

Dated: January 19, 1996  
Margaret H. McFarland,  
*Deputy Secretary.*  
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[Release No. 34-36725; File No. SR-CTA/  
CQ-96-1]

**Consolidated Tape Association; Notice of Filing of Proposed Restatements and Amendments to the Restated Consolidated Tape Association Plan and the Consolidated Quotation Plan**

January 17, 1996.

Pursuant to Rule 11Aa3-2 of the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on December 26, 1995, the Consolidated Tape Association ("CTA") and Consolidated Quotation ("CQ") Plan Participants filed with the Securities and Exchange Commission ("Commission" or "SEC") amendments to the Restated CTA Plan and CQ Plan. The Commission is publishing this notice to solicit comments from interested persons on the amendments.

**I. General Overview of the Amendments**

**A. Second Restatement of the CTA Plan**

The Participants propose to restate and amend the Restated CTA Plan.<sup>1</sup> The restatement (the "Second Restatement of the CTA Plan") would incorporate into the Restated CTA Plan the 17 substantive amendments, and 16 charges amendments, to the Restated CTA Plan that the Commission has previously approved and would incorporate the additional amendments described below and in the attachments submitted to the Commission.<sup>2</sup>

<sup>1</sup> Certain of the CTA Plan Participants submitted the initial version of the CTA Plan to the Commission on March 2, 1973. The Commission declared that plan effective as of May 17, 1974. (See Securities Exchange Act Release No. 10787 (May 10, 1974), 39 FR 17799.) The Participants filed a restatement and amendment of that Plan (the "Restated CTA Plan") to the Commission on May 12, 1980. The Commission approved the Restated CTA Plan on July 16, 1980. (See Securities Exchange Act Release No. 16983 (July 16, 1980) 45 FR 49414.)

<sup>2</sup> In their filing with the Commission, the participants enclosed the following attachments:

*Attachment 1*—The proposed Second Restatement of the CTA Plan, including its exhibits:  
*Exhibit A*—Restated Articles of Association of Consolidated Tape Association.

*Exhibit B*—Forms of Processor Contracts.

*Exhibit C*—Form of Vendor Contract (*i.e.*, the "Consolidated Vendor Form", as the Participants propose to amend it).

*Exhibit D*—Forms of Subscriber Contracts (including the "Subscriber Addendum", which the Participants propose to add).

*Exhibit E*—Schedules of Charges.

In connection with the proposed amendments, the Participants are also proposing (1) to revise the form of agreement<sup>3</sup> into which the Participants require vendors and certain end users to enter (the "Consolidated Vendor Form")<sup>4</sup> and (2) to introduce a form of addendum (the "Subscriber Addendum")<sup>5</sup> that the Participants, under appropriate circumstances, would allow vendors to attach to, or to incorporate into, agreements with certain subscribers as a surrogate for the form of agreement that the Exchange currently requires subscribers to execute.

**B. Restated CQ Plan**

The Participants in the CQ Plan propose to restate and amend the CQ Plan.<sup>6</sup> The restatement (the "Restated CQ plan") would incorporate into the CQ Plan the 21 substantive amendments, and 6 charges amendments, to the CQ Plan that the Commission has previously approved and would incorporate the additional amendments described below and in the attachments.<sup>7</sup>

*Attachment 2*—A second version of the proposed Second Restatement of the CTA Plan, marked to show changes from the Restated CTA Plan as currently in effect.

*Attachment 3*—A memorandum describing the proposed changes incorporated into the Second Restatement of the CTA Plan and the reasons for those changes.

*Attachment 4*—A second version of the proposed Consolidated Vendor Form, marked to show changes from the version that the Participants currently use.

*Attachment 5*—A memorandum describing the proposed changes to the Consolidated Vendor Form and the reasons for those changes.

*Attachment 6*—A memorandum describing the use and significant provisions of the Subscriber Addendum.

<sup>3</sup> The Participants submitted the version of the Consolidated Vendor Form currently in use to the Commission on October 12, 1989. The Commission published a notice of the effectiveness of the Consolidated Vendor Form on September 6, 1990. (See Securities Exchange Act Release No. 28407 (September 6, 1990) 55 FR 37276.)

<sup>4</sup> The Participants propose to substitute the proposed version of the Consolidated Vendor Form for the existing version in the Second Restatement of the CTA Plan.

