

utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

*Title and purpose of information collection:*

Supplement to Claim of Person Outside the United States; OMB 3220-0155.

Under the Social Security Amendments of 1983 (Public Law 98-21), which amends Section 202(t) of the Social Security Act, the Tier I or the O/M (overall minimum) portion of an annuity and Medicare benefits payable under the Railroad Retirement Act to certain beneficiaries living outside the U.S., may be withheld effective January 1, 1985. The benefit withholding provision of P.L. 98-21 applies to divorced spouses, spouses, minor or disabled children, students, and survivors of railroad employees who (1) initially became eligible for Tier I amounts, O/M shares, and Medicare benefits after December 31, 1984; (2) are not U.S. citizens or U.S. nationals; and (3) have resided outside the U.S. for more than six consecutive months starting with the annuity beginning date. The benefit withholding provision does not apply, however to a beneficiary who is exempt under either a treaty obligation of the U.S., in effect on August 1, 1956, or a totalization agreement between the U.S. and the country in which the beneficiary resides, or to an individual who is exempt under other criteria specified in Pub. L. 98-21.

RRB Form G-45, Supplement to Claim of Person Outside the United States, is currently used by the RRB to determine applicability of the withholding provision of Pub. L. 98-21. Completion of the form is required to obtain or retain a benefit. One response is requested of each respondent. The RRB estimates that 100 Form G-45's are completed annually. The completion time for Form G-45 is estimated at 10 minutes per response.

The RRB proposes no changes to Form G-45.

*Additional Information or Comments:* To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751-3363 or send an e-mail request to [Charles.Mierzwa@RRB.GOV](mailto:Charles.Mierzwa@RRB.GOV). Comments regarding the information collection

should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092 or send an e-mail to [Ronald.Hodapp@RRB.GOV](mailto:Ronald.Hodapp@RRB.GOV). Written comments should be received within 60 days of this notice.

**Charles Mierzwa,**

*Clearance Officer.*

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**BILLING CODE 7905-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 17a-12, SEC File No. 270-442, OMB Control No. 3235-0498.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17a-12 under the Securities Exchange Act of 1934 is the reporting rule tailored specifically for OTC derivatives dealers, and Part IIB of Form X-17A-5, the Financial and Operational Combined Uniform Single Report, is the basic document for reporting the financial and operational condition of OTC derivatives dealers.

At this point there are three registered OTC derivatives dealers and the staff expects that three additional firms will register as OTC derivatives dealers within the next three years. Rule 17a-12 requires OTC derivatives dealers to file quarterly Part IIB of the Financial and Operational Combined Uniform Single Report ("FOCUS" report)—Form X-17A-5.<sup>1</sup> Rule 17a-12 also requires that OTC derivatives dealers file audited financial statements annually. The staff estimates that the average amount of time necessary to prepare and file the quarterly reports required by the rule is eighty hours per OTC derivatives dealer<sup>2</sup> and that the average amount of time for the annual audit report is 100

<sup>1</sup> Form X-17A-5 [17 CFR 249.617].

<sup>2</sup> Based upon an average of 4 responses per year and an average of 20 hours spent preparing each response.

hours per OTC derivatives dealer, for a total of 180 hours per OTC derivatives dealer annually. Thus the staff estimates that the total number of hours necessary for six OTC derivatives dealers to comply with the requirements of Rule 17a-12 on an annual basis is 1,080 hours.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: February 4, 2004.

**Margaret F. McFarland,**

*Deputy Secretary.*

[FR Doc. 04-2949 Filed 2-10-04; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49185; File No. SR-CTA/CQ-2003-01]

### Consolidated Tape Association; Order Approving the Fifth Substantive Amendment to the Second Restatement of the Consolidated Tape Association Plan and the Third Substantive Amendment to the Restated Consolidated Quotation Plan and Amendment No. 1 Thereto

February 4, 2004.

#### I. Introduction

On November 28, 2003, the Consolidated Tape Association ("CTA") Plan and Consolidated Quotation ("CQ") Plan Participants ("Participants")<sup>1</sup> submitted to the

<sup>1</sup> Each Participant executed the proposed amendments. The Participants are the American Stock Exchange LLC; Boston Stock Exchange, Inc.; Chicago Board Options Exchange, Inc.; Chicago Stock Exchange, Inc.; Cincinnati Stock Exchange,

Securities and Exchange Commission ("Commission") a proposal to amend the CTA and CQ Plans (collectively, the "Plans"), pursuant to Rule 11Aa3-2<sup>2</sup> under the Securities Exchange Act of 1934 ("Act"). On December 23, 2003, the Participants submitted Amendment No. 1 to the proposed amendments.<sup>3</sup> The proposal represents the 5th substantive amendment made to the Second Restatement of the CTA Plan ("5th Amendment") and the 3rd substantive amendment to the Restated CQ Plan ("3rd Amendment"), and reflects several changes unanimously adopted by the Participants. The proposed amendments would delete the provisions of the Plans that exempt any Participant in the Plans from paying market data fees for the receipt of data on its trading floor for regulation or surveillance or for other specifically approved purposes ("Participant Fee Exemptions"). Notice of the proposed amendments was published in the *Federal Register* on December 31, 2003.<sup>4</sup>

The Commission received no comments on the proposed amendments. This order approves the 5th Amendment to the CTA Plan and the 3rd Amendment to the CQ Plan.

