. The Participants are: BATS Exchange, Inc., BATS-Y Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc. (“EDGA”), EDGX Exchange, Inc. (“EDGX”), Financial Industry Regulatory Authority, Inc. (“FINRA”), International Securities Exchange, LLC, NASDAQ OMX BX, Inc. (“Nasdaq BX”), NASDAQ OMX PHLX, Inc. (“Nasdaq PSX”), Nasdaq Stock Market LLC, National Stock Exchange, New York Stock Exchange LLC (“NYSE”), NYSE MKT LLC (formerly NYSE Amex, Inc.), and NYSE Arca, Inc. (“NYSE Arca”).

<sup>5</sup> 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.

Pursuant to Rule 608(b)(3)(i) under Regulation NMS,<sup>6</sup> the Participants designated the 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 Amendments became effective upon filing with the Commission. At any time within 60 days of the filing of the Amendments, the Commission may summarily abrogate the Amendments and require that the 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 Amendments.

## I. Rule 608(a)

### A. Description and Purpose of the Amendments

#### 1. In General

The Participants filed the last significant fee structure change in 1986. Since then, however, 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, internationalization and developments in portfolio analysis and securities research.

Industry representatives who sit on the Plans' Advisory Committee have noted these changes and have urged adoption of a modernized, simpler, easier to read fee schedule. They have noted the desirability of reducing the rate spread inherent in the 14-tier Network A device rate structure and the need for reducing administrative burdens. The Participants have discussed these goals with those industry representatives. The proposed changes respond to the industry representatives' comments and seek to establish a simplified pricing structure that is consistent with current technology, that reduces administrative burdens and that promotes the use of real-time market data.

The 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 transaction reporting plans: the Joint Self-Regulatory Organization 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 Options Price Reporting Authority Plan ("OPRA Plan"). This would reduce administrative burdens for broker-dealers and other market data users and simplify fee calculations.

The Amendments also propose to consolidate, simplify and update the market data fee schedules under both Plans to arrive at a single, consolidated CTA/CQ Fee Schedule. This should make it easier for market data users to understand and apply the fee schedule.

The Participants anticipate that the fee changes would not materially change the market data revenues generated under the Plans.

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

#### 2. The Proposed Fee Schedule Changes

##### a. Professional Subscriber Charges

###### i. Network A

A principal purpose of the proposed fee schedule changes is to address the 14-tier fee structure that the Participants have in place for Network A professional subscribers. That structure has been in place for more than 25 years. Under the tiered structure, a firm reports how many display devices its professional subscribers use and that number then is used to determine the tier within which the firm falls.

For reporting purposes, a display device is any device capable of displaying market data. Where a professional subscriber receives market data services from multiple vendors, separate device fees apply for each vendor's service. Where a vendor provides market data to a professional subscriber by means of multiple applications, separate device fees apply for each application.

At one extreme, the current Network A fee tiered structure imposes a monthly charge of \$18.75 per device for firms employing professional subscribers who use more than 10,000 devices. At the other extreme, it imposes a monthly charge of \$127.25 per device for a single professional

subscriber. (For Network A, the rates entitle the professional subscriber to receive both Network A last sale information under the CTA Plan and Network A quotation information under the CQ Plan.)

Market data users have told the Participants that they find the 14-tier structure challenging to administer and the \$18.75-to-\$127.25 spread between the highest and lowest tiers too wide. The proposed changes seek to address both concerns. The Participants propose a new four-tier monthly Network A fee structure for the display units of professional subscribers, as follows:

1. 1–2 devices: \$50.00.
2. 3–999 devices: \$30.00.
3. 1,000–9,999 devices: \$25.00.
4. 10,000 devices or more: \$20.00.

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 device would see their monthly Network A rate drop from \$127.25 to \$50, and firms having two devices would see their monthly Network A rate drop from \$79.50 per device to \$50 per device. Firms whose professional subscriber employees use between 3 and 29 devices would also have lower rates.

On the other hand, larger firms would see higher rates in respect of their internal distribution of market data to their employees. For example, the rates for firms whose employees use between 750 devices and 9,999 devices would rise from \$19.75 or \$20.75 per device to \$25 per device, and the rates for firms whose employees use more than 10,000 devices would rise from \$18.75 to \$20.00.