<sup>5</sup> The Subscriber Addendum would be added to *Exhibit D* of the Second Restatement of the CTA Plan.

<sup>6</sup> AMEX and NYSE submitted the version of the CQ Plan currently in effect to the Commission on July 25, 1978. The Commission granted permanent approval of that plan effective as of January 22, 1980. (See Securities Exchange Act Release No. 16518 (January 22, 1980), 45 FR 6521.)

<sup>7</sup> The Participants have enclosed the following attachments:

*Attachment 1*—The proposed Restated CQ Plan, including its exhibits:

*Exhibit A*—Form of Exchange-Processor Contract.

*Exhibit B*—Form of Association-Processor Contract.

The Participants are also proposing to sue the revised Consolidated Vendor Form and the subscriber Addendum in connection with the Restated CQ Plan, in the same manner as in the proposed Second Restatement of the CTA Plan.

**II. Description and Purpose of the Amendments**

**A. Rule 11Aa3-2**

*Attachment 3* to each of the Plan binders submitted to the Commission describes in greater detail the purposes of the proposed changes. A brief overview of those changes follows:

**1. Concurrent Use Securities**

The Participants propose to significantly redraft Section XI(d)(i) ("Concurrent Use") and Section XIV ("Reporting of Other Transactions") of the Restated CTA Plan<sup>8</sup> and Section XI of the CQ Plan ("Other Uses of Facilities Utilized by the System"),<sup>9</sup> which sections govern the concurrent use of CTA and CQ facilities. In particular, the scope of concurrent use information would be broadened to include virtually all Participant securities (including bonds) and index information. The new sections would also clarify that information sent out pursuant to concurrent use authority is subject to the same rights and privileges as information relating to Eligible Securities, although the sections would also affirm the primacy of information relating to Eligible Securities.

The proposed Consolidated Vendor Form would be modified to extend the coverage of the Consolidated Vendor Form's terms and conditions to concurrent-use securities.

**2. Housekeeping**

The Second Restatement of the CTA Plan would incorporate the several amendments to the CTA Plan that CTA has adopted and the Commission has approved since the Restated CTA Plan first became effective. Similarly, the Restated CQ Plan would incorporate the

*Exhibit C*—Form of Vendor Contract (*i.e.*, the "Consolidated Vendor Form", as the Participants propose to amend it).

*Exhibit D*—Forms of Subscriber Contracts (including the "Subscriber Addendum", which the Participants propose to add).

*Exhibit E*—Schedules of Charges.

*Attachment 2*—A second version of the proposed Restated CQ Plan, marked to show changes from the CQ Plan as currently in effect.

*Attachment 3*—A memorandum describing the proposed changes incorporated into the Restated CQ Plan and the reasons for those changes.

<sup>8</sup> See Section XIII of the proposed Second Restatement of the CTA Plan (Concurrent Use of Facilities).

<sup>9</sup> See Section X of the proposed Restated CQ Plan (Concurrent Use of Facilities).

several amendments to the CQ Plan that the Operating Committee has adopted and the Commission has approved since the CQ Plan first became effective.

In several instances, the Participants propose to amend the language and format of the two Plans in order to cause counterpart provisions of the two Plans to comport more closely. In other instances, the Participants propose to delete old, outdated language.

A new "definitions" section (Section I) would be added to the CTA Plan, similar in concept to Section I of the CQ Plan ("Definitions"). The Participants propose to add or refine various definitions in order to cause them to comport more closely with current market data business practices and to improve the Plans' readability. In addition, the CTA Plan would be revised to take advantage of the drafting economies that the newly defined terms permit.

New economies would be introduced into the "Financial Matters" section of the CTA Plan<sup>10</sup> by addressing Network A and Network B simultaneously, rather than through separate provisions. (This same drafting technique already exists in the CQ Plan.) Accomplishing this task requires certain organizational changes to that section. These changes are not intended to effect the substance of the "Financial Matters" section.

The Participants propose to relocate the "boilerplate" sections of the Plans (e.g., "Counterparts" and "Effective Dates") to a new "Miscellaneous" section.<sup>11</sup> "Governing Law" and "Section Headings" provisions would be added to those sections.

### 3. Receipt and Use of Market Data

Section IX of the Second Restatement of the CTA Plan ("Receipt and Use of CTA Information") and Section VII of the Restated CQ Plan ("Receipt and Use of Quotation Information"), which deal with the receipt and use of market information, would be significantly redrafted. The changes would include the following.