## II. Description of the Proposed Amendments

Currently, the Plans specify that each Participant is exempt from certain market data charges (other than access fees) if it is in compliance with the requisite market data contract. According to the Participant Fee Exemptions, the market data contract must require the Participant (1) to receive market data solely at premises that it occupies or on its "trading floor or trading floors" (as that term is generally understood), and (2) to use the data solely for regulatory, surveillance and other approved purposes.

The Participants propose to amend the Plans to require each Participant to pay the same fees for its receipt and use of market data as other market participants pay, regardless of whether the Participant receives the data on its

trading floor or elsewhere or uses the data for surveillance or other purposes.

The Participants believe that eliminating the Participant Fee Exemptions will eliminate disputes that have arisen among the Participants regarding what constitutes a "trading floor" and will eliminate a perceived competitive advantage that the Participant Fee Exemptions give Participant markets over non-exchange markets (such as electronic communications networks and other alternative trading systems), over NASD market makers and, in the case of Participants that trade options, over non-Participant options markets.

The Participants have represented that once the proposed amendments are approved by the Commission, they will commence payment of the fees that were subject to the Participant Fee Exemptions in the billing cycle that follows the Commission's approval of the proposed amendments.

## III. Discussion

The Commission finds that the proposed amendments to the Plans are consistent with the requirements of the Act and the rules and regulations thereunder,<sup>5</sup> and, in particular, section 11A(a)(1)<sup>6</sup> of the Act and Rule 11Aa3-2 thereunder.<sup>7</sup>

The Commission notes that, under the proposed amendments, all Participants will be required to pay for market data like other market participants, regardless of how they receive or use it. The Commission believes that deleting the Participant Fee Exemptions from the Plans will eliminate any potential disputes over the applicability of the Participant Fee Exemptions and should help to eliminate any perceived competitive inequities between the Participants who currently benefit from the Participant Fee Exemptions and other market participants who pay for market data. The Commission notes that payment of fees subject to the Participant Fee Exemption will commence in the billing cycle that follows Commission approval of the proposed amendments. The Commission finds that the proposed amendments to delete the Participant Fee Exemptions from the Plans are consistent with section 11A of the Act<sup>8</sup> and the rules and regulations thereunder.

<sup>5</sup> In approving the proposed plan amendments, the Commission has considered the proposed amendments' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78k-1(a)(1).

<sup>7</sup> 17 CFR 240.11Aa3-2.

<sup>8</sup> 15 U.S.C. 78k-1.

## IV. Conclusion

*It is therefore ordered*, pursuant to section 11A of the Act<sup>9</sup> and paragraph (c)(2) of Rule 11Aa3-2<sup>10</sup> thereunder, that the proposed 5th Amendment to the CTA Plan and the proposed 3rd Amendment to the CQ Plan are approved, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 04-2906 Filed 2-10-04; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49187; File No. SR-CTA/CQ-2003-02]

### Consolidated Tape Association; Order Approving the Sixth Substantive Amendment to the Second Restatement of the Consolidated Tape Association Plan and the Fourth Substantive Amendment to the Restated Consolidated Quotation Plan and Amendment No. 1 Thereto

February 4, 2004.

## I. Introduction

On November 28, 2003, the Consolidated Tape Association ("CTA") Plan and Consolidated Quotation ("CQ") Plan Participants ("Participants")<sup>1</sup> submitted to the Securities and Exchange Commission ("Commission") a proposal to amend the CTA and CQ Plans (collectively, the "Plans"), pursuant to Rule 11Aa3-2<sup>2</sup> under the Securities Exchange Act of 1934 ("Act"). On December 23, 2003, the Participants submitted Amendment No. 1 to the proposed amendments.<sup>3</sup> The proposal represents the 6th substantive amendment made to the Second Restatement of the CTA Plan ("6th Amendment") and the 4th

<sup>9</sup> 15 U.S.C. 78k-1.

<sup>10</sup> 17 CFR 240.11Aa3-2(c)(2).

<sup>11</sup> 17 CFR 200.30-3(a)(27).

<sup>1</sup> Each Participant executed the proposed amendments. The Participants are the American Stock Exchange LLC ("Amex"); Boston Stock Exchange, Inc.; Chicago Board Options Exchange, Inc.; Chicago Stock Exchange, Inc.; Cincinnati Stock Exchange, Inc. (now known as the National Stock Exchange, Inc.); National Association of Securities Dealers, Inc.; New York Stock Exchange, Inc. ("NYSE"); Pacific Exchange, Inc.; and Philadelphia Stock Exchange, Inc.

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

<sup>3</sup> See letter to Jonathan G. Katz, Secretary, Commission, from Thomas E. Haley, Chairman, CTA, dated December 22, 2003 ("Amendment No. 1"). Amendment No. 1 makes a technical correction to the proposed amendments.

Inc. (now known as the National Securities Exchange, Inc.); National Association of Securities Dealers, Inc. ("NASD"); New York Stock Exchange, Inc.; Pacific Exchange, Inc.; and Philadelphia Stock Exchange, Inc.

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

<sup>3</sup> See letter to Jonathan G. Katz, Secretary, Commission, from Thomas E. Haley, Chairman, CTA, dated December 22, 2003 ("Amendment No. 1"). Amendment No. 1 makes a technical correction to the proposed amendments.

<sup>4</sup> See Securities Exchange Act Release No. 48987 (December 23, 2003), 68 FR 75661 (December 31, 2003).