Many firms distribute market data to "Customers" and pay CTA/CQ fees on behalf of those Customers. Those firms should pay less for their external distribution to each Customer because the rates that they would pay on behalf of each Customer would drop (assuming that the firms do not provide service to more than 29 Customer devices). The amount of the decrease would depend on the tier into which the Customer falls.

"Customer" refers to an individual client of the firm, an independent contractor who may be associated with the firm but is not an employee of the firm, a trading company that receives market data from the firm for use by its traders, and any other corporate, broker-dealer or other entity to which the firm provides data.

A firm may only include its own employees in determining the tier that

<sup>6</sup> 17 CFR 242.608(b)(3)(i).

applies to it. It may not include in that determination any Customer to which it provides market data or the employees of any Customer. The rate applicable to each Customer is separately determined based on the tier into which the Customer falls. The Amendments propose to add a footnote (proposed footnote 2) to explain this. This explanation seeks to prevent efforts to misuse the tiered rate structure. For the same reason, the Amendments also propose to eliminate the reference to a firm's officers and partners as authorized internal distributees of the firm.

Together with the other proposed amendments to the fee schedule, the Participants anticipate that the changes to the Network A professional subscriber tiered fee structure would not result in a material change in overall revenues under the Plans.

#### ii. Network B

Professional subscribers currently pay one amount for Network B last sale information and a separate amount for Network B quotation information. Firms that are members of a Participant currently pay slightly less than non-members. A member pays \$27.25 per month per device to receive both last sale and quotation information for Network B and a non-member pays \$30.20. Network B is the only network that still distinguishes between members and non-members.

To simplify Network B professional subscriber rates and to remove the differential, the Participants propose a single monthly rate of \$24.00 per device, applicable to both members and non-members.

The \$24.00 Network B rate would amount to a savings for most nonprofessional subscribers, the majority of which currently receive both last sale and quotation information. Network B has a small number of data recipients who receive last sale information or quotation information, but not both. The change would amount to a fee increase for them. The Network B Participants note that Network A and the Participants in the Nasdaq/UTP Plan and the OPRA Plan have not charged separately for last sale information and quotation information for many years.

The Participants believe that a single fee for Network B devices would prove administratively efficient for data users and the network administrators. They note that the Nasdaq/UTP Plan imposes a single fee of \$20 for each device and that the OPRA Plan imposes a single fee (currently \$25) for each device.

#### iii. Broker-Dealer Enterprise Maximums

Currently, the monthly broker-dealer enterprise maximums are at \$660,000 per month for Network A and \$500,000 per month for Network B. For that amount, the enterprise maximums allow a broker-dealer to provide last sale and quotation information to an unlimited number of its own employees and the brokerage account customers its nonprofessional subscribers. The Plans provide that the amounts of the broker-dealer enterprise maximums 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 Participants propose to modify the means for determining the increase in the broker-dealer enterprise maximums. Under the proposal, the Participants may increase the broker-dealer enterprise maximums for Network A and Network B by the affirmative vote of not less than two-thirds of the Participants, provided, however, that they may not increase either network's enterprise maximum by more than four percent for any calendar year. The Participants may elect not to increase the fee for any calendar year.

This proposed means for determining the increase in the broker-dealer enterprise maximums would reduce the amount of any one year's permissible increase from five percent to four percent and would better reflect inflation than does the current means. The maximum four percent increase is consistent with the average cost of living adjustment ("COLA") as published by the Social Security Administration for the past 38 years.

The Participants have not increased the Network A broker-dealer enterprise maximum for more than five years. They have not increased the Network B broker-dealer enterprise maximum since they first adopted it in 1999. They propose to increase the amount of both networks' enterprise maximums for 2013. As a result, the monthly Network A broker-dealer enterprise maximum would increase to \$686,400 and the monthly Network B broker-dealer enterprise maximum would increase to \$520,000. These changes would not take effect until the implementation date for the other charges set forth in these Amendments. The number of firms reaching the enterprise caps is minimal and these firms may benefit from proposed fee reductions in other areas.

#### b. Nonprofessional Subscriber Charges

Currently, a firm pays \$1.00 per month in respect of its first 250,000 Network A nonprofessional subscribers and \$0.50 for Network A nonprofessional subscribers in excess of 250,000. A firm pays \$1.00 per month for each of its Network B nonprofessional subscribers, regardless of how many such subscribers a firm has.

