

Section 17A(b)(3)(F) of the Act¹⁸ and Rule 17Ad-22(e)(1) thereunder.¹⁹

It is therefore ordered pursuant to Section 19(b)(2) of the Act²⁰ that the proposed rule change, as modified by Partial Amendment No. 1 (SR-ICEEU-2019-027), be, and hereby is, approved.²¹

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

Jill M. Peterson,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-88016; File No. SR-CTA-2019-02]

Consolidated Tape Association; Notice of Filing of the Thirty-First Substantive Amendment to the Second Restatement of the CTA Plan

January 23, 2020.

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 11, 2019,³ the Consolidated Tape Association (“CTA”) Plan participants (“Participants”)⁴ filed with the Securities and Exchange Commission (“Commission”) a proposal to amend the Second Restatement of the CTA Plan (“Plan”).⁵ This Amendment

represents the Thirty-First Substantive Amendment to the CTA Plan (“Amendment”). Under the Amendment, the Participants propose to amend the Plan to align provisions governing the reporting of last sale prices in an Eligible Security⁶ by the Processor⁷ during a Regulatory Halt⁸ with corresponding provisions under the Nasdaq/UTP Plan.⁹ The Participants also propose a non-substantive amendment to update cross references to the rules of NYSE and NYSE American in Section XI(a) of the Plan.

The proposed Amendment has been filed by the Participants pursuant to Rule 608(b)(2) under Regulation NMS.¹⁰ The Commission is publishing this notice to solicit comments from interested persons on the proposed Amendment. Set forth in Sections I and II is the statement of the purpose and summary of the Amendment, along with the information required by Rules 608(a) and 601(a) under the Act, prepared and

submitted by the Participants to the Commission.

I. Rule 608(a)

A. Purpose of the Amendment

Section XI(a) of the Plan currently prohibits the Processor from including any reports of last sale prices in an Eligible Security during a Regulatory Halt, even if the Processor receives a report due to a race condition or a late print where the trade occurred prior to the Regulatory Halt. The Processor only disseminates these reports of last sale prices after the Regulatory Halt is lifted or after the close of the market. In particular, when a primary market initiates a Regulatory Halt, it sends notifications to the Processor and other Participants. A trade may occur at a Participant before that Participant receives notification of the Regulatory Halt while a report of the trade is made to the Processor after the Processor receives notification of the Regulatory Halt. This race condition currently results in a transaction occurring at a Participant while the Processor delays the dissemination of the trade report.

With respect to the UTP Plan, the Processor will immediately disseminate such reports of last sale prices that occurred prior to the Regulatory Halt but received by the Processor after the Regulatory Halt. The Participants, in consultation with the Advisory Committee, have deemed it appropriate to align the operation of the Plan with the operation of the UTP Plan. As a result, the Participants are amending the language of the Plan to permit the dissemination of reports of last sale prices during a Regulatory Halt.

In addition, while the primary aim of this Amendment is to address situations associated with the race condition described above, it would be impractical for the Processor to determine that a transaction occurred either before or after a Participant received notification of a Regulatory Halt, and therefore whether to immediately disseminate or refrain from disseminating the trade report until permissible. Consequently, the Participants believe that it is appropriate to place the responsibility on the individual Participants to determine whether or not a transaction should be printed during a Regulatory Halt, and the Processor should simply act as a pass-through for the information that it receives from the Participants. Therefore, the Amendment will permit the Processor to disseminate any reports of last sale prices received during a Regulatory Halt, without reference to the specific race condition identified above.

⁶ Section VII(a) of the CTA Plan provides, in part, that the term “Eligible Securities” shall mean “(i) NYSE and AMEX. Any common stock, long-term warrant or preferred stock registered or admitted to unlisted trading privileges on the NYSE or the AMEX on April 30, 1976; (ii) Other exchanges. Any common stock, long-term warrant or preferred stock registered or admitted to unlisted trading privileges on any other exchange which, on April 30, 1976, substantially met the original listing requirements of the NYSE or the AMEX for such securities; (iii) New listings. After April 30, 1976, any common stock, long-term warrant or preferred stock which becomes registered on any exchange or is admitted to unlisted trading privileges thereon and which at the time of such registration or at the commencement of such trading substantially meets the original listing requirements of the NYSE or the AMEX for such securities, as the same may be amended from time to time; (iv) Rights. Any right admitted to trading on an exchange which entitles the holder thereof to purchase or acquire a share or shares of an Eligible Security, provided that both the right and the Eligible Security to the holders of which the right is granted are admitted to trading on the same exchange.”

⁷ The term “Processor” is defined in Section I(x) of the CTA Plan as “the organization designated as recipient and processor of last sale price information furnished by Participants pursuant to this CTA Plan, as Section V describes.”

⁸ A “Regulatory Halt” is defined in Section XI(a) of the CTA Plan as a halt or suspension of trading in an Eligible Security by a listing market “because such listing market has determined (i) that there are matters relating to such Security or the issuer thereof which have not been adequately disclosed to the public, or (ii) that there are regulatory problems relating to such Security which should be clarified before trading therein is permitted to continue.”