The proposed "Receipt and Use" sections would make generic the terms and conditions pursuant to which vendors and subscribers can receive and use information. The proposed changes would also afford the Participants flexibility in determining which vendors and subscribers need to enter

into contracts in order to receive and use information and which terms and conditions apply.

The proposed "Receipt and Use" sections would accommodate current contract and administrative practices, yet would also accommodate anticipated future practices that changing technology and the perfection of the "information superhighway" are likely to require.

The proposed "Receipt and Use" sections would omit specific references to nonprofessional services. From a technology standpoint, the Participants feel that the distinction between the level of services that vendors make available to nonprofessional subscribers as opposed to professional subscribers is small. Rather, the Participants state that the distinction is essentially a rate matter, and that they are not proposing to distribute that rate distinction at this time.

The proposed "Receipt and Use" sections would omit equipment testing arrangements. The Participants claim that equipment testing provisions have become moot because equipment testers in today's environment invariably qualify as "Service Facilitators" under the Consolidated Vendor Form.

### 4. Financial Matters

Section XII of the proposed Second Restatement of the CTA Plan ("Financial Matters") and Section IX of the proposed Restated CQ Plan ("Financial Matters") would change as follows:

a. As a housekeeping measure, all of the language that discusses the sharing of revenues and expenses in the first years of the Plans would be removed.

b. The Restated CQ Plan would replace the existing CQ Plan's definition of "Annual Share" with a cross reference to the CTA Plan definition of "Annual Share".

### 5. The Consolidated Vendor Form

The proposed Consolidated Vendor Form would modify the version of the Consolidated Vendor Form currently in use in that it would accommodate the current use initiatives described above and would provide the Participants with greater flexibility. In particular, the proposed Consolidated Vendor Form:

a. Would newly define several terms that have a long history of use in the market data industry (e.g., "interrogation service", "market minder", "ticker display");

b. Would simplify the definitions of several terms;

c. Would expand the scope of some types of market data in order to comport with the broadened notion of

"concurrent use" that the Participants are proposing to add to the Plans;

d. Would introduce the Subscriber Addendum and provide for its modification and enforcement;

e. Would afford the Participants greater flexibility in prescribing contract and other requirements for subscriber services, including the use of the Subscriber Addendum or such alternative requirements as the Participants may prescribe; and

f. Would omit the concepts of limited access services and nonprofessional subscriber services, in order to comport with similar changes to the Plans.

### 6. Subscriber Addendum

The Participants claim that the use of the Subscriber Addendum would provide an alternative to vendors in certain circumstances as a replacement for the forms of subscriber agreement that the Participants currently require subscribers to execute. In practice, subscribers would not enter into the Subscriber Addendum with the Participants. Rather, vendors would incorporate the Subscriber Addendum into their agreements with subscribers.

The Participants state that vendors have been prompting exchanges to develop and adopt a common form of subscriber agreement and the Financial Information Services Division of the Information Industry Association has endorsed an initiative of this nature for more than two years. The Subscriber Addendum represents a partial response to that effort, in that it contains only those terms and conditions that the Participants deem absolutely essential. In many cases, it would eliminate a separate document that today's practices require.

The initial use of the Subscriber Addendum is intended for vendor services in respect of which the Participants do not bill end users directly, but rather impose the payment obligation on the vendor.

The Participants view the Subscriber Addendum concept as an integral part of their "usage-based fees" initiative. Currently, such fees are the subject of pilot tests. They are designed to streamline the current rate structure and to promote the widespread dissemination of market data.

### 7. Governing or Constituent Documents

The proposed restatements do not require any new governing or constituent documents relating to SIAC or any other person authorized to implement or administer the Plans on the Participants' behalf.

<sup>10</sup> Cf. Section XI of the Restated CTA Plan (Financial Matters) to proposed Section XII of the Second Restatement of the CTA Plan (Financial Matters).

<sup>11</sup> See Section XIV of the proposed Second Restatement of the CTA Plan (Miscellaneous) and Section XI of the proposed Restated CQ Plan (Miscellaneous).

**8. Implementation of Amendment**

The restated Plans would take effect upon Commission approval. The Participants then intend to notify vendors and other interested parties, both in writing and through verbal contact, of the new Consolidated Vendor Form and the Subscriber Addendum.