The Participants propose to harmonize the treatment of large and small firms by applying the \$1.00 per month rate in respect of all Network A nonprofessional subscribers, regardless of the number of nonprofessional subscribers. This would also harmonize 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 note that the number of firms that have more than 250,000 Network A nonprofessional subscribers is very small.

#### c. Per-Query Charges

Currently, Network A and Network B impose 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 Participants propose to modify their per-query rate structure by replacing the three-tier structure with the same one rate as the Nasdaq/UTP Plan and the OPRA Plan imposes: \$.005 for each inquiry for both Network A and Network B.

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.)

The single rate would simplify per-query calculations. It would also harmonize the Network A and Network B per-query fees with the Nasdaq/UTP Plan and the OPRA Plan per-query fees.

#### d. Access Fees

Current and proposed access fees for direct access to last sale prices are as follows:

##### Current Fees:

Network A: \$1,000.00  
Network B: \$350.00

##### Proposed Fees:

Network A: \$1,250.00  
Network B: \$750.00

Current and proposed access fees for indirect access to last sale prices are as follows:

## Current Fees:

Network A: \$500.00  
Network B: \$200.00

## Proposed Fees:

Network A: \$750.00  
Network B: \$400.00

Current and proposed access fees for direct access to quotation information are as follows:

## Current Fees:

Network A: \$1,100.00  
Network B: \$400.00

## Proposed Fees:

Network A: \$1,750.00  
Network B: \$1,250.00

Current and proposed access fees for indirect access to quotation information are as follows:

## Current Fees:

Network A: \$700.00  
Network B: \$250.00

## Proposed Fees:

Network A: \$1,250.00  
Network B: \$600.00

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 believe that increases in these fees are fair and reasonable because today's data feeds provide significant incremental value in comparison to the data feeds that the Participants provided when they first set the access fees.

For example, the data feeds contain a vastly larger number of last sale prices and bids and offers. The growth in Exchange Traded Products has contributed to a significant increase in Network B activity. The data feeds also contain far more information beyond prices and quotes, such as the national best bid and offer ("NBBO"), short sale restriction indications, circuit breaker tabs, retail price improvement indications, and, coming soon, limit up/limit down information. In addition to the vast increase in content, there has been significant improvement in the latency of the data feeds.

Further, data feeds have become more valuable, as recipients now use them to perform a far larger array of non-display functions. Some firms even base their business models on the incorporation of data feeds into black boxes and application programming interfaces that apply trading algorithms to the data, but that do not require widespread data access by the firm's employees. As a result, these firms pay little for data usage beyond access fees, yet their data

access and usage is critical to their businesses.

The Participants estimate the revenues resulting from the revised access fees would increase total Network A and Network B by six percent, but this increase would be largely offset by an estimated five percent decrease in total revenues resulting from the revised professional subscriber device fees and an estimated two percent decrease resulting from the revised quote usage fees. The majority of customers taking data feeds are also benefitting from lower professional subscriber fees and/or lower quote-usage fees.

CTA and CQ data feeds include a full consolidated data set of last sale and quotation information across all exchanges and FINRA's Trade Reporting Facilities. In contrast, the data feeds found in the proprietary data products of individual exchanges contain a far more limited set of data. The following chart compares access fees for the receipt of last sale information and quotation information:

## Proposed CTA Network A:

Direct Access: \$3,000  
Indirect Access: \$2,000

## Proposed CQ Network B:

Direct Access: \$2,000  
Indirect Access: \$1,000

NYSE: \$5,000

Nasdaq: \$2,000

Nasdaq BX: \$1,000

Nasdaq PSX: \$1,000

NYSE Arca: \$750

EDGA: \$500

EDGX: \$500

## e. Data Redistribution Charges

The Participants propose to establish a new monthly charge of \$1,000 for the redistribution of Network A last sale price information and/or Network A quotation information and a similar \$1,000 monthly charge for the redistribution of Network B last sale price information and/or Network B quotation information. This will not necessitate any additional reporting obligations.

The redistribution charges would apply to any entity that makes last sale information or quotation information available to any other entity or to any person other than its own employees, irrespective of the means of transmission or access. That is, all firms that redistribute market data outside of their organization would be required to pay the redistribution fee. The fee would not apply to a firm whose receipt, use and distribution of market data are limited to its own employees in a controlled environment.