⁹ 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 Privilege Basis (the “Nasdaq/UTP Plan”) governs the collection, consolidation, processing, and dissemination of last sale and quotation information for Network C securities.

¹⁰ 17 CFR 242.608(b)(2).

¹⁸ 15 U.S.C. 78q-1(b)(3)(F).

¹⁹ 17 CFR 240.17Ad-22(e)(1).

²⁰ 15 U.S.C. 78s(b)(2).

²¹ In approving the proposed rule change, the Commission considered the proposal’s impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

²² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78k-1.

² 17 CFR 242.608.

³ See Letter from Robert Books, Chair, CTA/CQ Operating Committee, to Vanessa Countryman, Secretary, Commission, dated September 6, 2019.

⁴ The Participants are: Cboe BYX Exchange, Inc.; Cboe BZX Exchange, Inc.; Cboe EDGA Exchange, Inc.; Cboe EDGX Exchange, Inc.; Cboe Exchange, Inc.; NYSE Chicago, Inc.; Financial Industry Regulatory Authority, Inc.; The Investors’ Exchange LLC; Long-Term Stock Exchange, Inc.; Nasdaq BX, Inc.; Nasdaq ISE, LLC; Nasdaq PHLX, Inc.; The Nasdaq Stock Market LLC; New York Stock Exchange LLC; NYSE American LLC; NYSE Arca, Inc.; and NYSE National, Inc. (collectively, the “Participants”).

⁵ See Securities Exchange Act Release Nos. 10787 (May 10, 1974), 39 FR 17799 (May 20, 1974) (declaring the CTA Plan effective). The most recent restatement of the Plan was in 1995. The CTA Plan, pursuant to which markets collect and disseminate last sale price information for non-NASDAQ listed securities, is a “transaction reporting plan” under Rule 601 under the Act, 17 CFR 242.601, and a “national market system plan” under Rule 608 under the Act, 17 CFR 242.608.

The Participants also proposes a non-substantive amendment to update cross references to the rules of NYSE and NYSE American in Section XI.(a) of the Plan. Currently, the Plan refers to NYSE Rule 123D and AMEX Rule 119 as the rules that set forth those exchange's reopening procedures. The Participants propose to update those references to NYSE Rule 7.35 Series and NYSE American Rule 7.35E, which are the operative rules of those respective exchanges relating to reopening procedures.¹¹

B. Governing or Constituent Documents

Not applicable.

C. Implementation of Amendment

Each of the Participants has approved the amendments in accordance with Section IV(b) of the CTA Plan and Section IV(c) of the CQ Plan, as applicable. The Participants also received feedback from the Advisory Committee on aligning the operation of the Plan with the UTP Plan.

D. Development and Implementation Phases

Not applicable.

E. Analysis of Impact on Competition

The Participants believe that the proposed amendments do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Securities Exchange Act of 1934 (the "Act"). The Participants believe that aligning the operation of the Plan with the UTP Plan with respect to dissemination of information during Regulatory Halts reduces inefficiencies and confusion among market participants with respect to the operation of the Plan and the UTP Plan during a Regulatory Halt. Additionally, the Participants believe that the amendment will serve to increase transparency in the marketplace by disseminating reports of last sale prices closer in time to when such transactions actually occurred.

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

Not applicable.

G. Approval by Sponsors in Accordance With Plan

Section IV(c)(i) of the CQ Plan and Section IV(b)(i) of the CTA Plan require the Participants to unanimously approve the amendments proposed herein. They so approved it.

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

Not applicable.

I. Terms and Conditions of Access

Not applicable.

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

Not applicable.

K. Method and Frequency of Processor Evaluation

Not applicable.

L. Dispute Resolution

Not applicable.

II. Regulation NMS 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

As a result of the amendment, the Processor would be required to disseminate reports of last sale prices for transactions received by the Processor during a Regulatory Halt.

D. Manner of Consolidation

Not applicable.

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

Not applicable.

F. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

G. Terms of Access to Transaction Reports

Not applicable.

H. Identification of Marketplace of Execution

Not applicable.

III. Solicitation of Comments

The Commission seeks general comments on the Amendment. Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Amendment 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 SR-CTA-2019-02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-CTA-2019-02. 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 website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all written statements with respect to the proposed Amendment that are filed with the Commission, and all written communications relating to the proposed Amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for website viewing and printing at the principal office of the Plan. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CTA-2019-02 and should be submitted on or before February 18, 2020.

By the Commission.

Jill M. Peterson,
Assistant Secretary.

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¹¹ See Securities Exchange Act Release Nos. 85962 (May 29, 2019), 84 FR 26188 (June 5, 2019) (SR-NYSE-2019-05) (Order approving NYSE trading rules relating to auctions, which will be implemented beginning August 5, 2019); 80590 (May 4, 2017), 82 FR 21843 (May 10, 2017) (SR-NYSEMKT-2017-01) (Order approving new NYSE American equity trading rules, including auction rules).