**9. Development and Implementation Phases**

The Participants intend to implement the new Consolidated Vendor Form and the Subscriber Addendum on a vendor-by-vendor basis, as appropriate, over the next few years. After Commission approval, the Participants would expect all new accounts that are required to execute the vendor form of agreement to execute the new Consolidated Vendor Form. As for the 500 or so parties that have executed the present version of the Consolidated Vendor Form, the Participants intend to convert those organizations to the proposed version of the Consolidated Vendor Form in an orderly manner over a period of 12 to 18 months.

The Participants expect to make the Subscriber Addendum available for vendor use once the Commission approves it. Of course, the Subscriber Addendum would only be available to vendors that have executed the proposed Consolidated Vendor Form and that offer the types of services for which the use of the Subscriber Addendum is appropriate.

**10. Analysis of Impact on Competition**

The Participants do not believe that any of the proposed changes would adversely impact or lessen competition. Instead, the Participants believe that the proposed Consolidated Vendor Form and the Subscriber Addendum may facilitate the entry of new parties into the market data industry because of the "user friendly" nature of those documents.

**11. Written Understandings or Agreements Relating to Interpretation of, or Participation in, Plan**

The Participants do not anticipate that they will enter into any new written understandings or agreements relating to interpretations of the restated Plans or to conditions for becoming a sponsor or participant in either Plan.

**12. Approval by Sponsors in Accordance with Plan**

Each of the Participants has approved the restatements of, and amendments to, both Plans in accordance with the Plans' terms.

**13. Description of Operation of Facility Contemplated by the Proposed Amendment**

The proposed amendments to the Plans would not have any impact on the manner in which CTA and CQ facilities are operated.

**14. Terms and Conditions of Access**

As explained in greater detail above and in *Attachment 5* and *Attachment 6* to the Second Restatement of the CTA Plan, the proposed revisions to the Consolidated Vendor Form and the introduction of the Subscriber Addendum would modify the terms and conditions under which brokers, dealers and others would be granted access. However, the Participants believe that the changes work to the net benefit of data recipients because the proposed changes to the Consolidated Vendor Form and the substitution (in appropriate cases) of the Subscriber Addendum for the forms of subscriber agreement currently in use permit more "use friendly" terms and conditions than do current practices and, especially in the case of the Subscriber Addendum, streamline the procedures for subscriber processing.

**15. Method of Determination and Imposition, and Amount of, Fees and Charges**

In restating and amending the Plans, the Participants are not proposing to make any changes to (a) the methods by which they determine or impose fees or charges of (b) the amount of such fees or charges.

**16. Method and Frequency of Processor Evaluation**

In respect of changes in the methods of evaluating processor performance, please see the discussion of proposed Sections V(d) ("Review of Processor") and V(e) ("Notice to SEC of Processor Reviews") of the Second Restatement of the CTA Plan set forth in *Attachment 3* to that Plan and the discussion of proposed Sections V(c) ("Review of Processor") and V(d) ("Notice to SEC of Processor Reviews") of the Restated CQ Plan set forth in *Attachment 3* to that Plan.

**17. Dispute Resolution**

In restating and amending the Plans, the Participants are not proposing to make any change to the method by which disputes arising in connection with the Plans will be resolved.

**B. Rule 11Aa3-1 (In Respect of the CTA Plan Only)****1. Listed Securities**

In restating and amending the CTA Plan, the Participants do not intend to make any change to the listed equity securities or classes of such securities in respect of which the CTA Plan would *require* transaction reports. However, as explained in greater detail in *Attachment 3* to the CTA Plan, the amendments would expand the scope of "concurrent use" under the CTA Plan and would therefore expand the universe of securities in respect of which the CTA Plan would *permit* transaction reports.

**2. Reporting Requirements**

In restating and amending the CTA Plan, the Participants do not intend to make any change to the reporting requirements for brokers or dealers for transactions in listed securities.

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

In restating and amending the CTA Plan, the Participants do not intend to change the manner of collecting, processing or sequencing last sale information. As for changes in the manner of making available and disseminating last sale information, please see the discussion of Section IX of the Second Restatement of the CTA Plan ("Receipt and Use of CTA Information") set forth in *Attachment 3* to that Plan.

**4. Manner of Consolidation**

In restating and amending the CTA Plan, the Participants do not intend to make any change to the manner in which transaction reports are consolidated.