The proposed redistribution charge harmonizes CTA/CQ fees with OPRA

Plan fees, which impose a redistribution charge on every vendor that redistributes OPRA data to any person. OPRA's redistribution fee is \$1,500 per month (or \$650 for an internet-only service). Redistribution fees are also common for exchange proprietary data products.

Revenues from the redistribution charge along with the access fees would help to offset anticipated decreases in revenues resulting from the proposed changes to the professional subscriber device fees. Vendors base their business models on procuring data from exchanges and turning around and redistributing that data to their subscribers. The costs that market data vendors incur for acquiring their inventory (*i.e.*, CTA/CQ market data) are very low, sometimes amounting only to their payment of access fees. The proposed redistribution charges would require them to contribute somewhat more, relative to the end-user community.

## f. Television Broadcast Charges

The Participants do not propose to make any changes to current television broadcast charges. In the case of Network A, the Participants do not propose to change the maximum amount payable for television broadcasts. However, the Plans provide for an annual increase to that maximum amount. The Network A Participants in some years have elected not to apply the annual increase. The Network A Participants propose to codify the practice of voting to waive a calendar year's maximum increase by adding footnote language to that effect.

## g. Multiple Data Feed Charges

The Participants propose to establish a new monthly fee for firms that take more than one primary data feed and one backup data feed. (This will not necessitate any additional reporting obligations.) The fee would be 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, this charge would apply 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.

To date, the Participants have not required data recipients that receive

multiple data feeds to pay any more than data recipients that receive one primary and one back up data feed. The Participants believe that it is appropriate to have them do so. The Participants note that the OPRA Plan imposes a charge of \$100 per connection for circuit connections in addition to the primary and backup connections.

#### h. Late/Clearly Erroneous Reporting Charges

The Participants propose to establish a new monthly fee for firms that fail to comply with their reporting obligations in a timely manner. The charge is \$2500 for each network. The charge would not be assessed until a firm fails to report its data usage and entitlements for more than three months. A report is not considered to have been provided if the report is clearly incomplete or inaccurate, such as a report that fails to report all data products or a report for which the reporting party did not make a good faith effort to assure the accuracy of data usage and entitlements.

The late reporting charges would be assessed for each month in which there is a failure to provide a network's required data-usage report, commencing with reporting failures lasting more than three months from the date on which the report is first due. By way of example, if a network's data-usage report is due on May 31, the charge would commence to apply as of September 1 and would appear on the market data invoice for September. The network administrator would assess the charge as of September 1, and would continue to assess the charge each month until the network administrator receives the firm's complete and accurate data-usage report.

The purpose of the charges is to provide incentives to those firms that are delinquent in reporting their data-usage activity and to place them on a level playing field with compliant firms.

#### i. Network B Ticker Charge

As part of the process of simplifying the fee structure, the Participants have determined to eliminate the Network B ticker charge. This would harmonize Network B rates with those of Network A (which phased out its ticker charge many years ago), and with the Nasdaq/UTP Plan and the OPRA Plan, neither of which imposes a ticker charge.

#### 3. Impact of the Proposed Fee Changes

As with any reorganization of a fee schedule, some data recipients may pay higher total market data fees and others may pay less. On balance, if customer usage were to remain the same, the Participants estimate that the fee

changes would increase consolidated tape revenue for Network A and Network B by no more than 2.9 percent. Customer usage trends, however, have declined year-over-year since 2008, including declines in access feeds, professional and nonprofessional subscribers, and quote usage. This has led to a significant decline in revenues generated under the Plans. (More information on these declines can be found in the Participants' *Consolidated Data Quarterly Operating Metrics Reports*. Those reports can be found at <http://www.nyxddata.com/CTA>.)

Additionally, broker-dealers increasingly have reported their executions to FINRA's Trade Reporting Facilities ("TRFs"). Because the TRFs re-allocate a portion of their consolidated tape revenues back to their broker-dealer customers, this significant and growing share of trading reduces the consolidated tape revenues remaining with the markets. For these reasons, the Participants believe that the proposed fee changes would not result in a material increase in overall revenues under the Plans.

