

## Chicago Stock Exchange Rules

### Article XX, Rule 37(a)

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4. Preopenings. Preopening orders in Dual Trading System issues must be accepted and filled at the primary market opening trade price. In trading halt situations occurring in the primary market, orders will be executed based upon the reopening price. Preopening orders in NASDAQ/NM securities must be accepted and filled [at the Exchange opening trade price] *on a single price opening at or better than the NBBO at the first unlocked, uncrossed market.* In trading halt situations, order will be executed based on the Exchange reopening price. For purposes of this rule, (a) pre-opening orders in Dual Trading System Issues are orders that are received before a primary market opens a subject security based on a print or based on a quote and (b) *preopening orders in NASDAQ/NM securities are orders received at or prior to 8:25 a.m. (Central Time) on the date of the opening.*

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## 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 CHX included statements concerning the purpose of and basis for the proposed rule change and discussed any concerns it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CHX 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 of, the Proposed Rule Change

#### 1. Purpose

The Exchange proposed to amend the CHX rule governing preopening orders in Nasdaq/NM securities to provide for additional clarity regarding the types of orders eligible for treatment as preopening orders and the price at which such orders will be filled. Because Article XX, Rule 37(a)(4) of the Exchange's rules does not explicitly define what constitutes a preopening order in the case of Nasdaq/NM securities, there has been some confusion as to which orders are eligible for treatment as preopening orders, and consequently, some unintended execution guarantees. The proposed rule change will expressly provide that for

an order to be considered a preopening order, an order must be received at or prior to 8:25 a.m. (Central Time) of the date of the opening.

The Exchange also proposed to provide additional clarity regarding the price at which each preopening order will be filled. Currently, the rule provides that preopening orders for Nasdaq/NM securities must be filled "at the Exchange opening trade price." The Exchange believes that it is in the best interest of its order-sending firms and their customers to provide for greater specificity as to the parameters governing the fill price for preopening orders. Accordingly, the proposed rule change provides that each preopening order must be filled "on a single price opening at or better than the NBBO at the first unlocked, uncrossed market."

#### 2. Statutory Basis

The proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder, that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).<sup>4</sup> In particular, the proposed rule is consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.<sup>5</sup>

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> 15 U.S.C. 78f(b)(5).

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 CHX. All submissions should refer to File No. SR-CHX-00-31 and should be submitted by February 12, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Jonathan G. Katz,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43841; File No. SR-CTA-01-01]

### Consolidated Tape Association; Notice of Filing Seventh Charges Amendment to the Second Restatement of the CTA Plan

January 12, 2001.

Pursuant to Rule 11Aa3-2<sup>1</sup> of the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on January 9, 2001, the Consolidated Tape Association Plan ("CTA Plan") participants ("Participants")<sup>2</sup> filed with

<sup>6</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 17 CFR 240.11Aa3-2.

<sup>2</sup> Each participant of the Plan executed the amendments. The Participants include the American Stock Exchange, LLC, Boston Stock

the Securities and Exchange Commission ("Commission" or "SEC") an amendment to the Second Restatement of the CTA Plan. In the amendment, the Participants propose to modify the Network B ticker charges.

The Participants submitted this notice of proposed amendment to the CTA Plan, which is an effective national system plan,<sup>3</sup> pursuant to Rule 11Aa3-2(c)(1).<sup>4</sup> The Commission is publishing this notice to solicit comments from interested persons on the amendment.

### I. Description and Purpose of the Amendments

#### A. Rule 11Aa3-2<sup>5</sup>

Currently, CTA Network B charges \$21.50 per month for the first ticker at each customer location and \$13.60 for any additional tickers at that location. This tiered pricing structure is proving difficult for market data vendors to administer in the new vendor billing environment that was recently implemented by CTA Network B.<sup>6</sup>

To address this problem, CTA Network B is proposing to eliminate the "First Ticker" premium charge. Thus, there would be a single monthly ticker charge of \$13.60 for each customer at each location. The change would result in a cost savings for all Network B ticker subscribers and will make it easier for vendors to charge for the data.

\* \* \* \* \*

The filing of the amendment is in fulfillment of the national market system objectives regarding the dissemination of market information as anticipated by Sections 11A(a)(1)(C),<sup>7</sup> 11A(a)(1)(D),<sup>8</sup> and 11A(a)(3)(B)<sup>9</sup> of the Act.

#### B. Governing or Constituent Documents

Not applicable.

#### C. Implementation of Amendment

The Participants have manifested their approval of the proposed amendment to the CTA rate schedule by executing the amendment. The rate change would become effective on the first day of the month that follows the

Exchange, Inc., Chicago Board Options Exchange, Inc., Chicago Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., National Association of Securities Dealers, Inc., New York Stock Exchange, Inc., and Philadelphia Stock Exchange, Inc.

<sup>3</sup> The CTA Plan has been designated as an effective transaction reporting plan pursuant to Rule 11Aa3-1(b). 17 CFR 240.11Aa3-1(b).

<sup>4</sup> 17 CFR 240.11Aa3-2(c)(1).

<sup>5</sup> 17 CFR 240.11Aa3-2.

<sup>6</sup> See Securities Exchange Act Release No. 42444 (February 18, 2000), 65 FR 11101 (March 1, 2000).

<sup>7</sup> 15 U.S.C. 78k-1(a)(1)(C).

<sup>8</sup> 15 U.S.C. 78k-1(a)(1)(D).

<sup>9</sup> 15 U.S.C. 78k-1(a)(3)(B).

month in which the Commission approves the proposed plan amendment.

#### D. Development and Implementation Phases

See Item I(C).

#### E. Analysis of Impact on Competition

The Participants believe that the proposed amendment does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Participants do not believe that the proposed plan amendment introduces terms that are unreasonably discriminatory for the purposes of Section 11A(c)(1)(D)<sup>10</sup> of the Act.

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

Not applicable.

#### G. Approval by Sponsors in Accordance With Plan

In accordance with Section XII(b)(iii) of the CTA Plan, each Participant has approved the fee reduction.

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

Not applicable.

#### I. Terms and Conditions of Access

See Item I(A).

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

See Item I(A) and the text of the amendment.

#### K. Method and Frequency of Processor Evaluation

Not applicable.

#### L. Dispute Resolution

Not applicable.

### II. Rule 11Aa3-1<sup>11</sup>

#### A. Reporting Requirements

Not applicable.

#### B. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

Not applicable.

#### C. Manner of Consolidation

Not applicable.

<sup>10</sup> 15 U.S.C. 78k-1(c)(1)(D).

<sup>11</sup> 17 CFR 240.11 Aa3-1.

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

Not applicable.

#### E. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

#### F. Terms of Access to Transaction Reports

See Item I(A).

#### G. 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 proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 proposal 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. All submissions should refer to File No. SR-CTA-01-01 and should be submitted by February 12, 2001.

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

**Jonathan G. Katz,**

Secretary.

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