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

In restating and amending the CTA Plan, the Participants do not intend to make any change to the standards and methods by which the promptness of reporting, and accuracy and completeness of transaction reports, is ensured.

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

The participants state that the proposed amendments to the CTA Plan do not impact the rules and procedures that ensure that last sale information will not be disseminated in a fraudulent or manipulative manner.

### 7. Terms of Access to Transaction Reports

As explained in greater detail above and in *Attachment 5* and *Attachment 6* to the CTA Plan, the proposed revisions to the Consolidated Vendor form and the introduction of the Subscriber Addendum would modify the terms and conditions of access to last sale information. The Participants believe that the changes work to the net benefit of the investor community because the proposed changes to the Consolidated Vendor Form and the substitution (in appropriate cases) of the Subscriber Addendum for the forms of subscriber agreement currently in use permit more "user friendly" terms and conditions than do current practices and, especially in the case of the Subscriber Addendum, streamline the procedures for subscriber processing.

### 8. Identification of Marketplace of Execution

The Participants state that the proposed amendments are intended to have no impact on the requirement that vendor displays of last sale information identify the marketplace of execution.

### III. Solicitation of Comments

Rule 11Aa3-2(c)(2) under the Act provides that the proposed amendment shall be approved by the Commission with such changes or subject to such conditions as the Commission may deem necessary or appropriate in the public interest, for the protection of investors and 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 within 120 days of the date of publication of notice of filing, or within such longer period as the Commission may designate up to 180 days of such date pursuant to Rule 11Aa3-2(c)(2).

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change 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 inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CTA/CQ. All submissions should refer to the file number in the caption above and should be submitted by February 15, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

Margaret H. McFarland,  
*Deputy Secretary.*

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[Release No. 34-36738; File No. SR-CBOE-96-01]

### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., to Increase SPX Position and Exercise Limits, to Increase SPX Firm Facilitation, Index Hedge, and Money Managers Exemptions, and To Extend Broad-Based Index Hedge Exemption to Broker-Dealers**

January 19, 1996.

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 January 8, 1996, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 CBOE proposes to amend Exchange Rule 24.4, and other related rules, to increase the S&P 500 index option ("SPX") position and exercise limits, to increase the SPX firm facilitation, index hedge, and money manager exemptions, to extend the broad-based index hedge exemption to broker-dealers, and to expand the types of qualified portfolios for the index hedge exemption. The text of the proposed rule change is available at the Office of the Secretary, the CBOE, and the Commission.

<sup>12</sup> 17 CFR 200.30-3(a)(27) (1989).

<sup>1</sup> 15 U.S.C. § 78s(b)(1) (1988).

<sup>2</sup> 17 CFR 240.19b-4 (1994).

#### **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 CBOE 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 CBOE 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**

The CBOE is proposing a number of revisions to Exchange Rule 24.4, the position limit rule for broad-based index options, as well as other related Exchange rules. First, member firms have expressed to the CBOE their need for relief from the current SPX position and exercise limits, which have not increased since 1992.<sup>3</sup> Between 1992 and the present, however, volume in the SPX index option class has more than doubled, and open interest has remained consistently high.<sup>4</sup> The CBOE believes that by increasing the existing 45,000 contract limit to 100,000 contracts, the investing public as well as CBOE members and member firms will be afforded greater opportunity and flexibility to use SPX options for their hedging needs. The CBOE does not believe that the higher limit will increase any potential for market disruption.

To enhance its ability to monitor for unhedged, speculative positions as well as to create a database of non-standard hedge practices, the CBOE will add a reporting requirement for accounts having SPX positions in excess of 45,000 contracts on the same side of the market. This reporting requirement will allow the CBOE to gather data on hedging practices that do not fit into the CBOE definition of a qualified portfolio.

<sup>3</sup> Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992) (approval order for SR-CBOE-92-13).

<sup>4</sup> The CBOE notes that in September 1992, the average daily SPX index option volume during expiration week was 86,682 contracts and open interest was 1.3 million contracts. In comparison, in March 1995, the average daily SPX index option volume during expiration week was 208,678 contracts and open interest was 1.2 million contracts. In each of the years 1992 through 1994, approximately 300 market-maker exemptions from SPX position limits were granted. In contrast, from January through November 20, 1995, 455 market-maker exemptions from SPX position limits were granted.