#### 4. Changes to the Form of the CTA/CQ Fee Schedule

The Amendments propose to simplify, consolidate, and update the market data fee schedules under both Plans to arrive at a single, consolidated CTA/CQ Fee Schedule that sets forth the applicable charges from time to time in effect under both Plans. The Participants propose to set forth the CTA/CQ Fee Schedule in Exhibit E to the CTA Plan. It would replace the eight CTA/CQ fee schedules currently in effect: Schedules A-1 through A-4 of Exhibit E to the CTA Plan and Schedules A-1 through A-4 of Exhibit E to the CQ Plan. As a result, Exhibit E to the CTA Plan would contain the entire CTA/CQ Fee Schedule and Exhibit E to the CQ Plan would be eliminated.

The simplifications and updates that the consolidated CTA/CQ Fee Schedule proposes include the following:

- Adopting changes that make fee-disclosure more transparent, such as the addition of descriptions of what constitutes internal and external distribution;
- removing the Network B communications facilities and line splitter charges, which no longer apply;
- removing outdated footnotes that no longer apply;
- posting the amounts of the broker/dealer enterprise charge and the maximum television broadcast charge on the CTA Web site (although the

amounts would also remain on the CTA/CQ Fee Schedule);

- granting the Participants the authority to waive the annual increase for any calendar year for the Network A and Network B broker-dealer enterprise charges and the Network A maximum television broadcast charge; and
- changing references to the "high speed line" to read "output feed."

#### B. Additional Information Required by Rule 608(a)

1. Governing or Constituent Documents  
Not applicable.

#### 2. Implementation of the Amendments

The Participants anticipate implementing the proposed fee changes in 2013, after giving notice to data recipients and end users of the proposed fee changes.

#### 3. Development and Implementation Phases

See Item I(B)(2) above.

#### 4. 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 Act. The proposed fee changes respond to the suggestions of industry representatives and reflect the Participants' own views that it is appropriate to establish a simplified pricing structure that is consistent with current technology, that reduces administrative burdens and that promotes the use of real-time market data.

The Participants have not significantly revised the CTA and CQ market data fee schedules in many years. They adopted the 14-tier Network A professional subscriber rate structure in 1986 and that structure has changed very little ever since. Numerous technological advances, the advent of trading algorithms and automated trading, different investment patterns, a plethora of new securities products, unprecedented levels of trading, internationalization and developments in portfolio analysis and securities research warrant the revision.

In general, the proposed fee changes would cause Network A fees to sync more closely with Network B fees and 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 fees would compare reasonably with the fees payable under those other Plans.

As a result, these Amendments 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. It would enable data recipients to compare their charges under the respective national market system plans more easily. It also would make for a more straightforward and streamlined administrative process for both the network administrator and market data users.

In the Participants' view, the proposed fee schedule would allow each category of data recipient and data user to contribute an appropriate amount for their 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.

The Participants propose to apply the revised fee schedule uniformly to all constituents (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.

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

Not applicable.

6. Approval by Sponsors in Accordance with Plan

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

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

Not applicable.

a. Terms and Conditions of Access

See Item I(A) above.

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

The Participants took a number of factors into account in deciding to propose the Amendments.

Most significantly, they listened to the information needs and suggestions of industry representatives. In particular, the Participants received input from members of 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. Members of the Advisory Committee gave valuable input that the Participants used in crafting the proposed fee changes.

The Participants also took into consideration a number of other factors 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 participants in 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., large firms vs. small firms; redistributors vs. end users); and

(E) crafting a fee schedule that is easy to read and use and minimizes administrative burdens.

c. Method of Frequency of Processor Evaluation

Not applicable.

d. 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*

Not applicable.

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

Not applicable.

*D. Manner of Consolidation*

Not applicable.

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

Not applicable.

*F. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination*

Not applicable.

*G. Terms of Access to Transaction Reports*

See Item I(A) above.

*H. Identification of Marketplace 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 Amendments to the CTA Plan are consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CTA/CQ-2013-01 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/CQ-2013-01. 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 Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the Amendments that are filed with the Commission, and all written communications relating to the Amendments between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site 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 a.m. and 3:00 p.m. Copies of the Amendments also will be available for inspection and copying at the principal office of the CTA.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All

submissions should refer to File Number SR-CTA/CQ-2013-01 and should be submitted on or before April 15, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69179; File No. SR-BX-2013-024]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Elimination of SPY Position Limits

March 19, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 11, 2013, NASDAQ OMX BX, Inc. (“BX” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to eliminate position limits for options on the SPDR® S&P 500® exchange-traded fund (“SPY ETF”),<sup>3</sup> which list and trade under the symbol SPY.

The text of the proposed rule change is available on the Exchange’s Web site at <http://nasdaqomxbx.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The purpose of the proposed rule change is to add new rule text in a new section entitled “Supplementary Material” at the end of Chapter III, Section 7 (Position Limits) to specifically state that there shall be no position limits for SPY options subject to a Pilot Program.

###### Background

Position limits serve as a regulatory tool designed to address potential manipulative schemes and adverse market impact surrounding the use of options. The Exchange understands that the Commission, when considering the appropriate level at which to set option position and exercise limits, has considered the concern that the limits be sufficient to prevent investors from disrupting the market in the security underlying the option.<sup>4</sup> This consideration has been balanced by the concern that the limits “not be established at levels that are so low as to discourage participation in the options market by institutions and other investors with substantial hedging needs or to prevent specialists and market-makers from adequately meeting their obligations to maintain a fair and orderly market.”<sup>5</sup>

SPY options are currently the most actively traded option class in terms of average daily volume (“ADV”).<sup>6</sup> The

Exchange believes that, despite the popularity of SPY options as evidenced by their significant volume, the current position limits on SPY options could be a deterrent to the optimal use of this product as a hedging tool. The Exchange further believes that position limits on SPY options may inhibit the ability of certain large market participants, such as mutual funds and other institutional investors with substantial hedging needs, to utilize SPY options and gain meaningful exposure to the hedging function they provide.

The Exchange believes that current experience with the trading of SPY options, as well as the Exchange’s surveillance capabilities, has made it appropriate to consider other, less prophylactic alternatives to regulating SPY options, while still seeking to ensure that large positions in SPY options will not unduly disrupt the options or underlying cash markets. Generally with respect to position limits for options traded on CBOE and BX, the CBOE position limits are the applicable position limits pursuant to the Exchange’s Rules at Chapter III, Section 7(a). CBOE recently filed to eliminate SPY position limits.<sup>7</sup> Accordingly, the Exchange’s position limits on SPY options shall also be eliminated in accordance with CBOE’s Rules. The Exchange is memorializing the elimination of SPY options [sic], which is subject to a Pilot Program, in the Supplementary Material at Chapter III, Section 7.

In proposing the elimination of position limits on SPY options, the Exchange has considered several factors, including (1) the availability of economically equivalent products and their respective position limits, (2) the liquidity of the option and the underlying security, (3) the market capitalization of the underlying security and the related index, (4) the reporting of large positions and requirements surrounding margin, and (5) the potential for market on close volatility.

###### Economically Equivalent Products

The Exchange has considered the existence of economically equivalent or similar products, and their respective position limits, if any, in assessing the appropriateness of proposing an elimination of position limits for SPY options.

iShares® Russell 2000® Index Fund (option symbol IWM)—550,316.

<sup>7</sup> See Securities Exchange Act Release No. 67937 (September 27, 2012), 77 FR 60489 (October 3, 2012) (SR-CBOE-2012-091). Prior to this filing CBOE’s position limit for SPY options was 900,000 contracts on the same side of the market.

<sup>7</sup> 17 CFR 200.30-3(a)(27).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> “SPDR®,” “Standard & Poor’s®,” “S&P®,” “S&P 500®,” and “Standard & Poor’s 500” are registered trademarks of Standard & Poor’s Financial Services LLC. The SPY ETF represents ownership in the SPDR S&P 500 Trust, a unit investment trust that generally corresponds to the price and yield performance of the SPDR S&P 500 Index.

<sup>4</sup> See Securities Exchange Act Release No. 40969 (January 22, 1999), 64 FR 4911, 4912-4913 (February 1, 1999) (SR-CBOE-98-23) (citing H.R. No. IFC-3, 96th Cong., 1st Sess. at 189-91 (Comm. Print 1978)).

<sup>5</sup> *Id.* at 4913.

<sup>6</sup> SPY ADV was 2,156,482 contracts in April 2012. ADV for the same period for the next four most actively traded options was: Apple Inc. (option symbol AAPL)—1,074,351; S&P 500 Index (option symbol SPX)—656,250; PowerShares QQQ Trust<sup>SM</sup>, Series 1 (option symbol QQQ)—573,790; and